

VOL 47 | NO. : 01 | Pg. 1-140 | JANUARY 2017 | ₹100/- (Single Copy)

CHARTERED SECRETARY

THE JOURNAL FOR CORPORATE PROFESSIONALS

WISHING ALL
A HAPPY NEW YEAR



**THE INSTITUTE OF
Company Secretaries of India**

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

Website : www.icsi.edu

COMPANY SECRETARIES BENEVOLENT FUND



Saathi Haath Badhana साथी हाथ बढ़ाना

The Company Secretaries Benevolent Fund (CSBF) provides safety net to Company Secretaries who are members of the Fund and their family members in distress.

CSBF

- Registered under the Societies Registration Act, 1860
- Recognised under Section 12A of the Income Tax Act, 1961
- Subscription | Contribution to Fund qualifies for the deduction under section BOG of the Income Tax Act, 1961
- Has a membership of about ₹12,000

Eligibility

A member of the Institute of Company Secretaries of India is eligible for the membership of the CSBF.

How to join

- By making an application in Form A (available at www.icsi.edu/csbf) along with one time subscription of ₹10,000/-.
- One can submit Form A and also the subscription amount of ₹10,000/- ONLINE through Institute's web portal: www.icsi.edu. Alternatively, he can submit Form A, along with a Demand Draft or Cheque for ₹10,000/- drawn in favour of 'Company Secretaries Benevolent Fund', at any of the Offices of the Institute/ Regional Offices/Chapters.

Benefits

- ₹7,50,000 in the event of death of a member under the age of 60 years
- Upto ₹3,00,000 in the event of death of a member above the age of 60 years
- Upto ₹40,000 per child (upto two children) for education of minor children of a deceased member in deserving cases
- Upto ₹60,000 for medical expenses in deserving cases
- Limited benefits for Company Secretaries who are not members of the CSBF

Contact

For further information/clarification, please write at email id csbf@icsi.edu or contact Mr. Saurabh Bansal, Executive on telephone no.011-45341088.

For more details please visit www.icsi.edu/csbf

The Council

- President
 - Mamta Binani
- Vice President
 - Shyam Agrawal (Dr.)

Members

(in alphabetical order)

- Ahalada Rao V.
- Amardeep Singh Bhatia
- Ashish C. Doshi
- Ashish Garg
- Atul H Mehta
- Gopalakrishna Hegde
- Gopal Krishan Agarwal
- Mahavir Lunawat
- Makarand M. Lele
- Rajesh Sharma
- Rajiv Bajaj
- Ramasubramaniam C.
- Ranjeet Kumar Pandey
- S. K. Agrawala
- Satwinder Singh
- Vijay Kumar Jhalani
- Vineet K. Chaudhary
- Yamal Ashwinkumar Vyas

Secretary

- Dinesh C. Arora

Editorial Advisory Board

- Chairman
 - S K Agrawala

Members

(in alphabetical order)

- Ashu Gupta (Ms.)
- Deepak Kukreja
- D K Jain (Dr.)
- D P Gupta
- Gourav Vallabh (Prof.)
- G R Bhatia
- H M Choraria
- N K Jain
- Puttaparthi Jagannatham
- Pradeep K Mittal
- Prithvi Haldea
- R Radhakrishnan
- Sanjeev Kapoor
- Tridib Kumar Barat

Editor & Publisher

- S.K. Dixit (Dr.)

Consulting Editor

- V. Gopalan

Legal Correspondent

- T. K. A. Padmanabhan

CONTENTS



ISSN 0972-1983 ©

CHARTERED SECRETARY

[Registered under Trade Marks Act, 1999]

Vol. : XLVII ■ No. 01 ■ Pg 1-140 ■ January-2017

1. From the President	13
2. Articles	23
4. Legal World	87
5. From the Government	97
6. News From the Institute	113
7. Miscellaneous	133

QR Code/Weblink of Chartered Secretary Journal
<https://www.icsi.edu/JournalsBulletins/CharteredSecretary.aspx>



01

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.
Phones : 41504444, 45341000, Grams : 'COMPSEC'
Fax : 91-11-24626727
E-Mail : info@icsi.edu
Website : <http://www.icsi.edu>

Mode of Citation: CSJ (2017)(01)/--- (Page No.)



Design & Printed at
M. P. Printers

B-220, Phase II, Noida-201305
Gautam Budh Nagar, U. P. - India
www.mpprinters.co.in

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



01. ▶ Panel Discussion on The Prominence of Governance in the wake of Economic & Social Reforms – Sitting from Left: CS Paritosh Gupta (CE, Infrastructure Leasing & Financial Services Limited (IL&FS) and MD, IIDC Ltd.), Ritul Joshi (Moderator and Senior Journalist), Prof. Asish K Bhattacharyya (Adjunct Professor in IMT Ghaziabad and Chairman of the Riverside Management Academy Private Limited, Kolkata), and CS J K Jain (CFO, DCM Shriram Ltd.)
02. ▶ CS Mamta Binani seen greeting Chief Guest Nirmala Sitharaman (Hon'ble Minister of State (I/C) of Commerce and Industry).
03. ▶ Sitting on the dais from Left: CS Dinesh C Arora, CS Shyam Agrawal, Smt. Nirmala Sitharaman, CS Mamta Binani and CS Vineet K Chaudhary.
04. ▶ Release of ICSI Publication Project Governance. Other publications realised on the occasion were Referencer on Reconciliation of Share Capital Audit & Gender diversity in Boardrooms.
05. ▶ Lifetime Achievement Award for translating Excellence in Corporate Governance into reality was conferred on Babasaheb N Kalyani, (CMD, Bharat Forge Ltd) - Amit Kalyani (ED, Bharat Forge Ltd.) receiving the award on behalf of the recipient.
06. ▶ Certificates of Recognition conferred on - Bharti Airtel Limited (CS Rajendra Chopra, Senior VP & CS) & CS Chirag Bhagat, Associate Corporate Secretarial) receiving the certificate on behalf of the company.
07. ▶ Dabur Limited- Dr. Ajay Dua (Independent Director), P D Narang (Group Director- Corporate Affairs), CS A K Jain (VP(Finance) & Company Secretary) receiving the certificate on behalf of the company.
08. ▶ Dr. Reddy's Laboratories Limited- Abhijit Mukherjee, (COO), CS Sandeep Poddar (Company Secretary) receiving the certificate on behalf of the company.

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



- 09. ▶ Mindtree Limited - Krishnakumar Natarajan (Executive Chairman), Vedavalli S (Company Secretary) receiving the certificate on behalf of the company.
- 10. ▶ Reliance Industries Limited, CS K Sethuraman & Others receiving the certificate on behalf of the company.
- 11. ▶ Best governed company award- Infosys limited - U B Pravin Rao (COO & Whole Time Director Infosys limited) & CS A G S Manikantha (CS, Infosys Limited) receiving the award on behalf of the company.
- 12. ▶ Larsen & Toubro Limited - Kuldip Goel (VP(Corporate Affairs)), Shailendra Roy (Sr. Executive Vice President (Power, Heavy Engineering and Defence) and Navin Agarwal (Manager Corporate Affairs) receiving the award on behalf of the company.
- 13. ▶ Acknowledgement of CS of best governed companies - A G S Manikantha Company Secretary, Infosys Limited seen receiving the award.
- 14. ▶ Prasad Shanbhag, Company Secretary, Larsen & Toubro Limited seen receiving the award.
- 15. ▶ 1st ICSI CSR Excellence Awards- Reliance Industries Limited- Large Category, CS K Sethuraman & his colleague receiving the award on behalf of the company.
- 16. ▶ 1st ICSI CSR Excellence Awards - ACC Limited- Medium Category - Philip Mathew (Chief Manufacturing Officer, ACC Limited) & Pratyush Panda (Corporate Head CSR, ACC Ltd.) seen receiving the award on behalf of the company.

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



17



18



19



20

Other Events



21



22



23



24

17. ▶ 1st ICSI CSR Excellence Awards - Bajaj Corp Limited - Emerging Category - Sumit Malhotra (Managing Director, Bajaj Corp Limited) & his colleague seen receiving the award on behalf of the company.
18. ▶ Address on the occasion by Chief Guest Nirmla Sitharaman (Hon'ble Minister of State (I/C) of Commerce and Industry).
19. ▶ Video address by Suresh Prabhu (Hon'ble Union Minister for Railways).
20. ▶ CS Mamta Binani presenting a memento to Chief Guest Nirmla Sitharaman while CS (Dr.) Shyam Agrawal and CS Vineet K Chaudhary look on.
21. ▶ National Conclave on Insolvency and Bankruptcy Code, 2016 – On the dais from Left: CS Dinesh C Arora, CS Mahavir Lunawat, Dr. M S Sahoo (Chairman, IBBI), CS Mamta Binani, CS Vineet K Chaudhary and CS Prakash Pandya.
22. ▶ ICSI-IBBA joint Seminar on Insolvency and Bankruptcy Code, 2016 – Dr. M S Sahoo (Chairman, IBBA) addressing. Others sitting from Left: CS Priyadarshi Nayak, DR. T K Chand, CS Mamta Binani, CS A K Mishra & CS S N Mallick.
23. ▶ Inauguration of CS Acceleration Centre at Bangalore – Standing from Right: CS Mamta Binani, CS Gopalakrishna Hegde, CS G M Ganapathi, CS Hari Babu Thota, CS Nagendra D Rao and CS Pradeep B Kulkarni.
24. ▶ ICSI – CCGRT – Two days non- residential research Colloquium on Indian Companies Act – decoding unresolved mysteries - CS Ahalada Rao V addressing. Other sitting from Left: Dr. Rajesh Agrawal, Amogh Diwan, CS Thirupal Gorige and CS Hari Surya.



25



26



27



28



29



30



31



32

- 25. ▶ First Global Congruence to promulgate International corporate governance day - Chief Guest S. Niranjani Reddy (Vice-Chairman, State Planning Board, Govt. of Telangana, Hyderabad) addressing. Others sitting from Left: CS Dinesh C Arora, CS Gopalakrishna Hegde, CS Ahalada Rao V.(Chairman, Core Committee, ICGD), S L Bunker (Member, CCI), CS Mamta Binani, CS Mahadev Tirunagari and CS P Sivakumar.
- 26. ▶ Release of Souvenir during the Inaugural session – on the dais from Left: CS R Venkata Ramana, CS Ahalada Rao V., CS Dinesh C Arora, S L Bunker (Member, CCI), CS Mamta Binani, CS Gopalakrishna Hegde, Chief Guest S. Niranjani Reddy, CS Mahadev Tirunagari, CS P Sivakumar.
- 27. ▶ CS (Dr.) Shyam Agrawal seen presenting a sapling to Konijeti Rosaiah (Former Governor of Tamil Nadu and Former Chief Minister of Andhra Pradesh) at the Valedictory Session of 1st Global Congruence to Promulgate International Corporate Governance Day while CS C. Parthasarathy (CMD, Karvy Group) looks on.
- 28. ▶ ICSI – NSE joint workshop on Secretarial Audit - CS C Ramasubramaniam seen addressing. others sitting from Left: Dr. V R Narasimhan, CS Sujit Prasad and CS Dr. B Ravi.
- 29. ▶ SIRC – Research Symposium - CS Karthick V seen addressing. Others seated from Left: CS Krish Narayanan, CS Rengarajan A, CS Thirupal Gorige and CS Jitender Ahlawat.
- 30. ▶ ICSI convocation held at Mumbai – Standing from Left: CS Ashish Doshi, CS Ashish Garg, B R jaju, CS Mamta Binani, CS Atul H Mehta and CS Dinesh C Arora.
- 31. ▶ ICSI convocation held at Chennai – Standing from Left: CS Sivakumar P, CS Ahalada Rao V, Chief Guest Pooja Kulkarni (IAS, State Project Director, Sarvashikshya Abhayan, Chennai) giving away the Membership Certificate, CS C Ramasubramaniam and CS Gopalakrishna Hegde.
- 32. ▶ EIRC - NE Chapter- First North Eastern Regional Conference on the Companies Act, 2013 - CS Biman Debnath addressing. Others sitting from Left: CS Pankaj Jain, CS Raj Kumar Sharma, Guest Speaker CA Sumit Binani and CS Vikash Jain.

Inauguration of ICSI House at NOIDA



- 33. ▶ A view of the new building.
- 34. ▶ Arrival of the Chief Guest Dr. Mahesh Sharma (Hon'ble Minister of State (Independent Charge), Ministry of Tourism and Culture).
- 35. ▶ Inauguration of the ICSI house by Dr. Mahesh Sharma.
- 36. ▶ President, Vice President, Council Members, Secretary and others performing puja on the occasion.
- 37. ▶ Sitting on the dais from Left: CS Ranjeet Pandey, CS Rajiv Bajaj, CS Vineet K Chaudhary, CS Mamta Binani, CS (Dr.) Shyam Agrawal and CS Dinesh C Arora.
- 38-39 ▶ Address on the occasion by CS Vineet K Chaudhary, CS (Dr.) Shyam Agrawal.
- 40. ▶ A view of the invitees and dignitaries.



41



42



43



44



45



46



47

48

49

50

51

52



53

41. ▶ Training Programme on Prevention of Sexual Harassment of Women at Work place – from Left: CS Khushbu Mohanty, CS Ramasubramaniam C, CS Ashish Doshi, Priya Hingorani (Advocate, Supreme Court), Anuradha Sharma (Chairperson, Local Compliance Committee, Gurgaon), CS Mamta Binani, Vishal Kedia (MD and Founder, Complykaro Services Pvt. Ltd.), CS Vineet K Chaudhary, Swati Verma (Asst. Director, WECD, Govt. of Delhi) and Ritesh Kumar.
42. ▶ NIRC - 1st Regional Conference for Women on "Women in Leadership Roles – Challenges and Success Mantras" – Release of NIRC-ICSI Newsletter - Standing from Left CS Monika Kohli, CS Manish Gupta, CS Divya Tandon (Company Secretary, Powergrid Corpn of India Ltd.), CS Nitesh Sinha, Jyoti Jindgar (Advisor, CCI), CS Dinesh C Arora, CS Pradeep Debnath and CS Rajeev Bhambri.
43. ▶ NIRC - 1st Regional Conference for Women on "Women in Leadership Roles – Challenges and Success Mantras" - CS Dinesh C Arora presenting Green Certificate and Bouquet to Jyoti Jindgar (Advisor, CCI). Others seen from Left: Manish Gupta, CS Divya Tandon (Company Secretary, Powergrid Corpn of India Ltd.), CS Nitesh Sinha, CS Rajeev Bhambri and CS Pradeep Debnath.
44. ▶ NIRC - Seminar on Insolvency and Bankruptcy Code-2016 Jointly organised with IBBI – Sitting from Left: CS Nitesh Sinha, CS Ranjeet Pandey, CS Manish Gupta, CS (Dr.) M S Sahoo (Chairperson, IBB), CS Rajiv Bajaj and CS Pradeep Debnath.
45. ▶ NIRC - Seminar on Insolvency and Bankruptcy Code-2016 Jointly organised with IBBI – CS Satwinder Singh addressing. Others sitting from Left: CS Dhananjay Shukla, CS N K Jain, Sanjeev Pandey (Dy. General Manager, IBBI) and CS Nitesh Sinha.
46. ▶ EIRC - Full day seminar on CS – A perfect Professional - Standing from Left: H.E. Keshari Nath Tripathi (Hon'ble Governor, West Bengal) addressing. Others sitting from Left: Vivek Gupta (Member of Parliament, Rajya Sabha), CS Sandip Kumar Kejriwal, CS Santosh Kumar Agrawala and CS Gautam Dugar.
47. - 52. ▶ EIRC - Speakers of the 1st Regional Conference of Women Company Secretaries – From Left: CS Anil Murarka, CS Savithri Parekh (Sr.VP(Legal & Secretarial), Pidilite Industries Ltd), Rina Sarkar (ACP, Women Grievance Cell), CS Manoj Banthia, CS (Dr.) Pawan Agrawal (Renowned Motivational Speaker) and Ruchika Gupta (ED, Sanmarg Pvt. Ltd).
53. ▶ EIRC - 1st Regional Conference of Women Company Secretaries – Presentation of Memento - Standing from Left: CS Sandip Kumar Kejriwal, Chief Guest H.E. Shri Tathagata Roy (Hon'ble Governor, Tripura), CS(Dr.) Shyam Agrawal, and CS Gautam Dugar.

Budget 2017 - Suggestions Concerning Income-Tax >>> P-25

T.N. Pandey

Why it is that suggestions made generally prior to Budget focus on concessions and exemptions and not on what the Finance Minister should do to strengthen and improve the tax system and generate more income. This important question is sought to be answered in this article.

Definition of 'Public Company': Effect of the Proviso to section 2(71) of the Companies Act, 2013 >>> P-28

Dr. K R Chandratre

The proviso to the definition of 'public company' in section 2(71) of the Companies Act 2013, according to which a company which is a subsidiary of a company, not being a private company, shall be deemed to be public company for the purposes of this Act even where such subsidiary company continues to be a private company in its articles, gives rises to varying interpretations and leads to many practical difficulties. The moot question is, whether it is merely a declaration that a private company which is a subsidiary of a public company is deemed to be a public company regardless of what its articles contain, or whether it seeks to provide that such a private company is entitled to retain its basic structure as a private company even after it becomes a subsidiary of a public company. If the later interpretation is correct, then the provision should have been on the lines of what section 43A of the Companies Act 1956 (omitted) had worded..

Amalgamation/Merger and Winding Up Cases Transferred from High Courts to the NCLT: Role of PCS >>> P-32

Delep Goswami and Anirrud Goswami

The Central Government, through the Ministry of Corporate Affairs (MCA) has issued notifications dated 7th December, 2016 enforcing the provisions of the Companies Act, 2013 dealing with amalgamation/merger cases and winding up cases from the jurisdiction of the High Courts to the National Company Law Tribunal (NCLT) with effect from 15th December, 2016. The MCA also simultaneously issued on 7th December, 2016 two notifications, namely, the Companies (Transfer of Pending Proceedings) Rules, 2016 and the Companies (Removal of Difficulties) Fourth Order, 2016. Thereafter, MCA also issued notification dated 14th December, 2016 notifying the Rules to be followed by NCLT in amalgamation cases. Since section 432 of the Companies Act, 2013 allows the PCS to appear before NCLT and NCLAT, these are significant developments for the corporate sector and for the Practising Company

Secretaries (PCS) as this enhances their practice scope for appearance in the NCLT in respect of newly transferred jurisdiction of winding up cases and amalgamation cases. The present article highlights the provisions of law and the rules for amalgamation cases which will be helpful for the PCS..

How to Avoid Undue Harassment of Directors >>> P-36

J.C. Seth and Anil Kumar Seth

There are scores of laws applicable to every Company viz. Corporate, Taxation, Labour, Industrial, Pollution and Economic Laws etc. It is common experience that several small or sick companies in India collapse and get wound-up (even voluntarily) because all their Directors are prosecuted for violation of any one of applicable enactments. Some Directors against whom complaints are filed face trial and appear personally on all dates of hearings, while others go underground and hence unable to perform their duties peacefully being under terror of punishment. The functioning of such companies get from bad to worse and some of them come to grinding halt, with disastrous effects all around. The Author has suggested a way out how to avoid or mitigate 'undue harassment' of Directors within the existing legal framework.

Wrongful withholding of Company's Property, Consequences of >>> P-40

Hem Raj Tuteja

Section 452 of Companies Act, 2013 (corresponding to section 630 of Companies Act, 1956) regulates the conduct of officers and employees of a company who wrongfully withhold the property of the company. The provisions of the section seek to provide penalty for wrongful withholding of property of the company by any officer or employee of the company. The provisions further require the withholders of property to refund the benefits that have been derived from such property or cash or in default to undergo imprisonment for a term which may extend to two years. The remedy provided by the section is speedy, efficacious and saves the company from hassle of a time consuming, toilsome and lengthy legal process by filing a civil suit for recovery of its property. The author highlights all the aspects of section 452 of the Act and the related case laws. Since no judgment has been passed in respect of new section, and all the legal cases referred to in this article pertain to section 630 of the erstwhile Act, hence, section 630 (wherever it appears), be read as section 452 of Companies Act, 2013.

Drafting Resolution with Class and Clarity >>> P-44

Prabir Bandyopadhyay

Resolutions are drafted in different shapes, sizes and contents while the subject matter is the same. Sometimes, a Resolution tends to cover a lot of information as if to help the target readers i.e. the ultimate decision makers,

constitute their opinion rightly and comfortably. But, in reality, a long story cut short or the moral of a story followed by the story itself yields better results towards understanding the story in its right perspective.

Transfer of Unpaid Dividend and Shares under IEPF Authority (Accounting, Audit, Transfer and Refund) Rules, 2016 ➤ P-48

M R Bothra

The Article deals with the newly enforced provisions relating to the process for transfer of the unclaimed/unpaid dividend to Unpaid Dividend Account and subsequently to the Fund, Transfer of shares to the Fund and Claiming of dividend amount and shares transferred to the Fund by the persons who are entitled to such dividend or shares. The Article also focuses on the new compliance under the Rules and the procedural problems being faced by the companies while implementing these provisions. After the commencement of the Companies (Amendment) Act, 1999, no person could claim any money once transferred to the Fund. However, under the provisions contained in Section 125(4) of the Companies Act, 2013, any person claiming to be entitled to the amount referred in Section 125(2) may apply to the IEPF Authority for the refund of the said amount. In pursuance to these Rules, many companies have already given public notice and also sent intimation to the shareholders concerned individually. However, the same has not been acted upon in view of the clarification issued by the MCA. In view of this development, a clarification would be a welcome step to regularise the process already started by the affected companies for the purpose of transfer of shares to the Fund.

The Journey of the Indian Competition Regime in the last 7 Years : way forward ➤ P-53

G.R. Bhatia

The Competition Act, 2002 was last amended in 2007. Since then technology, innovation and new business models have changed market dynamics both in domestic as well as international trade. Thus, reform of law and its processes have to always be work in progress. Some areas requiring reforms are indicated herein.

Gratuity: Exemptions, Taxability and Relief under the Income Tax Act, 1961 ➤ P-56

Nagaraj U Hiregange

Gratuity may be a part of an employee's salary package i.e. the Cost to the Company. Thus, it is pertinent to know how, at the time of retirement/death/superannuation, it will be taxed. The Income Tax Act, 1961 provides certain exemption and relief to an employee who receives gratuity. Surplus gratuity after claiming exemption and relief, if any,

will be taxable under the head Salary of that employee. And wherever there is taxable salary, TDS follows. Thus with the help of ample illustrations we will be able to understand the position of gratuity received, under the Income Tax Act.

Listing of Stock Exchanges: A logical step forward for Indian demutualised Stock Exchanges ➤ P-61

Nitesh Bhati

India's two major Stock Exchanges, BSE Ltd. and National Stock Exchange Ltd., are long awaiting for regulatory approval for taking a logical step forward to list their owned shares on Stock Exchange. Even though listing of Stock Exchanges have been globally accepted as next logical step after demutualization, the regulators across the globe, have their own concern about conflict of interest which arise due to listing of Stock Exchanges. The article talks about evolution of Indian Stock Exchanges, pros and cons of listing of Stock Exchange, global scenario, regulatory provisions in India and current status of listing of the Indian Stock Exchanges. The article also throws light on Self-Listing and Cross Listing, as two alternatives available for listing of Stock Exchanges

PART-II : ARTICLE ON GST

input Tax Credit Under GST- Another Backlash on Black Money ➤ P-66

Monika Goel

Tax evasion and avoidance has been a challenge for tax administration since independence. The integrity, equity and efficiency of tax collection have been questioned with the increase of black money in the economy. Demonetisation is a first attack on the underground economy. GST would be the next revolutionary step against black money by intensively increasing the use of technology in administering the tax. It would raise the levels of enforcement and would block the clandestine methods of tax evasion in the new tax regime. The paper aims to study the mechanism of Input Tax Credit under GST which includes procedural and technological barriers and highlights the impact of such barriers on checking the black money in the economy. Comparing the mechanism of input tax credit under GST with the existing CENVAT credit mechanism, the paper shows how GST will plug in all scope of manipulation, fake bills and excess utilization of CENVAT Credit. The novel concept of accumulating the credit of input tax admissible to every registered taxable person in Electronic Ledgers has been detailed in the paper.

RESEARCH CORNER

P-69

A Study on Infringement of FCRA, 2010 by NGOs ➤ P-70

Meenu Gupta

The Foreign Contribution Regulation Act (FCRA), 2010 enacted to curb the use of foreign funds for anti-national activities came with empowering the Govt. to obtain details pertaining to

accounts of NGOs to receive foreign contribution and allowing foreign contribution to be transferred to organizations which are not registered under FCRA with 'Prior Approval'. However, the Ministry of Home Affairs (MHA) data revealed the reduction in foreign receipts into India by 30% in 2014-15 from the previous year due to cancellation of license of 10,118 registered associations in March, 2015 in violation of FCRA norms as part of an exhaustive and ongoing review of their foreign fund inflows and utilisation, by foreigners/FCRA division of the home ministry. The prominent being the Greenpeace India and Indira Jaising's Lawyers Collective. In view of this, the article seeks to analyse the amendments with respect to its impact on economy and stakeholders.

Option Pricing in Valuation of Business Entities

» P-77

K S Ravi

Traditional methods of valuation like the DCF or the ROI often fail when they have to be applied to long gestation projects, which are contingent upon uncertainties. Risks are in fact welcomed under real option strategy as this provides a tool for incorporating management's flexibility in changing tracks, as a mid-way correction. The concepts of financial option, in decision making are extended to long gestation real-life projects with a call and put option as information flows in. In spite of uncertainties and risks, projects are not shelved but valued using real option tools, where the projects may have got abandoned under the traditional valuation methods. With the business environment changing, in speed and dimension, uncertainties abound long gestation projects, where real option strategies of valuation are replacing traditional valuation methods.

All India Research Paper Competition on Merger & Acquisition

» P-83

Research Colloquium on Indian Companies Act – Decoding unsolved Mysteries

» P-85

LEGAL WORLD

P-87

- **LMJ 15: 01:2017** A company incorporated under the companies Act, being a juristic person, is not a citizen and it cannot enforce fundamental rights available to natural persons under article 32 of the Constitution of India.[SC-CB]
- **LW 01: 01: 2017** If the offer period can be triggered of by an understanding that is yet to fructify into an agreement, we do not see how the same can be said not to have commenced/started from the date of a concluded agreement i.e. share purchase agreement as in the present case.[SC]
- **LW 02: 01: 2017** Provisions of SARFAESI Act are applicable to the State of Jammu & Kashmir and the constitution of J&K is subservient to the Constitution of India. [SC]
- **LW 03: 01: 2017** In order to deny gratuity to an employee, it is not enough that the alleged misconduct of the employee constitutes an offence involving moral turpitude as per the report of the domestic inquiry. There must be termination on

account of the alleged misconduct, which constitutes an offence involving moral turpitude. [SC]

- **LW 04: 01: 2017** Provisions of BOCW Act and Welfare Cess Act are applicable to the construction of factory building. [SC]
- **LW 05: 01: 2017** CCI dismisses the complaint against newspapers alleging that charging higher rates for publishing legal notices is abuse of dominance.
- **LW 06: 01: 2017** CCI dismisses the complaint against technical software license provider.
- **LW 07: 01: 2017** The Company has shown profitability and its liability to redeem the preference shares is in the future. In the circumstances, the possibility of its incurring losses in the event of payment of capital gains tax cannot be ruled out. That such losses might arise could also be within the normal course of any normal business enterprise's functioning. In the circumstances, the view of the respondents that exemption from payment of capital gains tax is not warranted cannot be held illegal.[Del-DB]
- **LW 08: 01: 2017** It is perfectly open to the landlord to choose a more suitable premises for carrying on the business by her son and that the landlord cannot be dictated by the tenant as to from which shop her son should start the business from.[SC]

FROM THE GOVERNMENT

P-97

- National Company Law Tribunal (Amendment) Rules, 2016
- Delegation of Powers to RDs
- National Company Law Tribunal (Procedure for reduction of share capital of Company) Rules, 2016.
- Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
- Corrigendum
- Date of coming into force certain Sections of the Companies Act, 2013.
- Companies (Removal of Difficulties) Fourth Order, 2016
- Companies (Transfer of Pending Proceedings) Rules, 2016.
- Clarification regarding due date of transfer of shares to IEPF Authority.
- Relaxation of additional fees and extension of last date in filing of forms MGT-7 (Annual Return) and AOC-4 (Financial Statement) under the Companies Act, 2013- State of Jammu and Kashmir- reg.
- Companies (Registration Offices and Fees) Second Amendment Rules, 2016.

OTHER HIGHLIGHTS

P-113

- Members Admitted/Restored
- Certificate of Practice Issued/cancelled
- Licentiate ICSI Admitted
- Revision in the Annual Membership fee, Entrance Fee and Certificate of Practice fee for Associate and Fellow Members
- List of Practising Members/Companies Registered for Imparting Training
- Company Secretaries Benevolent Fund
- Regional News
- Revolving Fund Schemes for becoming life members of CSBF
- Ethics & Sustainability Corner
- GST Corner
- CG Corner



कर्मण्येवाधिकारस्ते मा फलेषु कदाचन।
मा कर्मफलहेतुर्मुमा ते संगोऽस्त्वकर्मणि

(Your right is to the duty only, not to the fruits thereof.)

Do not act for the results of your deeds and never be attached to not doing the duty.)



Esteemed Professional Colleagues

Penning this communication is very special and touching for me this time as thousands of thoughts are flashing in my mind today when to write this farewell message as the President, ICSI. I reminisce my journey and recollect memories as the Captain of ICSI Ship for the year 2016, I feel content as the evanescent milestones we were able to set during this clinch for sailing ICSI towards its journey of excellence gives a satisfaction that I was able to pour some drops in the ocean of glory and illustriousness named ICSI. This journey has made zillion memoirs in my memory bank and I am indebted and gratified for the affable, ebullient and unstinted support of each and every soul in this honoured journey. I am also grateful to the Almighty who gave me this distinction to lead this revered profession when tide of time was taking several turns to open a sea of opportunities for our esteemed members, I am grateful that I was fortunate to represent ICSI before Government and other eminent bodies of high repute and to witness some historical enactments related to our profession. Yes, it was a 24/7 assignment throughout the year, but then, I was privileged to fetch generous support of you all. All of you inspired me and held this message firmly for me “You don’t have to move fast, you even don’t have to run, the only thing you have to do...is to... keep moving and just keep on moving and while doing so, not to focus on the finish line but just to enjoy the journey.” I did the same, I enjoyed my journey each day, each moment, and when I see myself on the finish line today, a feeling of serenity grapples me and hereby, I am able to shell out final stock of milestones set during the year 2016:

DIRECTORATE OF CORPORATE LAWS AND GOVERNANCE

Corporate Governance Year

The Institute declared the year 2016, as the Mission year for Corporate Governance. The Institute has mooted the idea of observing a day as International Corporate Governance Day. In order to make a mark the Institute took following initiatives:

- a) **International Round Table on Corporate Governance**
- With an objective to discuss the developments in the field of Corporate Governance and further the cause of good governance, the Institute organised International Round Table Conference on Corporate Governance on 15th April 2016 at New Delhi.
- b) **PAN- India Programmes** - The Institute conceptualized the idea of having a day declared by the United Nations Organization (UNO) as International Corporate Governance Day (ICGD). To build consensus on the above concept, PAN India programmes were organized on April 16, 2016 across 44 locations through Regional and Chapter offices of the Institute, where representatives from Chambers, Industry Associations and leading corporate professionals participated.
- c) **1st Global Congruence to Promulgate International Corporate Governance Day (ICGD)**- The Institute organized 1st Global Congruence to Promulgate International Corporate Governance Day in Hyderabad

on 8th-9th December, 2016. The Congruence had representation from countries like Indonesia, Bangladesh, Srilanka, Kenya. Idea of having a day declared as International Corporate Governance Day was well taken by the participants.

ICSI Insolvency Professionals Agency (IPA)

It was really a delight to witness an opportunity for esteemed members for the Institute to act as Insolvency Professional Agency (IPA) under the IBBI (Insolvency Professional Agencies) Regulations, 2016. The registration certificate as a Section 8 Company was awarded to ICSI by Union Finance and Corporate Affairs Minister Sh. Arun Jaitley on 28 November, 2016 in New Delhi. This 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 ICSI Insolvency Professionals Agency has already started enrolling professional members for a limited period of six months. This registration can be availed by Company Secretaries, Chartered Accountants, Cost Accountants and Advocates who are in practice for minimum 15 years. I urge all eligible members to reap this opportunity.

1st ICSI CSR Excellence Awards & ICSI National Awards for Excellence in CG

With a view to provide further impetus to the Government's efforts towards implementation of provisions relating to CSR and to recognize the good practices undertaken by Corporates under the CSR umbrella, the Institute has initiated its '1st ICSI CSR Excellence Awards'. The Award aims to promote the Corporate Social Responsibility amongst the Indian corporates by acknowledging the unique and extraordinary contributions in the Corporate Social Responsibility and recognizing implementation of innovative practices, programmes and projects in CSR. This year the Institute has entered 16th year of ICSI National Awards for Excellence in Corporate Governance. The presentation ceremony of these awards was organised on 24th December, 2016 at Vigyan Bhawan, New Delhi, in the august presence of Chief Guest - Smt. Nirmala Sitharaman, Hon'ble MoS (I/C), Commerce & Industry.

Revision of Secretarial Standards (SS-1 & SS-2)

The Institute had submitted the revised Secretarial Standards on Meeting of the Board of Directors (SS-1) and General Meetings (SS-2) to the Ministry of Corporate Affairs (MCA) for approval under Section 118(10) of the Companies Act, 2013. The respective Guidance Notes on SS-1 & SS-2 are also revised simultaneously and will be released after the introduction of revised SS-1 & SS-2.

Model Code on Meetings of Gram Panchayats

An ICSI delegation had a meeting with Hon'ble Union Cabinet Minister for Rural Development, Panchayati Raj and Drinking Water and Sanitation, Govt. of India, in connection with the proposed Model Code on Meetings of Gram Panchayats. Further, the delegation also met with the Secretary and Additional Secretary of Ministry of Panchayati Raj where ICSI representatives mooted the proposal to introduce Model Code on Meetings of Gram Panchayats.

Auditing Standards Board (ASB)

The Auditing Standards Board (ASB) was constituted in the

month of June, 2016. The purpose of constitution of the ASB is to strengthen the hands of members on Secretarial and other Audits performed by Company Secretaries. Primary function of the Board is to formulate Auditing Standards to bring about quality in the Audits performed by the members. The Following Auditing Standards are being drafted in the first phase:

- CSI Auditing Standard on Engagement
- ICSI Auditing Standard on Audit Process and Documentation
- ICSI Auditing Standard on Forming Opinion
- ICSI Auditing Standard on Secretarial Audit

Compliance Management and Auditing Configuration (CMAC)

To facilitate the members of ICSI, the Institute has developed a tool for facilitating conduct of Secretarial Audit through an agency 'Compliance Management and Auditing Configuration (CMAC)'. This will not only support in conducting Secretarial Audit but is also useful as a ready reckoner for Compliance Management in companies. In the first phase, all manufacturing and services industry laws are available covering more than 400 Act & Rules etc.

Publications released during the Year

- SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 – A Referencer
- Coffee Table Book on Corporate Governance
- E-Book on Coffee Table Book on CSR
- Corporate bankruptcy – A primer
- Backgrounder on National Company Law Tribunal
- Guidance note on AOC-4
- Guidance Note on Secretarial Audit (Release 1.3)
- Referencer on Board's Report
- FAQs on Section 8 Companies
- SEBI(LODR) Regulations 2015 – Debt Securities
- NCLT and NCLAT - Manual
- Risk Management- A tool for Good Corporate Governance
- Independent Directors – A Hand book (A revised edition)
- Corporate Governance Certification under Listing Regulation
- SEBI (LODR) and Companies Act, 2013 – A Comparison
- Gender Diversity- Revised

Joint Programmes

- The Institute jointly with **Institute of Directors (IoD)** organised a Seminar on Board Diversity on the theme "Driving a Sustainable Organisation through Board Diversity" at New Delhi on 4th June, 2016. Ms. Meenakshi Lekhi, Hon'ble Member of Parliament graced the occasion. The Seminar witnessed deliberations on diversity on Board as a differentiator and how balanced Boards can contribute towards good governance.
- The Institute jointly with National Stock Exchange organised a workshop on Secretarial Audit on October 14, 2016 in Delhi and on December 7, 2016 in Mumbai. Similarly, the Institute jointly with Bombay Stock Exchange organized joint workshop on Secretarial Audit on October 17, 2016 in Mumbai.
- **Symposium on Companies Act, 2013: NCLT and NCLAT - Law & Practice-** The Institute jointly with National Company Law Tribunal Bar Association (NCLTBA) organized Symposium on Companies Act, 2013: NCLT and NCLAT - Law & Practice at New Delhi on July 23, 2016. Hon'ble Justice Shri S. J. Mukhopadhaya Chairperson, NCLAT was the Chief Guest and Hon'ble Justice Shri M. M. Kumar,

President, NCLT was the Guest of Honour for the occasion. Deliberations at the symposium included Derivative Action – Oppression and Mismanagement and Class Action, Art of Appearance and Nuances of Drafting before NCLT and Practice of Insolvency and Bankruptcy Code, 2016.

- The Institute jointly with Insolvency and Bankruptcy Board of India (IBBI) organised National Seminar on Insolvency & Bankruptcy Code, 2016 on 11th December, 2016 in Bhubaneswar. A National Conclave on Insolvency and Bankruptcy Code, 2016 was also organised in Mumbai on 16th December, 2016.

Workshop/ Joint Seminars with PHD Chambers of Commerce & Industry

With a view to update professionals about the recent amendments in Corporate laws, the Institute joined hands with the PHD Chamber, as an associate partner in organizing workshop series on “Corporate Laws & Regulations, 2016 (Recent Amendments)”. These workshops were organised on 21-22 July 2016 and 9-10 August 2016. The Institute was an institutional partner for the Seminar on, “Is the Corporate Sector Over Regulated?” organised by PHD Chambers of Commerce at PHD House, New Delhi on May 7, 2016. The Institute was an Associate partner with PHD Chambers for Seminar on “National Company Law Tribunal – Challenges & The Way Forward Implications” held on 14th October 2016 and Seminar on “Insolvency and Bankruptcy Code: Emerging Issues and its Impact on Nov 11, 2016.

ASSOCHAM

ICSI participated as an institutional partner in National Conference on ‘Corporate Compliance Management - The Strategic Regulatory Remediation’, organised by Assocham on April 29, 2016 at New Delhi. The Institute was an institutional partner for the 5th National Summit on Mergers and Acquisitions “The Catalyst to Economic Growth” organised by Assocham at Mumbai on May 27, 2016.

FICCI

The Institute joined hands with FICCI, as a support partner in the Conference on ‘Ease of Doing Business: Distance to Destination’ held at Federation House on August 05, 2016. Mr. Ramesh Abhishek, Secretary, DIPP graced the occasion as the Chief Guest. The Conference offered an insight into the understanding of the legal requirements and implications of the proposed amendments under the Companies Act, 2013 and the challenges which companies are still grappling with.

Company Law- Profession Related

Representations to the Ministry of Corporate Affairs

- Scope of Secretarial Audit :
 - Request to modify Rule (9) of the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014
- Authentication of Annual Accounts
 - Request to clarify the liability of CS while signing the financial statement under the provisions of section 134 of the CA, 2013.
- Request to modify Rule 8 of the Companies (Registration) Offices and Fees Rules, 2014
- AOC-4- Certification by a CA (in whole time practice) or CS (in whole time practice) or Cost Accountant in

whole time practice.

- Implementation of Section 203 of the Companies Act, 2013
- To provide an option for CS to file e-form at the time of resignation
 - Request to create an option to submit resignation through DIR-11 for CS and KMPs.
- Representation on LLP
- Representation on Internal Audit

Signing of MoUs

A MoU was signed with Competition Commission of India on 9th June, 2016. This MoU was signed with an intent to partner with each other in the areas of mutual interest which includes Competition laws advocacy, advancement of knowledge. Various programmes were held pursuant to this MoU - National Seminar on Laws & Economics of Competition at Bhubaneswar, Thane, Ghaziabad & Bengaluru.

DIRECTORATE OF MEMBERSHIP

- Process time for Associate Membership application reduced
- Printing time for Membership certificates reduced
- Alignment of data of members as per their PAN details for facilitating their DSC registration on the MCA portal done swiftly
- Successful organization of the ICSI bi-annual Convocations at four different regions
- Guidelines for the name of a proprietorship concern / firm / trade revised and implemented
- Guidelines for change in name of proprietorship concern / firm / trade implemented
- Standard Operating Procedure (SOP) for recording demise of a member in the records introduced
- MIS of the Directorate prepared on daily basis
- Speedy supply of kits to members on enrolment
- Queries on CSJ mitigated
- Digitization of KYM form pending with IT
- Digitization of Form-D
- Proposal for complete Online payment of fee pending with IT
- Speedy disposal of applications and queries
- Organized Special Discount on Khadi clothes and Khadi products from Khadi and Village Industries Commission, (KVIC) Govt. of India for Members and Students

CSBF

- Substantial increase of enrolment to CSBF in 2016 over 2015
- Dedicated CSBF cell established
- Separate Portal for Company Secretaries Benevolent Fund (CSBF) created
- Online donation facility launched
- Financial assistance from CSBF is disbursed speedily
- Short Stories on CSBF hosted on website of the Institute
- FAQs on CSBF hosted on website of the Institute
- New Brochure containing all about CSBF developed and disseminated amongst all the members of the Institute
- Three rotational schemes to augment the enrolment to Life Membership of CSBF launched
- CSBF month was organized in May, 2016 to popularize and sensitize the ROs and chapters

RTI

- Creation of online portal for receiving RTI applications

- Swift disposal of applications and replies to appeals

Annual General Meeting of CSBF

I feel content to that we are able to raise financial assistance to the dependents of life members of CSBF from Rs. 5 Lakhs to Rs. 7.5 lakhs w.e.f. 1st January, 2017 in the unfortunate event of the death of the life member. This has fulfilled a long-standing appeal of the life members and has been made possible by the persistent efforts of the Managing Committee. I would, hence, urge all esteemed members to take life membership of the CSBF by making a onetime online/offline payment.

DIRECTORATE OF STUDENTS SERVICES

ICSI Signature Award

The ICSI Signature Award Scheme was introduced by the Institute in furtherance of its objectives to nurture best talent available and facilitate meaningful collaborations between the institutions in the higher education sector for the benefit of student community. Under this Scheme, Top Rank Holders in the B.Com. Examinations of respective Universities and toppers of selected programmes/papers of IIMs/ IITs shall be awarded a Gold Medal and Merit Certificate along with waiver of Registration Fee for the CS Course in Executive Programme. So far, the Institute has signed agreements/MOUs with the following Universities/IIMs :

1. Bhagat Phool Singh Mahila Vishwavidyalaya, Khanpur Kalan, Haryana
2. Alagappa University, Karaikudy, Tamilnadu
3. Guru Nanak Dev University, Amritsar, Punjab
4. Kumaun University, Nainital, Uttarakhand
5. Himachal Pradesh University, Shimla
6. Adikavi Nannaya University, Rajamundry, Andhra Pradesh
7. Andhra University, Visakhapatnam
8. IIM, Indore
9. SNDT Women's University, Mumbai
10. IIM, Tiruchirapalli, Tamilnadu
11. Panjab University, Chandigarh, Punjab
12. IIM Raipur, Chhattisgarh

CS Study Centre Scheme

The objective of the Study Centre Scheme is to break the distance barrier at student's end for availing the services of the Institute. Under the Scheme, Study Centres are opened in cities/areas, wherein the Institute's Offices are not in existence. Apart from providing basic services, the Study Centres shall also be imparting coaching to the students of various stages. Till date, total 30 Study Centres have been opened at reputed Colleges/Universities located throughout the length and breadth of the country.

CS Olympiad

The Institute signed a Memorandum of Understanding (MoU) with the Science Olympiad Foundation (SOF) for conducting the CS Olympiad for students of Classes 11 and 12 in each academic year in schools across India. The CS Olympiad was successfully conducted in two phases in September and October, 2016 in 29 States/Union Territories across about 400 Cities. About 1,300 Schools and more than 36,000 students were enrolled. The CS Olympiad was also conducted in more than 10 Schools in Gulf Region, Bhutan, Sri Lanka, Singapore, Uganda, etc.

Student Month

The Institute came up with a new initiative to hold Student Month during July, 2016. The Student Month will be remembered for a long time by Team ICSI owing to massive team work and co-ordination involved. The slogan adopted for Student Month is "Udaan..We fuel your Growth" which indicated Institute's resolve to proactively back the growth of students as professionals. Some events organised as part of the Student Month are as follows:

(a) Interactive Portal on Student Month

An interactive portal covering various activities organised during the month with updation of information and photographs pertaining to various events. The Team at Headquarters in co-ordination with the team at Regional/Chapter Offices made sure that the portal was promptly updated with the pictures, videos, etc. of various activities organised.

(b) Career Awareness Programmes (CAPs)

Special interactive sessions were conducted in various Colleges to create awareness about the profession of Company Secretaries. Career Awareness Week was observed during last week of July, 2016. The career awareness sessions provided an opportunity to the prospective students to know about the profession.

(c) Full Time Integrated Course

Fresh batch of Full Time Integrated Course commenced at ICSI-CCGRT, Navi Mumbai during the Student Month as a continuous process by the Institute to enhance the quality of education imparted to the students. Zealous efforts have been made to provide Quality Study Material, Class Room Teaching, Various Training Programmes etc., to take the profession to the next level.

(d) Renewed Thrust on Class Room Teaching

Regional Councils & Chapters are giving renewed thrust on Class Room Teaching activities. Faculty Induction Programmes were also organised during the Student Month to enhance the quality of coaching imparted to the students. For the convenience of students, for the first time, the fresh batches of Class Room Teaching were commenced on a uniform date i.e. 7th July, 2016 to impart coaching for December, 2016 Examinations at more than 50 Regional/Chapter Offices.

(e) Skill Development

Following the thrust given by Government of India in the area of Skill Development, a Mega Student Programme titled 'Yuva Kaushal' was organised at Hyderabad on 15th July, 2016. The country needs skilled manpower and the Institute joins the Government of India in its efforts to reduce the gaps in the skill levels and the actual requirements.

(f) Swachh Bharat Mission

Cleanliness drives were organised in the Regional / Chapter Offices of the Institute as part of the 'Swachh Bharat Abhiyan' project of Government of India. More than 50 Chapters participated in the special campaigns organised at various offices of the Institute on 27th July, 2016.

Professional Pass Certificates with Security Features

Commencing from December, 2015 Session, Professional Pass Certificates with Security Features like non-tearable paper, QR

Code, complex border, etc. have been introduced. Apart from enhancing the look and feel of the certificates, the new format ensures longevity and security features to drastically reduce the chances of misuse.

Modified Switchover Scheme

The Council of the Institute announced a Modified Switchover Scheme for the Professional Programme 2007(Old) Syllabus Students while switching over to Professional Programme 2012(New) Syllabus.

ICSI-SMASH Project

The Institute's activities have undergone a sea change over the years and contribution of technology cannot be ignored. It was precisely for this purpose that the Council through the Information Technology Committee had launched ICSI SMASH (Student Member Application Software Hosting) Project during 2015. The ICSI SMASH Project on its completion, shall bring about major changes in the working of the Institute. Physical movement of files, papers, etc. shall be replaced by automated processes. It will bring about a lot of transparency in the processes and the concerned Directorates shall be able to view and maintain the whole life cycle of the stakeholder i.e. registration, training & membership records, etc. in its entirety at one place.

INITIATIVES OF THE DTE. OF PD, PP & STUDIES

Initiatives for MSME and Start-up India

The members of the Institute are actively engaged in the MSME sector and are rendering value added services to MSMEs. A delegation of the Institute met Mr. K K Jalan, Secretary, Ministry of Micro, Small and Medium Enterprises to discuss the way forward in guiding the entrepreneurs and providing further support to the Ministry of MSME. The Institute met also met Dr. Anup K. Pujari, IAS, the then Secretary, Ministry of Micro, Small and Medium Enterprises at Udyog Bhawan, New Delhi. A delegation of the Institute also met Ms. Nirmala Sitharaman, Hon'ble Minister of State for Commerce and Industry and discussed the feasibility of setting up of incubation centres, platform to the entrepreneurs for converting their ideas into real businesses and organizing hand holding camps for start ups towards fostering the development of start ups under the aegis of DIPP. The Institute organized 2nd National Seminar on Entrepreneurship, Skill Development and Governance in MSMEs with Federation of Rajasthan Trade & Industry as an associate partner at Hotel Hilton, Jaipur on May 28, 2016. Shri Rao Rajendra Singh, Hon'ble Deputy Speaker, Rajasthan Legislative Assembly, graced the occasion.

Constitution of Syllabus Review Board

The ICSI constituted 'Syllabus Review Board' to review the existing course curriculum.

Make in India Week Participation

The Government of India's Mega Event 'Make in India' in Mumbai from February 13-18, 2016 was graciously inaugurated by our Honourable Prime Minister Shri Narendra Modi Ji. ICSI played a pivotal role in the pavilion of the Ministry of Corporate Affairs. The pavilion witnessed the gracious presence of Shri Arun Jaitley, Hon'ble Minister for Finance, Corporate Affairs and Information and Broadcasting. It was honoured by the patronage of esteemed Secretary, MCA, Shri Tapan Ray, IAS and Joint Secretary, MCA, Shri K V R Murty, IAS. The members of the

Institute were involved in offering expert advice related to the matters of compliance to various laws and did it with dedication and passion.

Meeting with Dr. Madhukar Gupta, Department of Public Enterprises

A delegation of the Institute met Dr Madhukar Gupta, Additional Secretary, Department of Public Enterprises and discussed various initiatives to be taken including the organization of training programme for Independent Directors of PSUs and appointment of Company Secretaries as Independent Directors in PSUs.

E-library for ICSI Members

With a view to keep our members updated and equip them with knowledge resource tools and to facilitate them to carry out instant research, ICSI has taken a digital initiative to provide an e-library on corporate laws to its members on complimentary basis.

Views/Suggestions on SEBI (LODR) Regulations, 2015

With a view to create awareness regarding the provisions of SEBI Listing Regulations and as a measure towards capacity building and knowledge sharing, the Institute in association with BSE Ltd. organized 10 Programmes on SEBI Listing Regulations at various cities and locations - Mumbai, Delhi, Pune, Ahmedabad, Chennai, Hyderabad, Bangalore, Navi Mumbai, Indore, Kolkata. The Institute in association with Standing Conference of Public Enterprises (SCOPE) also organized an exclusive programme on SEBI Listing Regulations for public sector undertakings. The Institute forwarded the views/suggestions on SEBI Listing Regulations emanating from the deliberations and discussions of the programmes to SEBI for consideration.

ICSI National Seminar on 'Entrepreneurship, Skill Development and Governance in MSMEs

The Institute in association with Ministry of Micro, Small and Medium Enterprises (MSME) organised a Seminar on 'Entrepreneurship, Skill Development and Governance in MSMEs' at New Delhi on March 19, 2016. Shri K K Jalan, IAS, Secretary, Ministry of Micro, Small & Medium Enterprises, Government of India graced the occasion as the Chief Guest. On the occasion, two ICSI publications- 'Rajasthan –Ease of Doing Business for MSME Sector' and 'Referencer on Entrepreneurship, Skill Development and Governance in MSMEs' were also released.

ICSI Outreach

With an objective to acknowledge and reiterate the association and bondage with existing precious Memorandum of Understanding partners as well as exploring new associations, ICSI is celebrating 'ICSI OUTREACH'. We are hopeful that ICSI Outreach effort shall further the cause of the MOU in the real sense. ICSI signed a MoU with Bhawanipur Education Society College, Kolkata and National Institute of Securities Markets (NISM) to hold joint workshops, seminars, continuing education and training programmes, exchange of journals, course materials, case studies, and to conduct joint research projects etc. The Institute extended MoUs with Competition Commission of India (CCI), New Delhi to collaborate in the areas of competition advocacy and advancement of knowledge, National

Institute of Financial Management (NIFM), Faridabad to offer Joint Certificate Course(s), National Institute of Securities Markets (NISM), Mumbai to foster academics and research between the two Institutes.

Professional iTellect

The Institute has initiated Professional iTellect series of webinars, with underlying objective of rendering quality information in the diverse areas. The series focuses on the structured rising of professional learning, sharpening the knowledge, honing the skill sets of our members and students covering various topics such as Indirect Taxation, Real Estate Act, Capital Markets, Corporate Governance, Accounting Standards, Understanding Financial Statements, Indian Economy, Industrial Audit etc.

Income Declaration Scheme, 2016

ICSI represented at the interactive meeting called by the Hon'ble Minister of Finance, Corporate Affairs, I&B, Shri Arun Jaitleyji with the Professional bodies, Business and Industry on 28th June, 2016 at New Delhi. Smt. Nirmala Sitharaman, Hon'ble Minister of State (IC) for Commerce and Industry, Shri Jayant Sinha, Hon'ble Minister of State for Finance, Shri Piyush Goyal, Hon'ble Minister of State (IC) for Power, Coal, New & Renewable Energy, Revenue Secretary and other high profile dignitaries were also present at the meeting.

Recognition of Company Secretary for Third Party Certification by Govt. of Haryana

With a view to simplify and rationalize the existing Inspection System under various labour laws, Department of Labour, Government of Haryana has brought out a new comprehensive transparent inspection policy, under which it recognizes Company Secretary to provide third party certification under the scheme, which is indeed a great achievement for the profession.

International Professional Development Fellowship Programme

The Institute organized its 11th International Professional Development Fellowship Programme on the theme "Company Secretary- Navigating Change" at Greece (Athens, Mykonos & Santorini) from 26th June, 2016 to 4th July 2016.

Capital Markets Week

As part of continuous initiative towards investor education and good governance in Capital Markets, the ICSI observed Capital Markets Week during June 18-25, 2016 throughout the country on the themes "Transcending Horizons - Capital Market Way". During the week, 13 mega programmes and a number of other programmes such as panel discussions, lectures, interactive meetings with capital market regulators/stock exchanges and investor awareness programmes were organized by the Regional Councils and Chapters.

PCS Day

The Institute celebrated 'PCS Day' on 15th June, 2016 to commemorate the according of recognition to Company Secretaries in Practice for Certifying the Annual Returns in 1988 under the erstwhile Companies Act. Various programmes covering deliberations on awareness on recognitions for PCS and emerging areas of practice were organized by the Regional Councils, Chapters to mark the occasion. This was the first time

that this day was earmarked as PCS Day.

Launch of Certificate Course in Valuation

With the objective to enhance the skills of Company Secretaries in carrying out the valuation assignment relevant in today's business environment, the Institute launched Certificate Course in Valuation in association with National Institute of Financial Management, Faridabad (NIFM) on July 23, 2016. The first batch of the Course commenced on September 10, 2016. Completion of the Course will definitely sharpen the skill sets of our esteemed members in practice as well as in employment and open up vast areas of opportunities.

Short Term Course on International Business Taxation

A new online 15 days short term Course in International Business Taxation which is designed to provide members, students and professionals with a visible means of having acquired specialized knowledge in all aspects of the international taxation.

Launch of Diploma in Internal Audit

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. In this backdrop, ICSI launched Diploma in Internal Audit (DIA) in association with National Institute of Financial Management, Faridabad (NIFM) with a view of endowing its members with the specialized knowledge in the area of Internal Audit and further develop their skills to conduct internal audit including compliance and operational audits. The first batch of the Course commenced on September 24, 2016.

17th National Conference of Practising Company Secretaries

The 17th National Conference of Practising Company Secretaries held on August 12-13, 2016 at Kasauli, Himachal Pradesh witnessed a congregation of esteemed members from various parts of the country. Hon'ble Mr. A. R. Kohli, Former Governor of Mizoram and Hon'ble Justice Mr. M. M. Kumar, President, NCLT, graced the occasion as the Chief Guest at the Inaugural and Valedictory Session respectively. Further, Ms. Kiran Oberoi Vasudev, Chairperson, Quality Review Board, ICSI was the Guest of Honour at the Valedictory Session. The two day programme encapsulated technical sessions/panel discussions on various contemporary themes like Startup India, Goods and Services Tax, Financial Risk Management, Insolvency and Bankruptcy Laws, Real Estate Act, Companies (Amendment) Bill, 2016, National Company Law Tribunal, Competition Law and Ease of Doing Business in India – Facilitations and Obstructions, etc. addressed by eminent speakers from the Regulatory Bodies, Industry and Academia.

Release of Golden Leafs of ICSI National Conventions 1972-2015

With a view to commemorate the glorious success of the ICSI National Conventions, the Institute has taken a unique initiative for the first time to release 'Golden Leafs of ICSI National Conventions 1972-2015' covering over four decades of National Conventions. It gives glimpse of the yesteryears of ICSI Conventions highlighting the excerpts from the speeches of the distinguished speakers.

GST Awareness Month

Passage of Constitutional Amendment (122nd) Bill, 2014 in the

Parliament is a significant milestone in India's journey towards tax reforms. With a view to enrich professionals about the vivid facets of GST, the Institute commemorated "GST Awareness Month" and took various initiatives like dedicating an issue of Chartered Secretary solely to GST, organizing Awareness Programs, GST Awareness Walks, Webinars, Seminars, Sharing of Knowledge Material, Panel Discussions etc. The Institute also conducted a series of Master Classes on GST through webinars with a view to create more awareness about the proposed law on Goods and Services Tax.

CS Day

To commemorate the day when our profession was imparted statutory recognition, the Institute celebrated its 48th CS day on October 04, 2016. The day witnessed Celebrations across the Regional Office(s) & Chapter(s) of the Institute with a mega event held at Gorky Sadan Auditorium, Kolkata in the august presence of Mr. Derek O' Brien, MP, Rajya Sabha & Leader All India Trinamool Congress, the Chief Guest for the programme. The Celebrations served as Reminiscence to the journey of the Institute from a tiny strand to a premier Institute at Global Platform.

London Global Convention on Corporate Governance and Sustainability

ICSI was an Associate Partner with the Institute of Directors (IoD) for the '16th London Global Convention 2016' held on 17-19 October, 2016, at Millennium Hotel, London. The plenary session was addressed by the President, ICSI on the topic 'Enhancing Effectiveness of Tomorrow's Boards' based on the contemporary theme, 'Boards Evolving Role in an Uncertain Global Economy'. The Convention was attended by over 300 global participants including regulators, industry and academia.

Dubai Webinar

The Institute organized an international webinar on 'GST and its Impacts on NRI & Global Business Community' on October 01, 2016. The webinar was aired from Delhi at 9:00 PM (UAE time 7:30 PM). The webinar fetched an overwhelming response from the participants, considering which the Institute is in the process of organizing more such international webinars in the areas of contemporary interest.

44th National Convention of Company Secretaries

The Institute organized its 44th National Convention on November 17-19, 2016 at Gandhinagar, Gujarat on the theme "Powering Governance – Empowering Stakeholders: The Role of CS Professionals" to provide a wide platform for the exchange of ideas, facts and information on the emerging trends related to powering governance subsuming the dynamic role of professionals in reaping empowerment to the stakeholders. The Inaugural Session witnessed the presence of Sh. Vijaybhai R. Rupani, Hon'ble Chief Minister of Gujarat as the Chief Guest along with Dr. M.S. 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 as the Guest of Honors. The theme was very well articulated in the deliberations and discussions of the experts in various technical sessions. The Valedictory Session witnessed the gracious presence of our Chief Guest, Smt. Smriti Zubin Irani, Hon'ble Union Minister of Textiles along with Sh. Vinai Kumar Saxena, Chairman, Khadi and Village Industries

Commission as our Guest of Honor.

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, 2016 at J W Marriot, Chandigarh. The Summit has deliberations on guiding the entrepreneurs to build a strong base in terms of financing, leadership and strategies.

DIRECTORATE OF INFORMATION TECHNOLOGY

Information on the various initiatives taken by ICSI in respect of Directorate of Information Technology during 2016

- **Online Result Declaration for all programmes of CS Foundation/Executive/Professional Programme Examination**

The Institute declared results online for Foundation/Executive Programme as well as Professional Programme (Old and New Syllabus) of Company Secretaries Examinations held in December, 2015 on February 25, 2016 and in June 2015 on August 25, 2016. ICSI also extended the facility of downloading of e-result cum marks statement by the examinees of Executive Programme.

- **'CS Touch' Mobile Apps revamped**

CS Touch mobile App was launched by ICSI in 2015 for iOS and Android platforms. On the basis of the suggestions received from the stakeholders, the Institute has revamped this mobile App with a different look and feel and more information.

- **E-library for ICSI Members**

The Institute developed an Application Program Interface (API) to validate members for complementary CLA Online e-library facility to ensure that only valid members are able to avail this facility.

- **Online Donations to CSBF**

In Sync with Honourable Prime Minister of India Shri Narendra Modi Ji's 'Digital India' drive, the ICSI embarked on accepting CSBF donation (for members) online from 23rd February, 2016 which hitherto was accepted by way of cheque / demand draft. CSBF donation online has also been made live for non-members from 29th February, 2016. This has been done to facilitate smooth and quick delivery of service at doorstep. In this facility, a receipt is generated then and there which inter-alia serves for 80G purpose of the Income Tax Act, 1961.

- **Launch of President's Portal**

The Institute developed and launched a comprehensive President's portal in its website containing messages, interviews, media clippings etc of the President, ICSI to enable the stakeholders to know all the new initiatives and activities of the Institute from time to time through single window.

- **Virtual Front Office (VFO) /CS Acceleration Centre (CSAC)– Online initiatives for registration and booking**

ICSI launched Virtual Front Office (VFO)/CS Acceleration Centre (CSAC) under the banner of the ambitious project of Government of India Start Up-Stand Up India. Along with the launch of CS Acceleration Centers (CSAC) in Chennai and Kolkata in the month of June, 2016, the Institute rolled out online services for registration and booking of the CSACs. The members desirous of using these centers may register for as well as book the centers as per their requirement from

anywhere and anytime on 24 x 7 basis.

- **Website Home Page Renovation**

On the basis of the feedback of the stakeholders, the Institute renovated the home page of its website with attractive look and feel. The new home page was launched on 16th June, 2016. The Institute has also planned to renovate the complete website in coming months.

DIRECTORATE OF TRAINING AND PLACEMENT

(A) For Students:

Guidelines for transfer of training from one PCS/Company/ other entities to another PCS/Company/ other entities are revised and simplified

In order to provide facility while taking transfer from one PCS/ Company/other entities to another PCS/Company/ other entities , an internal guidelines has been developed for the students. Earlier for each student while taking transfer it is mandatory to submit NOC, in several cases it is found that students were facing genuine problems in their existing training and not able to move in other training because the trainer is not providing NOC. Now If any student wants to discontinue his training from his trainer, he has to give notice of minimum 45 working days to his trainer in writing by giving the reason for the same. If any student has submitted his resignation letter to the trainer, the trainer shall be liable to provide NOC to the trainee within 45 working days from the date of submitting the resignation letter.

Allowing registration of Universities recognised by UGC to be registered with the Institute for imparting training to CS Students.

"Universities recognised by UGC" can also be registered with the institute for imparting 15 months training under regulation 48(b) and for imparting training of 1 year /2 years / 3 years under Regulation 46AB (1)(a) for C S Regulations 1982 to students of the Institute.

Guidelines for conduct of MSOP on weekends by Regional Councils were formulated & approved so that working students can get facility to undergo MSOP at their convenience.

It is noticed, from the records of the Institute, that there are lots of students who had passed Final /Professional examination of the ICSI long back, but till date they have not taken membership of the Institute. While interacting with such students, it has also come to our notice that as working students are facing difficulty in getting 15 days long leave at a stretch due to their busy job schedule, they are not able to complete the Management Skills Orientation Programme (MSOP), which is a mandatory requirement to become member of the Institute. Due to this, they are not able to apply for membership of the Institute.

To facilitate students, following ten more agencies have been authorised to impart 15 days specialized training to students:

- Export Promotion Council
- Export Credit Guarantee Corporation
- Reputed NGOs (with specific approval of TEFC)
- International organisations like United Nations or UN affiliated offices
- Secretariate of Lok Sabha/ Rajya Sabha/ Assembly
- Bankruptcy Insolvency Board
- Real Estate Regulatory Authority (RERA)

viii) Labour Department

ix) Other statutory body or regulatory body.

x) NCLT/NCLAT (in place of Company Law Board)

For recognition of Profession

The Institute is posting 'training opportunities for students' on its website, received from various sources. By visiting this weblink students can get information about various organizations/ companies etc. where there is vacancy for CS trainees and in turn they can apply for the same as per their suitability and convenience.

1. Developed web link "Job opportunities for members" on the Institute's website for our members :

Institute is posting 'Job opportunities for students' on its website, received from various sources. By visiting this weblink students can get information about various organizations/companies etc. where there is Job vacancy for CS members and in turn they can apply for the same as per their suitability and convenience.

2. Weblink for capturing data of students willing to join training. Companies/PCS/other entities can search candidates as per their choice :

In June 2016, Institute launched a weblink where students who are willing to join training in various companies/PCS/other entities etc. can register their names. This creates a data bank of students all over India who are available for joining training. From this portal, companies/PCS/other entities who are in search of trainees may access the e-mail ids of suitable candidates of their respective areas/locations, as per their preference and then they may write them to submit their CVs directly for further screening/ short listing at their end. State-wise, Chapter-wise, Stage of examination-wise, gender-wise search facility has been created at this portal for making search convenient & smooth for prospective trainers.

3. Ascentia Drive

In May 2016 a special drive was conducted across the country for increasing the number of companies/PCS/other entities registered with the institute for imparting training to CS students. This special drive was named as "Ascentia 2016". As a result, there is 34% increase in registration of companies /other entities and 94% increase in registration of PCS for imparting training to CS students.

During the month of May for 15 days a tele-calling drive was also conducted to encourage companies/ PCS for registering themselves for imparting training to CS students. For the said purpose, ten young members were engaged for 15 days who were doing the tele-calling from the Institute's premises dedicatedly. A proper separate set-up was created with laptops & telephone lines etc for the purpose. During that process, 271 vacancies for trainees and 64 job opportunities for members were identified.

4. HR Conclaves in Gurgaon and Mumbai

First ICSI HR Conclave was organised in association with Hindustan Times (Shine.com) at Hotel Leela Ambience Gurgaon on 30.08.16. The event was attended by HR Heads of 150 companies of Delhi/NCR, A panel discussion was also organised at the occasion followed by dinner. Second ICSI HR Conclave was organised at Hotel ITC Maratha Andheri

Mumbai on 23.09.16 and was attended by HR Heads of 250 companies of Mumbai. A panel discussion was also organised on the occasion. Both programs were huge success and were appreciated by one & all.

5. Reaching out to potential Recruiters

Redesigned the brochure of CS roles and responsibilities and having target to circulate the same to 2,000 potential recruiters in eastern and Northern region. Connecting with leading consultancies of the country for scouting their CS and trainee CS requirements.

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 commenced by the Institute for the first time through the NIRC of ICSI from November 26, 2016 to January 15, 2017 for the very first time.

ICSI GETS A NEW ADDRESS: INAUGURATION OF ICSI HOUSE, NOIDA

The newly purchased office premises at C-36, Sector-62, Noida was inaugurated by the gracious hands of Dr. Mahesh Sharma, Hon'ble Minister of State (Independent Charge), Ministry of Tourism & Culture, Government of India, on December 25, 2016. A grand Pooja was performed to instate this new edifice. ICSI House at NOIDA is a spacious office block with an area of approximately 50,000 Square Feet. This newly inaugurated office of the institute will act as a knowledge hub for the professionals featuring the IT and IT Enabled Back Office Services; Technical Training, State of Art Facilities, Consolidated Data Centre and technologically advanced amenities for Students, Members and Staff.

Uday Diwas

As you are aware that the Company Secretaries Act, 1980 came into force on 1st day of January, 1981. Since then, this day has marked the glorious journey of the profession of Company Secretaries in India towards proficiency, professional excellence and development at parity. ICSI celebrated January 1 as 'Uday Diwas' throughout the country to rejoice the completion of 36 years of our existence as the proponent of a great legacy of professional excellence through corporate compliances, corporate governance and service to the nation.

OECD International Conference

I felt privileged and honoured to represent my country and ICSI at an international platform in a conference hosted by OECD on 'Improving Women's Access to Leadership' on 8 March, 2016 at Paris. The conference focussed on fostering a policy dialogue on including women in decision-making positions and the impact on broader social and economic outcomes. Back here in India, my ICSI team also saluted and celebrated the spirit of womanhood of our women team on Women's day. I feel dignified that such a zealous and dedicated team in ICSI is there, who cherishes every vista of their feminism and bring

both 'mind and heart' in their respective areas of responsibility here at ICSI.

Corporate Secretaries International Association(CSIA) Executive Meeting at London

The Institute is playing a significant role in obtaining international cooperation amongst the professional bodies, which share common aspirations and goals. The ICSI is one of the founding members of Corporate Secretaries International Association (CSIA), which is an International Body of Institute of Company Secretaries and Governance Professionals. CS Atul Mehta, Immediate Past President, ICSI and myself participated in the CSIA executive meeting on April 28-29, 2016 at London. We emphasized on the need for organizing joint professional development programmes in India for ICSI members. The delegation also visited the Chartered Institute of Securities and Investment (CISI).

ICGN Annual Conference- USA

Established in 1995, the International Corporate Governance Network (ICGN) is an investor-led organisation of governance professionals with members including institutional investors and is based in 47 countries. ICSI representatives attended ICGN and their ESG Course held at San Francisco, USA from June 27 to July 01, 2016. The Conference brought together academia and market practitioners and witnessed lively and thought-provoking deliberations on a broad range of global governance allied themes.

20th Annual Conference of Institute of Certified Public Secretaries of Kenya

The Institute of Certified Public Secretaries of Kenya (ICPSK) organized its 20th Annual International Conference on August 17-19 at Mombasa. ICSI was cordially invited to participate in this Conference amongst other judicious participants such as members of the ICPSK, Government Ministries, County Governments, Constitutional Commissions, Independent Offices, State Corporations, Semi-Autonomous Government Agencies, Private Companies and Consultancy Firms. On behalf of ICSI, I presented a research paper on e-governance practices in India during the session 'Improving Governance and Service Delivery through E-Government: The Case of India'.

INSOL Seminar at Jakarta

INSOL International is a world-wide federation of national associations of professionals specializing in turnaround and insolvency. The Institute participated at a one day Seminar organized by INSOL International in Jakarta, Indonesia on September 14. The Seminar provided a forum for exchange of information and ideas among insolvency practitioners, judges and regulators from various jurisdictions.

5th GRI Global Conference

The Global Reporting Initiative (GRI) is a non-profit organization that promotes economic, environmental and social sustainability. The Institute represented at the 5th GRI Global Conference on "Empowering Sustainable Decisions" held in Amsterdam on May 18-20, 2016 and addressed the participants in one of the sessions. There was a participation of more than 70 countries and more than 1200 participants. The Institute also represented at GRI Governmental Advisory Group, which served as a platform for representing Governments and

Organisations, to exchange updates about the latest developments in the area of sustainable development and reporting in their own countries. Here, ICSI also released an e-book on Sustainability & CSR.

MACS Conference

The Institute participated in the Malaysian Association of Company Secretaries (MACS) Conference, 2016 organized on September 27 – 28 at Kuala Lumpur. Myself, on behalf of ICSI, addressed the participants on 'The Role of the Company Secretary as the Chief governance Officer: the India's Experience'. The conference served as a premier platform to enhance knowledge about latest regulatory changes and developments in area of Corporate Laws, Governance and Compliance in India.

Khadi, the Dream Project of Government of India

For every minute I spin, there is in me the consciousness that I am adding to the nation's wealth. So said the Father of our Nation Mahatma Gandhi about the humble fabric 'Khadi'. It is not just a cloth, but a complete movement started by Gandhiji. The Khadi movement aimed at boycotting foreign goods and promoting Indian goods, thereby improving India's economy. Appreciating the importance of Khadi, the Institute stationed a KVIC Van at ICSI Head Quarters to spread awareness about the role played by Khadi & Village Industries Commission (KVIC) in nation building and to facilitate ICSI stakeholders to buy the Khadi products at their doorsteps.

Recognition of Company Secretary under Guidelines for Grant of Unified License (Virtual Network Operators)

Recently, Guidelines for Grant of Unified License (Virtual Network Operators) issued by the Ministry of Communication and Information Technology authorise a Company Secretary professional to certify the Certificate of Registration along with Articles of Association, Memorandum of Understanding, Details of Promoters/ Partner/Shareholder Foreign Direct Investment in the company for the purpose of Application to Department of Telecommunications for Grant of Unified License (Virtual Network Operators)/Authorisation for Additional Services.

Metamorphosing Chartered Secretary

To make it more appealing and interesting to the esteemed readers, Team ICSI has tried to enrich the outlook and content of Chartered Secretary Journal. It is now being published in high quality matt paper for superior readability with laminated matt cover. Besides, a good number of new features such as Research corner, Ethics and Code of Conduct Corner, Sustainability Corner, CG Corner, PCS Corner, NCLT Corner; Brain Teasers, a separator for each section for better indexing etc. have been launched to enrich the knowledge of our venerated readers.

Epilogue

As I move on to bid adieu to all of you precious stakeholders, I wish to express again that it was absolutely wonderful to team-up with you all, and I wish to thank all of you from the

core of my heart for being there in my journey through all visible as well as invisible support and good wishes as in underlying poem the poet is thanking God for being there in the saddest and most testing times even.

Footprints on the Sand

One night I dreamed a dream.
 As I was walking along the beach with my Lord.
 Across the dark sky flashed scenes from my life.
 For each scene, I noticed two sets of footprints in the sand,
 One belonging to me and one to my Lord.
 After the last scene of my life flashed before me,
 I looked back at the footprints in the sand.
 I noticed that at many times along the path of my life,
 especially at the very lowest and saddest times,
 there was only one set of footprints.
 This really troubled me, so I asked the Lord about it.
 "Lord, you said once I decided to follow you,
 You'd walk with me all the way.
 But I noticed that during the saddest and most
 troublesome times of my life,
 there was only one set of footprints.
 I don't understand why, when I needed You the most,
 You would leave me."
 He whispered, "My precious child, I love you and will
 never leave you
 Never, ever, during your trials and testings.
 When you saw only one set of footprints,
 It was then that I carried you."

It was all the same for me too.....while putting all my dedication and hard work to take ICSI to unfathomable heights in the year gone by, whenever, I faced repressive challenges in my course, there were another set of zillion invisible footprints along me.....and that was all ICSI Stakeholders. In the last, I can't stop myself from humming my favourite lines from Robert Frost's poem

The woods are lovely, dark and deep,
 But I have promises to keep,
 And miles to go before I sleep,
 And miles to go before I sleep.....!!!

Wishing the best for ICSI.....!!!

Yours sincerely

Mamta Bini

January 05, 2017
 New Delhi

(CS MAMTA BINANI)
 president@icsi.edu

1

ARTICLES



- BUDGET 2017 - SUGGESTIONS CONCERNING INCOME-TAX
- DEFINITION OF 'PUBLIC COMPANY': EFFECT OF THE PROVISO TO SECTION 2(71) OF THE COMPANIES ACT, 2013
- AMALGAMATION/MERGER AND WINDING UP CASES TRANSFERRED FROM HIGH COURTS TO THE NCLT: ROLE OF PCS
- HOW TO AVOID UNDUE HARASSMENT OF DIRECTORS
- WRONGFUL WITHHOLDING OF COMPANY'S PROPERTY, CONSEQUENCES OF
- DRAFTING RESOLUTION WITH CLASS AND CLARITY
- TRANSFER OF UNPAID DIVIDEND AND SHARES UNDER IEPF AUTHORITY (ACCOUNTING, AUDIT, TRANSFER AND REFUND) RULES, 2016
- THE JOURNEY OF THE INDIAN COMPETITION REGIME IN THE LAST 7 YEARS : WAY FORWARD
- GRATUITY: EXEMPTIONS, TAXABILITY AND RELIEF UNDER THE INCOME TAX ACT, 1961
- LISTING OF STOCK EXCHANGES: A LOGICAL STEP FORWARD FOR INDIAN DEMUTUALISED STOCK EXCHANGES
- INPUT TAX CREDIT UNDER GST- ANOTHER BACKLASH ON BLACK MONEY



THE INSTITUTE OF Company Secretaries of India

IN PURSUIT OF PROFESSIONAL EXCELLENCE
 Statutory body under an Act of Parliament
 Headquarters
 ICSI House, 22 Institutional Area, Lodi Road, New Delhi - 110003
 tel 011-45341000, 41504444 fax +91-11-2462 6727
 e-mail info@icsi.edu website www.icsi.edu



Expand your Horizon...
with a Career
 having world of Opportunities

Join Company Secretaryship (CS) Course Now!



Online registration @
www.icsi.edu

JANUARY

M	T	W	T	F	S	S
30	31					1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29

FEBRUARY

M	T	W	T	F	S	S
			1	2	3	4
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28					

MARCH

M	T	W	T	F	S	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

APRIL

M	T	W	T	F	S	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

MAY

M	T	W	T	F	S	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

JUNE

M	T	W	T	F	S	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

JULY

M	T	W	T	F	S	S
31				1	2	
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

AUGUST

M	T	W	T	F	S	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

SEPTEMBER

M	T	W	T	F	S	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

OCTOBER

M	T	W	T	F	S	S
30	31					1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29

NOVEMBER

M	T	W	T	F	S	S
	1	2	3	4	5	
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

DECEMBER

M	T	W	T	F	S	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

GAZETTED HOLIDAYS	
JANUARY	26 Republic Day
FEBRUARY	24 Maha Shivaratri
MARCH	13 Holi
APRIL	04 Ram Navami
	09 Mahavir Jayanti
	14 Good Friday
MAY	10 Buddha Purnima

JUNE	26 Idul Fitr
AUGUST	15 Independence Day
SEPTEMBER	02 Id-Ul-Zuha(Bakrid)
	30 Dussehra
OCTOBER	01 Muharram
	02 Mahatma Gandhi's Birthday
	19 Diwali (Deepavali)
NOVEMBER	04 Guru Nanak's Birthday

DECEMBER	02 Milad-un-Nabi or Id-e-Milad (Birthday of Prophet Mohammad)
	25 Christmas Day
RESTRICTED HOLIDAYS	
JANUARY	01 New Year's Day
	05 Guru Govind Singh's Birthday
	14 Makar Sankranti
	14 Pongal
FEBRUARY	01 Basant Panchami/

	Sri Panchami
10	Guru Ravidas's Birthday
19	Shivaji Jayanti
21	Swami Dayananda Saraswati Jayanti
MARCH	12 Holika Dahan/Dolyatra
	28 Chitra Suktadi/Gudi Padava/ Ugadi/Cheti Chand
APRIL	11 Hazrat Ali's Birthday
	13 Vaisakhi/Vishu
	14 Mesadi
	15 Vaisakhadi(Bengal)/Bahag Bihu(Assam)

16	Easter Sunday
MAY	09 Guru Rabindranath's Birthday
JUNE	23 Jamat-Ul-Vida
	25 Rath Yatra
AUGUST	07 Raksha Bandhan
	15 Janmashtami(Vaishnav)
	17 Parsi New Year's Day/Nauraj
	25 Vinayaka Chaturthi/Ganesh Chaturthi
SEPTEMBER	04 Onam
	27 Dussehra(Maha Saptami)
	28 Dussehra(Maha Ashtami)

29	Dussehra(Maha Navmi)
OCTOBER	05 Maharishi Valmiki's Birthday
	08 Karaka Chaturthi(Karva Chouth)
	18 Deepavali(South India)
	18 Naraka Chaturdasi
	20 Govardhan Puja
	21 Bhai Duj
	26 Prathihar Sashthi(Chhat Puja)
NOVEMBER	24 Guru Teg Bahadur's Martyrdom Day
DECEMBER	24 Christmas Eve



Budget 2017 - Suggestions Concerning Income-Tax



T.N. Pandey*

Advocate
Noida (U. P.)
pandeytn@gmail.com

The date of budget presentation having been preponed by about a month from 28th Feb. to 1st Feb., the Finance Ministry must be flooded with numerous suggestions concerning, inter-alia, income tax measures, to be incorporated in the I.T. Act, 1961 (Act). Regretfully, it has been the past experience (and this year is going to be no different) that while making suggestions, the emphasis is on what the FM should give by diminution from the existing tax revenues, but practically there are no suggestions, which may assist him in earning more revenue and improving the tax structure/system/procedures. This has been the usual practice widely prevalent and needs no evidence in its support. Yet, some suggestions published in the weekly Journal

Why it is that suggestions made generally prior to Budget focus on concessions and exemptions and not on what the Finance Minister should do to strengthen and improve the tax system and generate more income. This important question is sought to be answered in this article.

'Wealth' – a supplementary journal of the Economic Times dated 19-25 Dec., 2016 issue are mentioned hereunder. In this journal, various budget ideas from experts have been published for inclusion in the Finance Bill, 2017, majority of which, as could be seen from the details given hereinafter, are for takeaways from the FM. These are:-

- * Increase overall tax deduction to Rs.3.5 lakh under sections 80C, 80CCC, 80CCD(1B), which is presently pegged at Rs.2 lakh.
- * Increase home loan interest deduction to Rs.5 lakh (from the present Rs.2 lakh).
- * Provide for higher basic tax exemption limit for female taxpayers from the present limit of Rs.2.50 lakh for non-senior citizen taxpayers. Such benefit was given earlier but discontinued from the AY 2012-13.
- * Extend LTA benefit to international journeys
- * Make interest on bank FDS tax free upto Rs.1.5 lakh a year. Presently NIL. Such benefit upto Rs.12,000/- was given u/s 80-L of the Act, but this section was later repealed by the Finance Act, 2005.
- * Give higher deduction for first time homebuyers. Presently, additional deduction for first time homebuyers of Rs.50,000/- is given for loan of less than Rs.35 lakh and for a house valued below Rs.50 lakh. The suggestion is that deduction should be increased to Rs.3 lakh and it should include all home loans for first time buyers. In this context, priority housing should be defined to include house in the range exceeding Rs.80 lakh.
- * Increase deduction limit for medical insurance at least to Rs.75,000/-, inter-alia, for rising inflation.
- * Make annuity income tax free upto Rs.1,20,000/- from present Rs.50,000/- u/s 80CCD(ib).
- * Reduce tax filing burden on retail traders. Further, the suggestion is that trading in securities should be excluded from the purview of section 44AD.
- * Mutual Funds with lock-in-period of 3-5 years should be provided exemption from capital gain u/s 54EC of the Act.
- * Bring back the Standard Deduction (SD) for salaried employees.
- * No service tax or GST on term plans, health covers should be levied
- * Exempt cashless purchases of gold and jewellery from submission of PAN.

To be fair to the journal, changes, which relate to changes in law, systems and procedure also, need to be mentioned. These are:-

*Allow opening of a retirement demat a/c

*Present law exempts tax (on capital gain) on sale of listed securities. Hence, if a business is sold through the transfer of listed shares, no capital gain tax is payable. But, if a small entrepreneur sales his business as such, he has to pay tax on it. This disparity

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

The demonetization of currency notes of Rs.500 & Rs.1,000 was announced by the P.M., Shri Narendra Modi, on 8th Nov., 2016. However, such a measure, if successful, can only lead to tapping of stocked black money in cash. It does not take care of such money invested in real estate, jewellery, gold and silver in benami names and various other forms. Hence, it cannot be said to provide an effective solution to the problem of black money.

needs to be removed.

- * The cost of bonus shares is counted as zero, rather than as a proportionate part of the original cost. This creates a cottage industry of bonus stripping, causing thousands of crore of losses for the Govt. The Govt. should widen the tax base and distribute the tax burden fairly. Hence, the practice of taxing bonus shares at nil value needs to be changed.
- * Clarify how NPS Tier-II will be taxed.
- * Simplify the RGESS for increased participation.
- * Exempt interest on fixed deposits in the case of senior citizens and also from payment of TDS or raise the threshold limit for them.
- * Clarify Rules for claiming foreign credits.
- * Give deduction for employment related expenses to the salary earners by reviving SD.

ANALYSIS OF THE SUGGESTIONS

Without meaning any disrespect to the persons, who made the suggestions compiled by 'Wealth', my observations on the same are as under:-

- * Most of the suggestions relate to raising of basic exemption limit, provide new ones and increase the limit for those already provided in the Act as tax incentives / exemptions. Media reports show that, perhaps, the FM is contemplating raising the basic exemption limit to Rs.3.50 lakh or Rs.4 lakh to give relief to the taxpayers. But, no basis has been indicated as to how the figures provided for or now suggested are arrived at. The reason for changes in these is said to be 'inflation'. Mostly, the figures are fixed on ad hoc basis and sometimes for political considerations also. Such way of giving tax reliefs cannot provide any sound basis for the same and are of discretionary nature fixed by the FM at the time of annual budgets-making. Such a situation cannot lead to the development of a sound and healthy revenue yielding tax law, which can be tested on the ground of rationality. The proper course for such limits is to index the tax law for inflation and make changes in the financial limits as per the changes worked out on indexed tax law basis.

Some countries are already doing so. How the tax system should be indexed can be referred to the committee already functioning under the Chairmanship of a retired judge of the Delhi HC for making suggestions in this regard.

- * Suggestions relating to non-exemption of capital gain on listed securities, taxing bonus shares as a proportionate part of the original cost, giving relief to the senior citizens in the matter of taxation of interest on fixed deposits, reviving the SD and TDS are good suggestions and need to be accepted by the FM.

SOME OTHER SUGGESTIONS

Besides the above, some other suggestions are as under:-

Amendment of section 13A relating to income of political parties

Presently, there is lot of discussion in media and other forums regarding exemption from tax of political parties. There is wide belief that much of the black money gets passed to such parties as donations, obviously, for gaining favours from the Govts. when parties come in power. The present law concerning taxation of such parties is that these parties are not required to maintain any record, including names and other particulars regarding donors upto Rs.20,000/-. This provision is being grossly misused as the parties are showing donations upto Rs.20,000/- representing more than 4/5th of such donations received in this way. The Election Commission has expressed concern about this and has suggested that the limit of Rs.20,000/- should be reduced to Rs.2,000/-. This may not help as then major receipts will be shown as coming in the form of Rs.2,000/- or lesser amounts.

Suggestions for preventing such misuse

- * Remove the words 'in excess if twenty thousand rupees' from proviso (b) to section 13A;
- * Insert a provision in section 13A that only those receipts will be entitled to exemption, which are in cashless form.

Controlling the flow of unaccounted/black money

The demonetization of currency notes of Rs.500 & Rs.1,000 was announced by the P.M., Shri Narendra Modi, on 8th Nov., 2016. However, such a measure, if successful, can only lead to tapping of stocked black money in cash. It does not take care of such money invested in real estate, jewellery, gold and silver in benami names and various other forms. Hence, it cannot be said to provide an effective solution to the problem of black money. The problem needs to be tackled in two ways namely –

[i] Tax laws are not the basic reason for generation of black money. In the NIPFP's study, it has been said that 'pervasive and detailed regulation of economic activity through industrial licensing, import licensing, control on prices and distribution channels of goods and services (including housing), credit controls and various other means have been other major sources of black incomes reaped in different forms of illegal scarcity premia and bribes'. The Wanchoo Committee at page 8 of its report has said that since considerable discretionary power lay in the hands of those, who administered controls, there is large scope for corruption, 'speed money' for issuing licences and permits and 'hush money' for turning a blind eye to the violations of Govt.'s rules and regulations. The NIPFP has further said that it has become quite common for illegal payments to be demanded in return for regular public services such as sale of stamp paper, registration of documents, complaints regarding electricity, telephones, the issue of tax assessment orders, the admission of a student in an educational institution or decisions on postings and transfers in the public services, etc. Thus, various other factors, not merely



income tax and other tax laws, have been responsible for the creation of 'parallel economy'. Even an economy, free of controls and regulations, may not be entirely free from black money because of non-economic factors. Though the licencing era in the sense it was prevalent earlier mentioned in NPFP's report, has now ceased but Govt. sanctions/approvals in various fields and forms still exist and become a cause for black money generation in the form of bribes, facilitation fees, etc., and its utilization in unrecorded ways, not forming part of GDP.

Demonetization has already been tried, which, it appears, is not going to be a success as the demonetized notes (in value and in numbers) reported by the RBI in circulation, have, according to media reports, already come back to the banks.

Other ways can be to change legal provisions relating to search/survey, strengthening the prosecution provisions, establishing special courts for dealing with tax evasion cases, debaring the persons found guilty of tax evasion from holding public offices, fighting elections (as in the cases of those, who are convicted of criminal offence (as in the case of Lalu Prasad Yadav), taking Govt. contracts, making tenders, teaching of values of being honest taxpayers in school, etc.

The Wanchoo Committee has said that social conscience should be aroused against tax evasion. It has recommended denial of sympathy, patronage, licence or facility from the side of the Govt. Also, such persons should be disqualified for national awards as also for holding any public elective office or for being appointed as a director in a company for a period of six years.

A study of tax laws of other countries has revealed that in some countries, though few in number, stigma is attached to tax frauds. For example, in Switzerland, Sweden, Norway and Italy, clear and obvious tax frauds impart social stigma and sometimes affect high political profile. In UK also, non-compliance has some social stigma and at times also high political profile.

Some of these aspects can be taken care of by the Finance Act, 2017, if there is serious desire to check tax evasion.

CONCLUDING COMMENTS

Tax evasion cannot be controlled by soft measures and amnesties

(as contained in Taxation Laws (Second Amendment) Bill, where no prosecution has been provided for those availing of amnesties. This dilutes the concept of deterrence in the tax law as the taxpayers feel that evade and get away by paying some extra tax and penalty.

Manu, the Great Hindu law giver, has said about punishment thus:- "Punishment governs all mankind; punishment alone preserves them. Punishment wakes while their guards are asleep; the wise consider the punishment as perfection of justice".

[Quotation from the "Institutes of Hindu Law or the Ordinances of Manu" – translated from the original by G.C. Houghton, London (1825) Chapter-VII, para 18, page 189]

A study of tax laws of other countries has revealed that in some countries though few in number, stigma is attached to tax frauds. For example, in Switzerland, Sweden, Norway and Italy, clear and obvious tax frauds impart social stigma and sometimes affect high political profile. In UK also, non-compliance has some social stigma and at times also high political profile.

Black money problem poses serious threats and is to be taken seriously and strongly dealt with by legislative and other means. A desire to do so should be prominently evident from the Finance Bill, 2017, which is under preparation.

And lastly those, making suggestions in I.T. law need not do so merely for personal or sectoral aims. They should make suggestions keeping in view the good of the country as a whole and suggest measures, which would augment revenue and improve the implementation of the I.T. Act. Further much has been done for tapping stock of black money. Something worthwhile should be done to stop generation of black money in future. This needs to be taken as a serious constructive exercise.

It would be appropriate to close this discussion with an extract from the Philippine Free Press dated 11.01.1969, where the following observations were published:-

"If the wealthy in the country pay that little, what can the Govt. expect of the non-millionaires? The Bureau of Internal Revenue list reminds us once again of the startling and shameful fact of life here that hardly one percent of the population files income-tax returns and scarcely one-third of one percent declares taxable income".

CS

Definition of 'Public Company': Effect of the Proviso to section 2(71) of the Companies Act, 2013



Dr. K R Chandratre, FCS

Practising Company Secretary
Pune

krchandratre@gmail.com

STATUTORY DEFINITIONS

The expressions "private company" and "public company" are defined in sections 2(68) and 2(71) of Companies Act 2013 (the 2013 Act) respectively, as follows:

(68) "**private company**" means a company having a minimum paid-up share capital as may be prescribed, and which by its articles,—

- (i) restricts the right to transfer its shares;
- (ii) except in case of One Person Company, limits the number of its members to two hundred: Provided that where two or more persons hold one or more shares in a company jointly, they shall, for the purposes of this clause, be treated as a single member:

A private company which becomes a subsidiary of a public company is to be treated as a public company and must comply with all the provisions of the 2013 Act as if it is a public company, except that it can continue to have the conditions specified in the definition of 'private company'. Some confusions relating to the proviso to section 2(71) of the Companies Act, 2013 are highlighted and clarified in this article.

Provided further that—

- (A) persons who are in the employment of the company; and
- (B) persons who, having been formerly in the employment of the company, were members of the company while in that employment and have continued to be members after the employment ceased, shall not be included in the number of members; and
- (iii) prohibits any invitation to the public to subscribe for any securities of the company.

(71) "**public company**" means a company which—

- (a) is not a private company;
- (b) has a minimum paid-up share capital as may be prescribed:

Provided that a company which is a subsidiary of a company, not being a private company, shall be deemed to be public company for the purposes of this Act even where such subsidiary company continues to be a private company in its Articles.

The proviso appended to section 2(71) substantially corresponds to clause (c) of the definition of 'public company' in section 3(1)(iv) of the Companies Act 1956 (the 1956 Act) which read as follows:

"public company" means a company which—

- (c) is a private company which is a subsidiary of a company which is not a private company."

Simply stated, this meant that a private company which is a subsidiary of a public company is a public company. The words 'shall be deemed to be' were absent in this provision.

INTERPRETATION OF THE PROVISIO

According to the proviso appended to section 2(71) of the 2013 Act, in simple words, a private company which is a subsidiary of a public company shall be deemed to be a public company, for the purposes of the Act, even where such subsidiary company continues to be a private company in its Articles.

A provision in a statute which contains the word 'deemed' is called a deeming provision or legal fiction. To deem means to regard or consider (something) in a specified way; to treat something as if it were something else; assuming a fact which does not really exist. It is well settled that a deeming provision is an admission of the non-existence of the fact deemed. The

¹ The Registrar of Companies may register those Memorandum and Articles of Association received till 11.9.2013 as per the definition clause of the 'private company' under the Companies Act, 1956 without referring to the definition of 'private company' under the Companies Act, 2013. [General Circular No. 15/2013, dated 13-9-2013]

* Past President, The ICSI

Legislature is quite competent to enact a deeming provision for the purpose of assuming the existence of a fact which does not really exist.² When a person is deemed to be something the only meaning possible is that whereas he is not in reality that something, the law requires him to be treated as if he were (that something).³ The legal fiction must be given its due play. There should be no half way play.⁴ But a fiction created by law cannot operate beyond the purpose for which it has been created.⁵

Although not happily worded and being ambiguous and grammatically incorrect (since a company is not a private company “in its articles” but due to inclusion in its Articles the conditions specified in the definition), the effect of the words “even where such subsidiary company continues to be a private company in its Articles” is that a private company which becomes a subsidiary of a public company can continue to have included in its Articles the conditions required to be included in the Articles of every private company as per the definition in section 2(68) of the 2013 Act quoted above. As will be noticed from that definition, to constitute the company a private company, the Articles of the company must contain the conditions stated in clauses (i), (ii) and (iii) of that definition.

WHETHER THE COMPANY SHOULD INCREASE THE NUMBER OF MEMBERS

The effect of the proviso to section 2(71) is that a private company which becomes a subsidiary of a public company is considered a public company for all intents and purposes under the Act, but the articles of the company can continue to contain the conditions stated in clauses (i), (ii) and (iii) of the definition of ‘private company’ in section 2(68). In other words, a private company which becomes a subsidiary of a public company is to be treated as a public company and must comply with all the provisions of the 2013 Act as if it is a public company, except that it can continue to have the conditions specified in the definition of ‘private company’.

The first question that arises in this connection about which there is confusion, is whether the private company on becoming a public company in terms of the proviso and which has only two members, should increase the number of members to seven.

Section 3(1) of the 2013 Act (corresponding to section 12 of the 1956 Act) provides that, a company may be formed for any lawful purpose by—

- (a) seven or more persons, where the company to be formed is to be a public company;
- (b) two or more persons, where the company to be formed is to be a private company.

Although the requirement of the minimum number of members is only with regard to ‘formation’ of the company, i.e. at the time of incorporation only, even in the absence of an express provision laying down that the numbers stipulated in section 3 must be there in the company during all its lifetime, it is axiomatic that a company must maintain during its lifetime the minimum number of members stipulated under section 3 of the 2013 Act.

It is important to note that the private company which is a subsidiary of a public company is a private company by birth; it was incorporated as a private company; its basic structure is that of a private company, but it is treated as a public company by the legal fiction in

Although the requirement of the minimum number of members is only with regard to ‘formation’ of the company, i.e. at the time of incorporation only, even in the absence of an express provision laying down that the numbers stipulated in section 3 must be there in the company during all its lifetime, it is axiomatic that a company must maintain during its lifetime the minimum number of members stipulated under section 3 of the 2013 Act.

the definition of “public company”. The words “is a private company” in the proviso to the definition of ‘public company’ makes it clear that the company (which is a subsidiary of a public company) is a basically private company. The use of these words clearly indicates legislative intent that the private company which is a subsidiary of a public company is a private company and remains so even after it becomes a subsidiary of a public company but it must comply with the provisions of the Act as if it was a public company. Therefore, the basic structure of the private company which is a subsidiary of a public company is that of a private company and may continue to remain so after it becomes a subsidiary of a public company. However, for all other purposes under the 2013 Act, it will be treated as a public company.

As noted earlier, by becoming a subsidiary of a public company the private subsidiary does not cease to be a private company, unlike a private company which has been converted into a public company and hence ceases to be a private company under section 44 of the 1956 Act which was a voluntary conversion of a public company into a private company. Sub-section (1) of section 44 provided that “If a company, being a private company, alters its articles in such a manner that they no longer include the provisions which, under clause (iii) of sub-section (1) of section 3, are required to be included in the articles of a company in order to constitute it a private company, the company, shall, as on the date of the alteration, cease to be a private company.” No such provision has been made in the definition of public company, the reason being that section 44 contemplated a full-fledged conversion of a private company into a public company; it undergoes a total makeover and its basic structure of a private company vanishes on the conversion. As against that, when a private company becomes a subsidiary of a public company, it doesn’t undergo a metamorphosis or structurally, but remains a private company although it is compelled to comply with the provisions of the Act that a public company is required to comply with. This is akin to section 43A of the 1956 Act (discussed below), which was omitted in 2000.

² J. K. Cotton Spinning and Weaving Mills Ltd v. Union of India AIR 1988 SC 191.

³ Commissioner of Income-tax v Bombay Trust Corporation Ltd AIR 1930 PC 54.

⁴ Union of India v Jalyan Udyog AIR 1994 SC 88: 1994 (1) SC 318: 1993 (3) Scale 758: 1993 (5) JT 266.

⁵ H.S. Atwal v Union of India AIR 1994 SC 2531: 1994 (5) SCC 341: 1994 (3) Scale 555: 1994 (5) JT 346. See also Braithwaite & Co. (India) Ltd. v Employees State Insurance Corporation AIR 1968 SC 413: 1968 (1) SCWR 379: 1968 (1) SCR 771.

WHAT AMOUNTS TO 'BASIC STRUCTURE'

Two things that go to the root of the basic structure of a company and to make a distinction between a private company and a public company to determine whether the company is a private company or a public company are: (i) the minimum number of members required for a company by section 3 of the Act; and (ii) the conditions which are required to be included in the articles of association of a private company to constitute the company a private company. These two things are the essential matters for the distinction between a private company and a public company, so long as the company does not undergo a structural change as a result of its conversion from one form into another (e.g. from a private company to a public company). Section 3(1)(iv) of the 1956 Act defined a "public company" and according to one of the three clauses of the definition, a private company which is a subsidiary of a company which is not a private company, was to be a public company.

In *Hillcrest Realty Sdn. Bhd. v Hotel Queen Road (P) Ltd.*⁶ the Company Law Board held that the basic characteristics of a private company in terms of section 3(1)(iii) of the 1956 Act do not get altered just because it is a subsidiary of a public company in view of the fiction in terms of section 3(1)(iv)(c) of the Act that it is a public company. May be it is a public company in relation to other provisions of the Act but not with reference to its basic characteristics. In terms of that section, a company is a private company when its articles restrict the right of transfer of shares, restrict its membership to 50 (other than employee shareholders) and prohibits invitation to public to subscribe to its shares. Therefore, all the provisions in the Articles to maintain the basic characteristics of a private company in terms of section 3(1)(iii) will continue to govern the affairs of the company even though it is a subsidiary of a public company. One of the basic characteristics of a private company in terms of that section is restriction on the right to transfer and the same will apply even if a private company is a subsidiary of a public company.

SECTION 43A OF THE 1956 ACT DID NOT LACK CLARITY

Unlike the 2013 Act, Section 43A of the 1956 Act did not lack clarity in this regard. It was clearly provided in section 43A that, "even after the private company has so become a public company, its articles of association may include provisions relating to the matters specified in clause (iii) of sub-section (1) of section 3 and the number of its members may be, or may at any time be reduced, below seven."

The 2013 Act does not contain provision similar to that in the first proviso to section 43A(1) of the 1956 Act declaring, inter alia, that the number of members of the company which becomes a public company under section 43A may be, or may at any time be reduced, below seven. So, one interpretation could be that in the absence of an express provision, the number of members must be increased to seven. In other words, one may draw an inference that inasmuch as the Legislature has in its wisdom did not include such a provision in the 2013 Act, it cannot be deemed to be there in the new Act and hence its benefit cannot be availed of.

However, as discussed above, it is possible to take a view that as an ingredient of the basic structure and a requirement for the formation of the company being relevant only at the time of incorporation and also in view of the fact that a private company which is a subsidiary of a public company is essentially a private company by incorporation, it need not increase the number of members from two to seven even after it becomes a public company by reason of it being a subsidiary of a public company.



CASE LAW ON DEFINITIONS IN 1956 ACT

In *Needle Industries India Ltd v Needle Industries Newey (India) Holding Ltd.*⁷ the Supreme Court stated that under Companies Act there are two kinds of companies, namely, private companies and public companies. Besides, the Supreme Court held that the definitions of 'public company' and 'private company' are mutually exclusive and collectively exhaustive of all categories of companies, that is to say, that there is no third kind of company recognised by the 1956 Act. The definition of 'private company' and the manner in which a 'public company' is defined ("public company means a company which is not a private company") bear out the argument that these two categories of companies are mutually exclusive. If it is this, it cannot be that and if it is that it cannot be this. The Supreme Court observed in the context of section 43A of the 1956 Act (which was omitted in 2000) as follows:

"In the first place, a section 43A company may include in its articles, as part of its structure, provisions relating to restrictions on transfer of shares, limiting the number of its members to 50, and prohibiting an invitation to the public to subscribe for shares, which are the typical characteristics of a private company. A public company cannot possibly do so because, by the very definition, it is that which is not a private company, that is to say, which is not a company which by its articles contains the restrictions mentioned in section 3(1)(iii). Therefore, the expression "public company" in section 3(1)(iv) cannot be equated with a "private company which has become a public company by virtue of section 43A".

These observations are relevant in the case of a private company which becomes a public company by being a subsidiary of a public company although retains its basic character as a private company. Thus, except for the basic structural framework, a private company which is a subsidiary of a public company is, for all intents and purposes, to be treated as a public company and is required to comply with the requirements under the Act applicable to public companies and is entitled to exemptions and privileges which public companies are entitled to.

In *Darius Putton Kavasmameck v Gharda Chemicals Ltd. and Others* [2015] 188 Comp Cas 291 (SC); AIR 2015 SC (Supp) 1566, and it was held by the Supreme Court thus:

Section 43A of the Companies Act, 1956, creates a new class of public companies answering the description contained therein though they have and can retain all the attributes of a private company as defined under section 3(1)(iii). By the date of amendment of section

⁶ (2006) 71 SCL 41 (CLB); (2006) 133 Comp Cas 742 (CLB).

⁷ (1981) 51 Comp Cas 743 (SC).

43A by the Companies (Amendment) Act, 2000, under section 43A, there were four classes of private companies declared by the section to become public companies on the happening of an event mentioned in each of the sub-sections of section 43A : under sub-section (1) by virtue of the fact that 25 per cent. of its shares are held by one or more bodies corporate, under sub-section (1A) by virtue of the average annual turnover of a private company not being less than such amount as may be prescribed, under sub-section (1B) by virtue of the fact that such a private company holds not less than 25 per cent. of paid-up shares of a public company, and under sub-section (1C) if a private company accepts or renews deposits from the public, other than its members, directors or their relatives. The four provisos to the sub-sections declare that even after a private company becomes a public company by virtue of the operation of any one of the four sub-sections of section 43A, the articles of association of such company may include provisions relating to the matters specified in section 3(1)(iii). The provisos further declare that the number of members of such company "may be or may at any time be reduced, below seven". In other words, though companies whose articles of association provide for matters specified in section 3(1)(iii) are private companies, and under the scheme of the Act a public company cannot have such stipulations, section 43A expressly permits the four classes of public companies to retain such articles of association. The employment of the expression "may" in the clause, "its articles of association may include provisions relating to the matters" indicates that a private company which becomes a public company by virtue of the operation of any one of the four sub-sections of section 43A has the choice either to retain those stipulations in its articles of association relating to the matters specified under section 3(1)(iii) or to amend its articles of association either deleting all or some of the stipulations relating to matters specified in section 3(1)(iii) from its articles of association. It is for the company and its members to decide whether the restrictions and limitations contained in the articles of association referable to matters specified in section 3(1)(iii) should still continue even after the company has lost the exemptions and privileges attached to a private company. The four provisos give an option to the company either to retain the original articles of association or alter them, but there is no statutory compulsion to alter the articles of association.

QUORUM AT GENERAL MEETINGS

One practical difficulty a private company which becomes a subsidiary of a public company would face is regarding quorum at general meetings. Section 103 of the 2013 Act requires a quorum of two members and a quorum of five members if the number of members the company as on the date of meeting is not more than one thousand. In this regard also, the 1956 Act was clearer than the 2013 Act as section 174 of the 1956 Act provided that "unless the articles of the company provide for a larger number, five members personally present in the case of public company (other than a public company which has become such by virtue of section 43A of the 1956 Act), and two members personally present in the case of any other company, shall be the quorum for a meeting of the company. If the view expressed by the CLB in the Hillcrest Realty case (mentioned above) is to be taken to be the correct view, then the 'basic structure' of a private company would include the requirement regarding the minimum number of members at the time of formation of the company and therefore it can be said that a private company which has become a subsidiary of a public company does not cease to be a private company so far its basic structure is concerned; hence it need not increase the number of its members to seven (or more than seven). However, in the absence of either an authority in



the form of a Court/CLB judgment in the context of the provisions of the 2013 Act and the fact that the proviso to section 2(71) of the 2013 Act expressly provides that a private company can continue to be a private company "in its articles", there prevails confusion and conflict of views as to whether a private company must increase the number of members to seven after it becomes a subsidiary of a public company.

EFFECT OF REDUCTION IN THE NUMBER OF MEMBERS

Section 45 of the 1956 Act provided that if at any time the number of members of a company, is reduced, in the case of a public company, below seven, or in the case of a private company, below two, and the company carries on business for more than six months while the number is so reduced, every person who is a member of the company during the time that it so carries on business after those six months and is cognizant of the fact that it is carrying on business with fewer than seven members or two members, as the case may be, shall be severally liable for the payment of the whole debts of the company contracted during that time, and may be severally sued therefor.

But there is no similar provision in the 2013 Act. Accordingly, even if a private company does not increase the number of members to seven after becoming a subsidiary of a public company, the continuing members of the company would not be liable personally for the company's debts and the only consequence will be a compoundable offence.

WHETHER THE COMPANY SHOULD INCREASE THE NUMBER OF DIRECTORS

Section 149(1) lays down the requirement regarding the minimum number of directors. It provides:

"Every company shall have a Board of Directors consisting of individuals as directors and shall have—

(a) a minimum number of three directors in the case of a public company, two directors in the case of a private company."

Since a private company can retain its status only in respect of the conditions stated in the articles and since the requirement regarding the minimum number of directors is not a part of the definition of 'private company', it is an independent provision and is not required to be included in the articles as part of the conditions specified in the definition of 'private company'. Accordingly, a private company which becomes a subsidiary of a public company must comply with that requirement as applicable to a public company and appoint one director if it has only two directors. It should be noted that the requirement of the minimum number of directors cannot be called an ingredient of the basic structure of the company. CS

Amalgamation/Merger and Winding Up Cases Transferred from High Courts to the NCLT: Role of PCS



Delep Goswami, FCS

Advocate, Supreme Court of India,
New Delhi

delepgoswami@gmail.com



Anirrud Goswami

Advocate, Goswami & Goswami
Associates, New Delhi

anirrudgoswami@gmail.com

The Central Government, Ministry of Corporate Affairs (MCA) issued Gazette notifications dated 7th December, 2016 and enforced certain provisions of the Companies Act, 2013 ("the Act") and with effect from 15th December, 2016 brought them within the adjudicative jurisdiction of the NCLT. The notable sections of the Act brought into force for adjudication/jurisdiction of the NCLT are (i) the provisions contained in Chapter XV of the Act which deal with sanctioning of schemes of compromise or arrangements with

The Ministry of Corporate Affairs has issued notifications enforcing the provisions of the Companies Act, 2013 dealing with amalgamation/merger cases and winding up cases from the jurisdiction of the High Courts to the National Company Law Tribunal (NCLT) with effect from 15th December, 2016. It also simultaneously issued the Companies (Transfer of Pending Proceedings) Rules, 2016 and the Companies (Removal of Difficulties) Fourth Order, 2016. The MCA has also notified the Rules to be followed by NCLT in amalgamation cases. Since section 432 of the Companies Act, 2013 allows the PCS to appear before the NCLT and NCLAT, these are significant developments for the corporate sector and for the Practising Company Secretaries (PCS) as this enhances their practice scope for appearance in the NCLT in respect of newly transferred jurisdiction of winding up cases and amalgamation cases.

creditors and members (known as schemes of amalgamation/merger/demerger) contained in sections 230 (with the exception of sub-clauses 11 and 12); sections 231 to 233 and sections 235 to 240; and also (ii) the winding up provisions contained in Chapter XX of the Act of 2013, namely, sections 270 to 288; sections 290 to 303, section 324 and sections 326 to 365 of the Act.

Simultaneously, on 7th December, 2016, the MCA also notified the Companies (Transfer of Pending Proceedings) Rules, 2016 (in short "Transfer Rules, 2016") and the Companies (Removal of Difficulties) Fourth Order, 2016. As per the said Transfer Rules 2016, with effect from 15th December, 2016, all proceedings under the Companies Act, 1956 including proceedings relating to arbitration, compromise, arrangements and reconstruction, shall stand transferred to the Benches of the NCLT exercising respective territorial jurisdiction. It also clarified that proceedings which are reserved for orders shall not be transferred to NCLT and proceedings which are not reserved for order shall be transferred to NCLT. With regard to winding up proceedings, the said Rules clarified that all applications and petitions relating to voluntary winding up of companies under the Companies Act, 1956 pending before a High Court on the date of commencement of the said rules shall continue with and will be dealt with by the High Court till 1st April, 2017 and by the NCLT on or after 2nd April, 2017. With regard to transfer of pending proceedings of winding up on the ground of inability to pay debts, where the petition has not been served on to the Respondent under Rule 26 of the Companies (Court) Rules, 1959 i.e. petitions relating to winding up order under clause (e) of section 433 of the Companies Act, 1956 pending before a High Court shall stand transferred to the Benches of the NCLT exercising respective territorial jurisdiction and such petitions shall be treated as applications under sections 7, 8 or 9 of the Insolvency and Bankruptcy Code, 2016. Further, the petitioner shall also submit information forming part of the records transferred,

‘ The stipulation of time limit for submission of their report/views to the NCLT on the proposed Scheme is a welcome departure and will help expeditious disposal of the Petitions by the NCLT. ’



required for admission of the petition under sections 7, 8 or 9 of the Insolvency and Bankruptcy Code, 2016 including details of the proposed insolvency professional to the NCLT within sixty days from 7th December, 2016, failing which the petition shall abate. The said Rules also stipulate that where the Board for Industrial and Financial Reconstruction (BIFR) has forwarded an opinion for winding up of company under section 20 of the SICA, 1985 to the High Court and where no appeal is pending, it shall be dealt with by the High Court and will not be transferred to NCLT. Also, in respect of transfer of pending proceedings of winding up matters on the grounds other than inability to pay debts and where such petition has not been served on to the Respondent under Rule 26 of the Companies (Court) Rules, 1959, it shall be transferred from 15th December, 2016 to NCLT exercising territorial jurisdiction and such petitions shall be treated as petitions under the provisions of the Act of 2013. The said Transfer Rules, 2016 also stipulate that the relevant records pursuant to the transfer of cases shall also be transferred by the respective High Courts to the NCLT having jurisdiction forthwith over the cases so transferred and notwithstanding anything contained in the NCLT Rules, 2016, no fee shall be payable in respect of any proceedings transferred to the NCLT in accordance with these Transfer Rules, 2016.

Subsequently, vide notification No. GSR 1134 (E) dated 14th December, 2015, the Central Government, Ministry of Corporate Affairs (MCA) notified the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (in short “CAA Rules, 2016”) prescribing the Rules applicable to petitions filed before the NCLT for sanctioning of Schemes for “compromises, arrangements and amalgamations” (in short “the CAA Scheme”) under Sections 230 read with section 232 and other applicable provisions of the Act. Also, section 233 of the Act prescribes detailed procedures to be followed by NCLT for schemes of merger or amalgamation between two or more small companies or between a holding company and its wholly owned subsidiary company or such other class or classes of companies.

It also needs to be noted here that vide notification dated 30th November, 2016, the MCA has notified the provisions of the Insolvency and Bankruptcy Code, 2016 (in short “Bankruptcy Code, 2016”) relating to corporate insolvency resolution and has appointed the 1st December, 2016 as the date on which the said provisions will come into effect. The Bankruptcy Code is applicable for insolvency and liquidation of all companies and it is reported that the ICICI Bank has already filed an application before the NCLT, Mumbai Bench initiating a corporate insolvency process under the new Bankruptcy Code against a Pune based steel products maker. Since Practising Company Secretaries (PCS), amongst others, are now entitled, as per section 432 of the Act, to appear before the NCLT and its Appellate forum, it is felt that the provisions now brought into force with effect from 15th December, 2016 for adjudication by NCLT open a significantly new area of practice for PCS and they have to gear themselves up to meet the challenges

thrown open to them. To cover details of both these areas of practice in one article will be rather difficult. Hence, in this article, only a broad overview of the provisions of the Act relating to CAA Schemes and the CAA Rules 2016 are highlighted and these salient points should hopefully facilitate the professionals to service their clients better and without much hassles.

Basically, as per the provisions of section 230 read with section 232 of the Act, where a Scheme of compromise or arrangement is proposed (i) between a company and its creditors or any class of them; or (ii) between a company and its members or any class of them, then an application has to be made to the NCLT by the company or any creditor or member of the company or, in the case of a company which is being wound up, by the Liquidator, the NCLT may order a meeting of the creditors or class of creditors, or of the members or class of members, as the case may be, to be called, held and be conducted in such manner as the NCLT may direct. The Explanation to sub-section (1) of section 230 clarifies that “arrangement” includes a reorganisation of the company’s share capital by the consolidation of shares of different classes or by the division of shares into shares of different classes, or by both of those methods. The CAA Rules, 2016 enables that where more than one company is involved in a Scheme, at the discretion of such companies, a joint-application can be filed, instead of separate applications by the companies concerned.

Sub-section (2) of section 230 stipulates that the application to the NCLT shall disclose, by way of affidavit, all material facts relating to the company, such as, its latest financial position, the latest auditor’s report on the accounts of the company and the pendency of the investigation or proceedings against the company and in case the Scheme includes “reduction of share capital of the company” it shall be disclosed. Further, the said CAA Rules, 2016 make it clear that “outstanding debt” shall mean all debt owed by the company to the respective class or classes of creditors that remains outstanding as per the latest audited financial statement, or if such statement is more than six months old, as per provisional financial statement not preceding the date of application by more than six months. The law now stipulates that the NCLT will not sanction any scheme of compromise or arrangement, unless a certificate by the Auditor of the company has been filed with the NCLT, to the effect that the accounting treatment, if any, proposed in the Scheme is in conformity with the accounting standards prescribed under section 133 of the Act.

Further, sub-section (3) of section 230 of the Act stipulates that

where the NCLT directs holding of meeting(s) for consideration of the proposed Scheme, notice shall be sent in the form prescribed by the CAA Rules, 2016 by the Chairperson appointed by the NCLT for the meeting, as the NCLT may direct, and such notice shall be sent by registered post or speed post or by courier or by e-mail or by hand delivery or any other mode as directed by the NCLT to the last known address of the notice, at least one month before the date fixed for the meeting. However, the NCLT may dispense with calling of a meeting of creditor or class of creditors, where such creditors or class of creditors, having at least ninety percent value, agree and confirm, by way of affidavit, to the Scheme of compromise or arrangement.

The said CAA Rules, 2016 stipulates that the notice of the meeting to the creditors and members shall be accompanied by a copy of the Scheme and a Statement disclosing the details enumerated in the said Rules and where the Scheme relates to more than one company, the fact and details of the relationship subsisting between such companies, who are parties to the Scheme, including the relationship of holding, subsidiary or associate companies and the notice shall disclose, inter-alia, the rationale for the compromise or arrangement and its benefits and its effect on key managerial personnel; directors; promoters; non-promoter members; depositors; creditors; debenture holders, deposit trustee and debenture trustee and the employees of the company. Also, such notice shall be sent to all the creditors or class of creditors and to all the members or class of members and debenture-holders of the company, individually at the address registered with the company and the said notice shall be accompanied by a Statement disclosing the details of the compromise or arrangement; a copy of the valuation report, if any, and explaining their effect on creditors, key managerial personnel, promoters and non-promoter members and the debenture-holders and the effect of the compromise or arrangement on any material interest of the directors of the company or the debenture trustees and such other matters as has been prescribed. Persons entitled to receive notice can also ask for copy of the scheme and connected documents, free of charge and the company is mandated to comply with this request within one day. It is pertinent to note that where a meeting is held as per provisions of sub-section (1) of section 230 of the Act, majority of persons representing three-fourths in value of the creditors, or class of creditors or members or class of members, as the case may be, voting in person or by proxy or by postal ballot, agree to the Scheme of compromise or arrangement.

Notice for the meeting is also to be issued by way of advertisement in two newspapers (Rule 7 of CCA Rules), one in English and one in the vernacular language of the State where the registered office of the company is situated, indicating the time, within which, copies of the scheme shall be made available to the concerned persons, free of cost, from the registered office of the company. The notice issued to the members and creditors shall provide that they may vote in the meeting, either themselves or through proxies or by postal ballot to the adoption of the proposed Scheme, within one month from the date of receipt of such notice. It is however worth noting that the law now clearly stipulates that any objection to the proposed Scheme shall be made only by persons holding not less than ten per cent of the shareholding or having outstanding debt amount to not less than five per cent of the total outstanding debt as per the latest audited financial statement.

Notice of the meeting(s) and other documents shall also be placed on the website of the company, if any, and in case of listed company, these documents shall be sent to the Securities and Exchange Board of India ("SEBI") and to the stock exchange

where the securities of the companies are listed, for placing on their website.

It is pertinent to note here that in the new dispensation, copies of the Petition along with the Scheme and other details are required to be sent to the statutory authorities in the first stage itself so as to enable these authorities to put forward their views to the NCLT within the specified time frame of one month. Earlier, this itself used to necessitate several adjournments at the request of the statutory authorities to enable them to give their views to the High Court. The stipulation of time limit for submission of their report/views to the NCLT on the proposed Scheme is a welcome departure and will help expeditious disposal of the Petitions by the NCLT. Such notice and the prescribed documents shall be sent (as per Rule 8 of CAA Rules) to the Central Government; to the Income Tax Authorities; to the Reserve Bank of India; to the SEBI; the Registrar of Companies (ROC); to the respective Stock Exchanges; to the Official Liquidator; to the Competition Commission of India, if necessary, and to such other Sectoral Regulators or Authorities which are likely to be affected by the said Scheme; and the notice shall require them to give representations, if any, to the said Scheme, within a period of thirty days from the date of receipt of such notice, failing which, it shall be presumed that they have no representations to make on the proposed Scheme.

The Chairperson appointed for the meeting shall file affidavit to the NCLT, not less than seven days before the date fixed for the meeting, to the effect that the directions regarding issue of notices and the advertisement have been duly complied with. The Chairperson of the meeting shall also submit a report to the NCLT on the result of the meeting in the prescribed form, within the time fixed by the NCLT or where no time has been fixed, within three days after the conclusion of the meeting.

The CAA Rules stipulate that within seven days of the filing of the report by the Chairperson, the concerned company shall present a petition to the NCLT in the prescribed form for sanction of the scheme of compromise or arrangement. The NCLT shall fix a date for the hearing of the confirmation petition and notice of the said hearing shall be advertised in the same newspaper in which the notice convening the meeting was advertised, or in such other newspaper as NCLT may direct, not less than ten days before the date fixed for the hearing.

Where the NCLT sanctions a scheme of compromise or arrangement, its order shall be binding on the company, all the creditors, or class of creditors or members or class of members, as the case may be, or in case of a company being wound up, on the Liquidator and the contributories of the company. NCLT's order sanctioning the scheme shall include such directions in regard to any matter or such modifications in the compromise or arrangement as the NCLT may think fit to make for the proper working of the compromise or arrangement. Such order sanctioning the scheme by the NCLT shall be filed with the concerned Registrar of Companies within thirty days from the date of receipt of the order or such other time as may be fixed by the NCLT. The order of the NCLT sanctioning the Scheme or by a subsequent order, may make provision, inter-alia, for –

- (i) The continuation by or against the transferee company of any legal proceedings pending by or against any transferor company on the date of transfer;
- (ii) Dissolution, without winding up, of any transferor company;
- (iii) Where the transferor company is a listed company and the transferee company is an unlisted company, the transferee company shall remain an unlisted company until it becomes a

Section 240 of the Act stipulates that notwithstanding anything in any other law for the time being in force, the liability in respect of offences committed under the Act by the officers in default of the transferor company, prior to its merger, amalgamation or acquisition, shall continue after such merger, amalgamation or acquisition.



- listed company and if shareholders of the transferor company decide to opt out of the transferee company, provision shall be made for payment of the value of shares held by them and other benefits in accordance with a pre-determined price formula or after a valuation is made and the arrangements under this provision may be made by the NCLT;
- (iv) Where the transferor company is dissolved, the fee, if any, paid by the transferor company on its authorised capital shall be set-off against any fees payable by the transferee company on its authorised capital subsequent to the amalgamation; and
 - (v) Such incidental, consequential and supplemental matters as are deemed necessary to secure that the merger or amalgamation is fully and effectively carried out;
 - (vi) The powers and the procedure to be followed to acquire shares of shareholders dissenting from the scheme or the contract approved by the majority (as per section 235 of the Act).
 - (vii) Every company in relation to which the order is made shall, until the completion of the Scheme, file a statement in such form and within such time as may be prescribed with the ROC every year duly certified by a chartered accountant or a cost accountant or a PCS indicating whether the Scheme is being complied with in accordance with the orders of the NCLT or not;
 - (viii) If the transferor company or a transferee company contravenes the provisions of the relevant provision of the Act, it can be punished with fine ranging from rupees one lakh to twenty five lakhs and every officer of such a company who is in default shall be liable for punishment with imprisonment for a term which may extend to one year or with fine which shall not be less than rupees one lakh extendable to rupees three lakhs or with both.

Another important aspect which needs to be highlighted that officers in default of the transferor company cannot wash off their hands from liability incurred prior to the approval of the amalgamation/merger scheme with the transferee company. Section 240 of the Act stipulates that notwithstanding anything in any other law for the time being in force, the liability in respect of offences committed under the Act by the officers in default of the transferor company, prior to its merger, amalgamation or acquisition, shall continue after such merger, amalgamation or acquisition.

It needs to be appreciated that Chapter XV of the Act and the

CAA Rules are a complete code and take care of all matters connected with the sanctioning and implementation of the Scheme of CAA. To mitigate the practical difficulties likely to be faced by the applicant company in implementing the sanctioned Scheme, at any time after issuing an order sanctioning a Scheme, the NCLT may, either on its own motion or on the application of any interested person, make an order directing the company or where the company is being wound up, its liquidator, to submit to the NCLT within such time as NCLT may fix, a report on the working of the said compromise or arrangement and on consideration of the report, the NCLT may pass such orders or give such directions as it may think fit. Similarly, liberty has been given to the company, its creditor or members to approach the NCLT for determination of any question relating to the working the sanctioned compromise or arrangement. The NCLT may pass any direction(s) or order or dispense with any procedure prescribed by the CAA Rules in pursuance of the object of the provisions for implementation of the Scheme of arrangement or compromise or restructuring or otherwise practicable, except on those matters specifically provided in the Act.

NCLT order sanctioning the Scheme may, if the compromise or arrangement results in the variation of the shareholders' rights, it shall be given effect to under the provisions of section 48 of the Act. Further, the law now clearly explains that the provisions of section 66 of the Act shall not apply to the "reduction of capital" effected in pursuance of any Scheme which is sanctioned by the NCLT. Also, for amalgamation of companies in the public interest, section 237 of the Act provides elaborate provisions empowering the Central Government to issue appropriate orders.

CONCLUSION

Transition from High Courts to NCLT for sanctioning of CAA schemes and winding up cases augurs well for the corporate sector. However, since NCLT Benches will now be flooded with numerous cases, there would be need to strengthen and develop its infrastructure and manpower so that NCLT maintains the prescribed time frame in disposal of cases. It is felt that full cooperation of all the stakeholders, including corporate professionals and the PCS will go a long way to make the change-over successful in expeditious disposal of corporate litigations. The professional institutes also have a role to play to enhance the knowledge base and acumen of its members through seminars/workshops/training courses.

How to Avoid Undue Harassment of Directors



J.C. Seth, FCS

Advocate, New Delhi

sethjc2008@gmail.com



Anil Kumar Seth

Advocate, J C Seth & Co.
New Delhi

anilseth.adv@outlook.com

A company is an 'artificial' legal entity managed by a collective body called 'Board of Directors'. The Companies Act (hereinafter called the Act), Memorandum and Articles of Association of company provide the legal frame work which bestows Status, Powers and also enjoins Duties and Obligations on Board of Directors. The powers of Board of Directors are contained in Section 179 (1) of the Companies Act which reads as under:

"179. **Powers of Board-(1)** The Board of Directors of a company shall be entitled to exercise all such powers, and do all such acts and things, as the company is authorized to exercise and do . . .".

The law relating to the liability of company directors for offences under various laws has been made more stringent in recent years on account of major corporate scams. In such a scenario the article suggests certain measures for avoiding undue harassment of company directors.

A few restrictions on powers of Board are contained in Section 180 of the Act. Duties of Directors are contained in Section 166 of the Act, which include overall management of the Company and compliance with statutory provisions of laws. The Directors must exercise due care and skill in conducting and supervising the affairs of the company. In addition to the statutory duties of different laws the Directors have fiduciary duties, as the Directors are 'Trustees' of the company hence they must act diligently, in good faith and honestly. They should have rational and fair dealings and should not abuse the privileged position occupied by them in the company, as Directors. The Directors are not allowed to run or competing collusive business with the company and make secret profit through 'inside information' of the company. The Directors must avoid conflict between corporate and their personal interest.

Management of a company vests collectively in the Board of Directors of the company. Hence the normal assumption is that all the Directors are responsible for management, success and failures in performance of affairs of the company, including violations of various Statutes applicable to the Company. Apart from the main responsibility of Board of Directors to run the business of company in the interests of stake holders, there are numerous statutory duties of Directors under the Companies Act and scores of other enactment, like corporate, taxation, economic, industrial, labour, environment laws etc. Violations of these laws attract imposition of fine, prosecution, conviction and punishment of the Board of Directors. Of late India has been suffering from various large scale scams like 2-G, Spectrum, 'Coalgate Scam' and deposits of black money in tax haven and recent frauds of Vijay Mallya, liquor baron and Subarto Roy. Hence strict compliance of stringent laws is essential in public interest.

So far as compliance with duties and obligations under Companies Act is concerned the Companies Act holds all Directors and Company Secretary (called Principal Officer) liable for offences committed by the company. The term "Officer in Default" is defined in Section 2(60) of Companies Act, which reads as under :-

"(60) **Officer who is in default**" for the purpose of any provision in this Act which enacts that an officer of the company who is in default shall be liable to any penalty or punishment by way of imprisonment fine or otherwise, means any of the following officers of a company, namely:-

- (i) whole-time director;
- (ii) key managerial personnel;
- (iii) where there is no key managerial personnel, such director or directors as specified by the Board in this behalf and who has or have given his or their consent in writing



to the Board to such specification, or all the directors, if no director is so specified;

xxx xxx xxx

Other applicable enactments of Taxation, Corporate, Labour & Industrial Laws, Pollution Laws etc. do invariably contain a section titled as "Offences by Companies". E.g. Section 278B of Income Tax Act, Section 141 of Negotiable Instruments Act (called NI Act) and Section 14A of the Employees P.F. (Misc. Prov.) Act, all of which specifically provide that in case of default every person who at the time of offence was 'Incharge of and was responsible to the Company for the conduct of its business as well as the company shall be guilty of the offence and punished accordingly. Thus the Managing Director, whole time Directors and even part-time Directors are supposed to be managing the affairs of the Company hence all the Directors on Board are normally liable for any default in compliance with various Act.

In a case under Income Tax Act relating to deduction of Tax at Source, the Madras High Court in relying on a Supreme Court judgment held "admittedly the Director in question was the principal officer and therefore certainly he was also to be punished under Section 278B of the Income Tax Act. The Court added "it has no power to award a lesser punishment than the prescribed minimum punishment of three months, in addition to the fine". Following the dictum of the Apex Court the Madras High Court in the case of TMT. Thangalakshmi v. Income-Tax Officer (1994) 205 I.T.R. 176 while considering the provisions of section 273B of the Act held that there must be specific averments in the complaint to the effect that the partner of the firm at the time the offence was committed was in charge of, and was responsible for, the conduct of the business of the firm and particulars regarding conduct of and responsibility should be stated in the complaint, in order to make him liable for the offence.

The Supreme Court in a leading case while dealing with defaults under the Water (Prevention & Control) of Pollution Act 1974 held as under:-

"On a combined reading of sub-sections (1) and (2) of Section 47 it is clear that the Chairman, Vice-Chairman, Managing Director and members of the Board of Directors

of the company owning Modi Industries Ltd. the Respondent unit M/s Modi Distillery could be prosecuted as having been in charge of and responsible to the company, for the business of the unit and could be deemed to be guilty of the offence with which they were charged and are liable to be proceeded against and punished under Section 47 of the Act".

The Law is always evolving as Courts have to decide different types of cases. It is pertinent to refer to the provisions of Section 141 of Negotiable Instruments Act 1881 relating to dishonouring of the cheques, which is a common offence especially in case of small Companies. The case of SMS Pharmaceuticals Ltd. v. Neta Bhalla was referred to larger bench of Supreme Court. The judgement by three Judge Bench reported in (2005) 8 SCC 89 gave following directions in answer to the questions posed to it:-

- "(a) It is necessary to specifically aver in a complaint under Section 141 that at the time the offence was committed, the person accused was in charge of, and responsible for the conduct of business of the company. This averment is an essential requirement of Section 141 and has to be made in a complaint. Without this averment being made in a complaint, the requirements of Section 141 cannot be said to be satisfied.
- (b) The answer to the question posed in sub-para (b) has to be in the negative. Merely being a director of a company is not sufficient to make the person liable under Section 141 of the Act. A director in a company cannot be deemed to be in charge of and responsible for the conduct of its business. The requirement of Section 141 is that the person sought to be made liable should be in charge of and responsible for the conduct of the business of the company at the relevant time. This has to be averred as a fact as there is no deemed liability of a director in such cases.
- (c) The answer to Question (c) has to be in the affirmative. The question notes that the managing director or joint managing director would be admittedly in charge of the company and responsible to the company for the conduct of its business. When that is so, holders of such positions in a company become liable under Section 141 of the Act. By virtue of the office they hold as managing director or joint managing director, these persons are in charge of and responsible for the conduct of business of the company. Therefore, they get covered under Section 141. So far as the signatory of a cheque which is dishonoured is concerned, he is clearly responsible for the incriminating act and will be covered under sub-section (2) of Section 141."

In the recent case of Standard Chartered Bank v. State of Maharashtra , 2016 SCC online SC 304 the Supreme Court after reviewing its 17 earlier cases concluded as under:-

"34. Thus, considering the totality of assertions made in the complaint and also taking note of the averments put forth relating to the respondent Nos. 2 and 3 herein that they are whole-time Director and Executive Director and they were in charge of day to day affairs of the Company, we are of the considered opinion that the High Court has fallen into grave error by coming to the conclusion that there are no specific averments in the complaint for issuance of summons against the said accused persons. We unhesitatingly hold so as the asseverations made in the complaint meet the test laid down in Gunmala Sales Pvt. Ltd. (supra)".

"35. Resultantly, the appeals are allowed and the order

‘ In the Register of Directors maintained by company and also the Statutory Return of Directors submitted by company to the Registrar of Companies, the Company Secretary should indicate against the names of each Director specific Law(s) allocated to him for compliance of which he has been declared incharge and responsible to the Company, as per Resolution passed by the Board. ’

passed by the High Court is set aside. The learned Magistrate is directed to proceed with the complaint cases in accordance with law”.

The persons accused of offence have to appear personally on all dates of hearings, which are quite prolonged. It is common practice that accused person(s), who claim to be innocent seek quashing of the criminal cases under Section 482 Cr.P.C. claiming that the case filed against him is mere abuse of process of Law. In above quoted SMS Pharma Case under Section 141 of N.I. Act the Supreme Court held as under:

“If any Director wants the process to be quashed by filing a petition under Section 482 of the Code on the ground that only a bald averment is made in the complaint and that he is really not concerned with the issuance of the cheque, he must in order to persuade the High Court to quash the process either furnish some sterling incontrovertible material or acceptable circumstances to substantiate his contention. He must make out a case that making him stand the trial would be an abuse of process of Court. He cannot get the complaint quashed merely on the ground that apart from the basic averment no particulars are given in the complaint about his role, because ordinarily the basic averment would be sufficient to send him to trial and could be argued that his further role could be brought out in the trial”.

It is pertinent to note that in such offences no ‘mens rea’ or guilty intention is required to be proved e.g. Directors are prosecuted simply because a default is made in not filing Annual Return under Companies Act with Registrar of Companies. In K.K. Ahuja v. V.K. Vora (2009) 10 SCC 48 the Supreme Court summarised the law for filing of Complaints against Managing Director and other Directors under Section 141 of the Act as under:-

“(i) If the accused is the Managing Director or a Joint Managing Director, it is not necessary to make an averment in the complaint that he is in charge of, and is responsible to the company, for the conduct of the business of the company. It is sufficient if an averment is made that the accused was the Managing Director or Joint Managing Director at the relevant time. This is because the prefix “Managing” to the word “Director” makes it clear that they were in charge of

and are responsible to the company, for the conduct of the business of the company.

- (ii) In the case of a Director or an officer of the company who signed the cheque on behalf of the company, there is no need to make a specific averment that he was in charge of and was responsible to the company, for the conduct of the business of the company or make any specific allegation about consent, connivance or negligence. The very fact that the dishonoured cheque was signed by him on behalf of the company, would give rise to responsibility under sub-section (2) of Section 141.
- (iii) In the case of a Director, secretary or manager [as defined in Section 2(24) of the Companies Act] or a person referred to in clauses (e) and (f) of Section 5 of the Companies Act, an averment in the complaint that he was in charge of, and was responsible to the company, for the conduct of the business of the company is necessary to bring the case under Section 141(1) of the Act. No further averment would be necessary in the complaint, though some particulars will be desirable. They can also be made liable under Section 141(2) by making necessary averments relating to consent and connivance or negligence, in the complaint, to bring the matter under that sub-section.
- (iv) Other officers of a company cannot be made liable under sub-section (1) of Section 141. Other officers of a company can be made liable only under sub-section (2) of Section 141, by averring in the complaint their position and duties in the company and their role in regard to the issue and dishonour of the cheque, disclosing consent, connivance or negligence.”

The Directors of every company are policy makers and they are engine of performance of the company. The Directors form a privileged class and are provided with high remunerations and excellent perquisite, so that they could do their best. Certainly it is desirable that there should not be undue terror of prosecution of Directors due to violation of statutory laws. It is well known that there are small and sick companies in India whose cheques get dishonoured due to ‘insufficiency of funds in Bank’ and the company is not able to pay the amount of dishonoured cheque despite issue of Notice under Proviso (b) to Section 138 of the N.I. Act. How far is it justified or equitable to punish all the Directors of a company for one offence under N.I. Act. Obviously, prosecution of all Directors has terrorizing and demoralizing effect. When prosecution of directors start, some of them would go under-ground and consequently they cannot attend to their jobs, where they are needed most to revive the small/sick Company. Ultimately such Companies collapse with colossal loss to stake holders and also workforce, who are rendered unemployed.

Analyzing the provisions of Laws and also taking cue from case-law quoted above, Company Secretary (as a professional) should suggest a way out for the Directors to escape or mitigate the criminal liability of prosecution of all Directors by passing appropriate Resolution in Board meeting allocating the duty and responsibility for compliance of different laws by different individual Director(s) after recording consent of individual concerned Director in writing. The Board has got different Directors dealing with different areas like Operations, Finance & Accounts, Marketing, etc. The Directors are experts in their own field of activities. The legislature has made different Laws like Taxation, Corporate or Labour Law to regulate functions of Companies in different areas of operations. The Board may



specifically make nomination of the individual Director(s) who is declared as incharge and responsible to the Company for effective compliance with specific law(s).

As regards the defaults in maintenance and audit of Account Books under Companies Act, bouncing of cheques under Negotiable Instruments Act and Taxation Laws, the Board may like to make the full time functional Director responsible and incharge of Finance & Accounts (called Director Finance), liable for proper compliance with relevant laws. Similarly the full time Director in charge of Personnel & Admn. may be made responsible for compliance of various Labour & Industrial Laws like Factories Act, ESI, Provident Fund, I.D. Act and Gratuity Act etc. The Companies having 'Company Secretary', who is treated as Principal Officer, should be made responsible for compliance with Companies Act. Similarly responsibility for compliance with other laws should be entrusted to nominated Director(s) and they be held responsible and made incharge of their functions and the applicable law(s).

This will make such 'nominated' Director(s) more cautious, responsible and diligent, knowing his statutory duties and obligations in case of violation of any one law. All other Directors in the Board will give him due support for making full compliance but in case of prosecution for non-compliance he alone will be responsible and prosecuted by the Authorities and other Directors would be spared.

What is required is to create un rebuttable documents to prove that the Board had after due deliberations and with the written consent of the nominated Director had passed proper Resolution in the Board Meeting to that effect. Further as every Company has to keep 'Register of Directors' and also file 'Return of Directors' with the Registrar of Companies under Section 170(2) of Companies, which Section reads as under:-

"2. A return containing such particulars and documents as may be prescribed, of the directors and the key managerial personnel shall be filed with the Registrar within thirty days from the appointment of every director and key managerial personnel, as the case may be and within thirty days of any change taking place".

Thus in the Register of Directors maintained by company and also the Statutory Return of Directors submitted by company to the Registrar of Companies, the Company Secretary should

indicate against the names of each Director specific Law(s) allocated to him for compliance of which he has been declared incharge and responsible to the Company, as per Resolution passed by the Board. This fact must be indicated by adding 'Remarks' in the statutory Return of Directors. Similarly it must also be recorded in Register of Directors maintained under Section 170(1) of the Act. Certified copy of such a Return of Directors can be obtained by any one from Registrar of Companies, which document will conclusively prove the responsibility of that Director alone to comply with particular law. In case of any violation of that particular law, only that Director, who is declared as Incharge and responsible to the Company, as per Board Resolution will have to face the trial and all other Directors will be saved of the harassment and punishment, if any. Such a Resolution of Board is permissible under provision of Section 2(60) of Companies Act and also other applicable laws.

On the basis of the Board Resolution and the Directors' Registers maintained under Section 170(1) of the Act, no Governmental authority will prosecute other Directors. However, if per chance any other Director or Company Secretary of the company is wrongly arrayed as an accused person for an offence, the Court will not take cognizance, if the Director, Company Secretary concerned files Certified copy of relevant Board Resolution accompanied with certified, copy of Directors' Register and also Certified copy of Return of Directors filed under Section 170(2) of Companies Act. However, if Magistrate still takes cognizance of offence, then the High Court has to be approached, which has power under Section 482 Cr. P.C. to quash the criminal proceedings against such a Director/ Co. Secretary. It is advisable for a Director/Company Secretary, who resigns or retires that he should ensure that the Return of Directors under Section 170(2) *ibid* is filed with the Registrar of Companies.

Another important measure to avoid harassment to all the Directors is to seek 'compounding of offences' as permissible under Section 441 of the Companies Act 2013 and other laws. The purpose is to avoid undue harassment to all Directors, so as to facilitate them to work peacefully, effectively and efficiently on account of threatened prosecution. These measures will result in good corporate governance and will also be interest of stake holders and public interest. CS

Wrongful withholding of Company's Property, Consequences of



Hem Raj Tuteja, FCS
Jodhpur

hrtuteja@gmail.com

INTRODUCTION

It is common knowledge that both in the public sector as well in the private sector, companies provide residential accommodation to their officers and employees as a condition of service to attract better and talented persons to join them. In this connection the companies purchase or take on rent residential flats in the multi-storied buildings in large cities and towns for use of their officers and employees. It is also common knowledge that many officers and employees who have been provided accommodation by the company as a perquisite or as a condition of service, fail to vacate and deliver back possession to the companies after ceasing to be in the employment .[Abdul Quayum Ansari v. State of Maharashtra (1991) 70 Comp. Cas 368 (Bom.)]. Under such circumstances, the companies have to resort to a lengthy, time consuming and toilsome litigation for the purpose of recovery of the property. In order to save the company

Wrongful withholding of company property is viewed seriously by the company legislation and invites criminal proceedings against the offender. The provisions of the 1956 Act in this regard have been considered by the judiciary in a number of cases. These hold good under the Companies Act, 2013 more so since the new provisions have apparently not so far been subjected to any judicial scrutiny or interpretation.

from this hassle, the Parliament has introduced section 452 of the Companies Act, 2013 (corresponding to section 630 of Companies Act, 1956), hereinafter called the Act, which saves the company from exhaustive work and troubles of lengthy and toilsome litigation. Section 452 enables the companies to file criminal complaint against the delinquent officers/employees. The section provides penalty for wrong possession or withholding of the property including cash of the company by an officer or employee of company (whether past or present). The section, thus, applies only to officers or employees of the company. The accused officer/employee shall be punishable with fine on a complaint made by the company or of any member or creditor or contributory thereof. The court may also direct such officer/employee to deliver or refund, any property or cash wrongfully obtained or wrongfully withheld or knowingly misapplied, the benefits that have been derived from such property or cash or in default, to undergo imprisonment for a term which may extend to two years.

STATUTORY PROVISION- SECTION 452

Section 452 enforced w.e.f. 12.9.2013 vide Notification No. S.O. 2754(E)/[File No. 1/15/2013-CLV]dated 12.9.2013 reads thus:

"(1) If any officer or employee of a company-

- (a) wrongfully obtains possession of any property, including cash of the company; or
- (b) having any such property including cash in his possession, wrongfully withholds it or knowingly applies it for the purposes other than those expressed or directed in the articles and authorized by this Act,

He shall be, on the complaint of the company or of any member or creditor or contributory thereof, be punishable with fine which shall be not less than one lakh rupees but which may extend to five lakh rupees.

- (2) The court trying offence under sub-section (1) may order such officer or employee to deliver up or refund, within a time to be fixed by it, any such property or cash wrongfully obtained or wrongfully withheld or knowingly misapplied, the benefits that have been derived from such property or cash or in default, to undergo imprisonment for a term which may extend to two years.

There are two limbs of Section 452. Under the first limb if a person wrongfully obtains possession of property of a company, then he on the happening of the event mentioned therein is liable to be punished. Under the second limb, if a person having the property of the company in his possession wrongfully withholds it, then he is liable to be punished.[Vide S. Rangaswamy v. Coimbatore Pioneer Mills (2002) 37 SCL 817 (Mad.)].

The officer or employee shall be punishable with fine on a complaint made by the company or of any member or creditor or contributory thereof. The court may also direct such officer or employee to deliver or refund, any such property or cash wrongfully obtained or wrongfully withheld or knowingly misapplied, the benefits that have been derived from such property or cash or in default, to undergo imprisonment for a term which may extend to two years.

OBJECT OF SECTION 452

The object of the Act is to control the management and protect the property of the company. The intent of section 630 of Companies Act, 1956 appears to be to control the administration and protect the property of the company .[Govind T.Jagtiani v. Sirrajudin S.kazi (1984)56 Comp. Cas. 329 (Bom)]. It was held that the provisions of the section are constitutionally valid and enable the companies to resort to a legal remedy for recovery of their property wrongly withheld by its officers and employees.

The primary object of section 630 of the Companies Act, 1956 is to ensure efficacious and speedy retrieval of company's property Vide Abdul Quayum Ansari v. State of Maharashtra (1991) 70 Comp. Cas. 368(Bom) . To stay a complaint under this section would be to defeat the very object of the said provision .[Abdul Quayum Ansari v. State of Maharashtra(1991) 70 Comp.Cas. 368 (Bom.)]. The Gujarat High Court in Petalal Bulakidas Mills Co. Ltd. v. State of Gujrat (1998) 18 SCL 438 held that section 630 of the Companies Act, 1956 is not a penal provision since its purpose is to preserve and protect the property of the company from the unscrupulous officers/employees of the company. Therefore, if the delinquent incumbent complies with the order of the Court with respectful obedience and returns the property of the company, he would be discharged after paying fine otherwise he would be subject of imprisonment on defiance of the court's order, not for withholding of company's property, but for contempt of the Court.

Further, the Supreme Court held that the object of enacting section 630 is that the property of the company is preserved and is not used for the purposes other than those expressed or directed in the articles of association of the company or authorized by the provisions of the Act.[Lalita Jalan v. Bombay Gas Company Ltd. 8(2003) 44 SCL 130 (SC)].

CONSTITUTIONAL VALIDITY OF THE PROVISIONS

The provisions contained in section 630 do not violate Article 14 of the Constitution as they do not suffer from vice of any constitutional infirmity. [Praveedbhai Ganeshbhai Chaudhary v. Natural Gas & Allied Industries (2001) 33 SCL 176 (Guj.)]. In Petalal Bulakidas Mills Co. Ltd. v State of Gujrat (1999) 92 Comp. Cas. 900/(1998) 18 SCL 438 (Guj.) the Court held that the law in question is within the Legislative competence. Even the challenge to the constitutional validity thereof on the ground that it is discriminatory or that it deprives the right to life under Article 21 of the Constitution can also be negated. The Supreme Court in Lalita Jalan v Bombay Gas Company Ltd. 8(2003) 44 SCL 130 (SCL 130 (SC)) held that provisions of section 630 of the Companies Act, 1956 are constitutionally valid since they preserve the property of a company and save the company from delinquency of its officers/employees.

There are two limbs of Section 452. Under the first limb if a person wrongfully obtains possession of property of a company, then he on the happening of the event mentioned therein is liable to be punished. Under the second limb, if a person having the property of the company in his possession wrongfully withholds it, then he is liable to be punished.

SECTION 452 PROVIDES SUMMARY PROCEDURE

Since the object of section 452 is to ensure efficacious and speedy remedy for retrieval of company's property, the process involved is of summary nature. It was held by the Supreme Court in Baldev Kishan Sahi v. Shipping Corporation of India Ltd. (1987) 4 SCC 361 (SC) that the Legislation has purposely enacted the provision with the object of providing summary procedure and therefore, it is the duty of the Court to place a broad and liberal construction of the provision in the furtherance of the object and purpose of the legislation which would suppress the mischief.

PERSONS LIABLE UNDER THE ACT

The words "any officer or employee of a company" apply not only to the existing officers or employees, but also to the past officers or employees.[Baldev Kishan Sahi v. Shipping Corporation of India Ltd. (1987) 4 SSC 361]. Expansive meaning should be given to the expression 'employee or any one claiming through him. Even legal heirs, family members or persons claiming through erstwhile employees can be prosecuted. However, proceeding under the Act against family members of an officer or employee of a company who is alive is not permitted but legal heirs of a deceased officer or employee can be prosecuted for an offence committed by the deceased officer or employee during his employment.[J.K. (Bombay) Ltd. v. Bharti Matha Mishra (2001) 29 SCL 303 (SC) and Gajra Gears Ltd. v. Smt. Asha Devi (1998) 3 Comp. Cas. LJ. 88 (MP)]. The Supreme Court in Gopika Chandra Bhushan Saran v. XLO India Ltd. (2009) 148 Comp. Cas. 130 (SC) held that the Act covers within its ambit not only the employees/officers, but also the past employees/officers or the legal heirs of deceased employees or officers in the possession of the company's property. The legal heirs acquire the right of possession of property by virtue of being family members of the employees or officers and not on account of their independent right. The Bombay High Court in Harkishan Lakhimal Kashinath Gidwani v. Achyut Kashinath Wagh (1982) 52 Comp. Cas. 1 held that the provisions of the Act are self contained in respect of wrongfully holding the property by present, past officers and employees and their legal heirs.

The Supreme Court in Lalita Jalan v. Bombay Gas Co. Ltd. (2003)

Proceeding under the Act against family members of an officer or employee of a company who is alive is not permitted but legal heirs of a deceased officer or employee can be prosecuted for an offence committed by the deceased officer or employee during his employment.

44 SCL 130 (SC) has held that where an employee who had obtained the possession of the property of the company by virtue of his employment in the company, but either due to his death or due to living elsewhere, and with his consent whether implied or express, the property is in possession of some other persons, they all are liable to vacate the property on demand by the company, otherwise they would be liable to be prosecuted under the Act.

PROPERTY COVERED

The Act of 1956 did not contain any words, express or implied showing whether movable or immovable property came within its purview. However, Courts had clarified that section 630 of the Companies Act, 1956 covered both movable as well as immovable property. In *Begu Ram v. Jaipur Ugyog Ltd.* (1987) 61 Comp. Cas. 744, the Rajasthan High Court held that the word property used in section 630 of the Companies Act, 1956 covered both movable and immovable property. The Court further held that usually the companies file complaints for the recovery of immovable property, but a complaint filed by the company against the General Manager seeking to recover car or laptop supplied to him for performance of duty during employment squarely fall within scope of section 630. Now the section 452 of the Act of 2013 covers movable, immovable property as well as cash.

VENUE OF TRIAL VIS-A-VIS JURISDICTION OF COURT

Where the registered office of the company is situated at Calcutta and the property wrongfully withheld is situated at Cochin, the Court having jurisdiction over Cochin would try the offence. [*Vijay Kapur v. Guest Keen Williams Ltd.* (1995) 83 Comp. Cas. 399 (Cal.)]. The Calcutta High Court held that though orders regarding allotment of property to the officer were issued from Head Office of the company at Calcutta, but the possession of property was taken at Cochin and as the venue of trial would be Cochin, where cause of action arose i.e the property was wrongfully withheld at Cochin.

In *Dr. Harak Ghose v. Tata Iron and Steel Co. Ltd.* (1991) 70 Comp. Cas. 324, the Bombay High Court held that an offence under the section is complete when retention of property takes place. It is at Jamshedpur, where the retention has taken place and it is but natural that the case be filed at Jamshedpur.

The jurisdiction conferred on the Magistrate is a special one and could perhaps, be comparable with that under section 138 of the Negotiable Instruments Act, 1881. All that the Magistrate is required to examine in such a proceeding is the question as to whether the company property has been wrongly withheld and, if so, to pass an

order for its restoration and to compute the fine payable for the period of retention. The Magistrate ought to take up these cases on a priority basis, restrict the scope of the evidence and the arguments to that which is strictly germane to the short issue involved and to dispose of the matter within the minimum time. These cases should be specially numbered, taken up on a priority basis and summarily disposed of because experience has shown that when they are allowed to drift and they linger on for anything from 5 to 10 years in trial courts. [*Abhilash Vinod Kumar Jain (Smt.) v. Cox & Kings (India) Ltd.* (1995) 84 Comp. Cas. 1 (Bom.)].

EMPLOYMENT AN ESSENTIAL CONDITION FOR POSSESSION OF PROPERTY

Companies allot residential property to their officers or employees only. The officers/employees make use of the property during their employment and should hand over the same on ceasing to be in the employment. In case the officer or employee or his family member or his legal heir does not hand over the property after his determination of employment, the company can file complaint. The Supreme Court in *Smt. Abhilash Vinod Kumar Jain v. Cox & Kings (India) Ltd.* (1995) 4 SCL 167 has held that provisions of section 630 are not discriminatory and that capacity and right to prosecution and duration of occupation are all features which are integrally blended with the employment, and the capacity to hand over the allotted property back to the company.

CHALLENGE TO TERMINATION: NO BAR AGAINST CRIMINAL PROCEEDING

Proceedings initiated by the company for recovery of property under the Act and those instituted by the employee challenging his dismissal from service were quite distinct proceedings involving different issues, and different considerations would prevail regarding the decision in both proceedings. [*P.V.George v. Jayems Engg. Co. Ltd.* LJ 62(Mad.)]. The Court also held that the proceedings challenging the order of dismissal of service by no stretch of imagination be construed as a bar against the institution of criminal proceedings under section 630 of the Companies Act, 1956.

The above judgment was relied on by Allahabad High Court in *R. Anthony v. Renusagar Power Company (P) Ltd.* (1996) 2 LLJ 329.

WITHHOLDING OF RETIREMENT BENEFITS OF ACCUSED PERSONS NOT PERMISSIBLE

The Bombay High Court held in *S.N. Ghose v. Siemens India Ltd.* 1992 2 LLJ 122 (Bom.) that in case of erstwhile employee of a company withholding its property, it is open to the company to resort to recovery proceedings for taking back the possession of property. In case the employee is found guilty of withholding the property of the company he will be punished. Pending such proceedings, company cannot withhold the retirement benefits of the accused employee. The retirement benefits include statutory benefits such as provident fund, gratuity, or pension.

PERIOD OF LIMITATION

The limitation for filing the plaint under section 630 of the Act is 3 years, and if the complaint is not filed within 3 years from the date of commission of offence, complaint would be time-barred. [*B.R. Herman & Mohta (India) Ltd. v. Ashok Rai* (1984) 55 Comp. Cas. 61 (Delhi)].

However, in *T.N.V. Nanjappa Chettar v. Devi Films (P) Ltd.* (1993) 76 Comp. Cas. 875 the Madras High Court expressed a contrary view stating that since the offence under section 630 of the Companies Act, 1956 is a continuous offence and is repeatedly committed therefore, the complaint lodged under the section cannot

be challenged on the ground of limitation.

Where an employee, does not vacate the house given to him by a company free of rent after the retirement, he occupies it in capacity of a trespasser and trespassing is a continuous offence, complaint against him under section 630 is not barred by limitation [Begu Ram v. Jaipur Udyog Ltd.(Supra).and Petalal Bulakidas Mills. Co. (Supra)].

VIOLATION OF SECTION 452 IS A CONTINUOUS OFFENCE

In Gokal Patel Volkari Ltd. v. Demdayya Gurushidaih Hiremath (1991) 71 Comp. Vas. 403 (SC) and Lalita Jalan v. Bombay Gas Co. Ltd. (supra), the Supreme Court has unequivocally held that the withholding of company's property is not an isolated act, but a continuous offence by which the property is not returned or restored to the company and the company is deprived of its possession in continuity. The Calcutta High Court in Arun Kumar Dass v. State (1990) 68 Comp. Cas. 482 (Cal.) held that the offence under the Act is not a one- time offence, but a continuous offence as the offender continuously violates the provisions of law. Similarly, in Dr. Hiral Ghosh v. Tata Iron and Steel Co. Ltd. (1991) 70 Comp. Cas. 324 (Bom.), the Bombay High Court pronounced that the offence under the Act is a continuous offence and it continues till the property is restored back to the company.

COMPANY MAY BE OWNER OR A TENANT OF THE PROPERTY IN QUESTION

The offenders usually try to escape and contend that the premises allotted to them do not belong to the complainant company. But the Courts never approved their contention. According to the Courts it is not the ownership, but the possession of property, which is important aspect. In Kanankandi Gopal Kishan Nair v. Prakash Chand Juneja (1994) 81 Comp. Cas. 104 (Bom.), it was held that what needs to be emphasized is the aspect of possession. Admittedly, the premises in question do not belong to the company, but the company was holding the same as a tenant. In this case, accused was in possession of company's property and the company was tenant of the said property, which subsequently was purchased by the wife of the accused, but the company continued to be the tenant. The Court held that the real test would be of examining the situation whereby wife of accused purchased the flat from landlady at a point when the company was lawfully holding the property as a tenant and therefore, the possession was rightfully with the company, the company had a right to be in the continuous possession of the premises as a tenant, regardless of the challenge of ownership. The employee was directed to handover the possession of the flat to the complainant company, as the relationship between the company as a lessee and his wife as a lesser still subsisted.

TENABILITY OF CRIMINAL PROCEEDINGS AGAINST CIVIL SUIT

In S. Planiswami v. Janardhana Mills Ltd. (1993) 76 Comp. Cas. 323 (Mad.) the company filed criminal complaint under section 630 of the Companies Act, 1956 against the unlawful withholding of its property, and the employee contended that since the matter was sub-judice before the civil court, the complaint filed under section 630 was not tenable. This contention was rejected and it was held that the complaint was maintainable, as pendency of civil suit was no bar against launching of complaint under section 630.

Pendency of civil proceedings in Court will not be ground for quashing of criminal proceedings or not to frame charges against accused, who has committed an offence under section 630, where assertions in petition together with material produced by complainant

constitute offence.[Marrat Rubber Ltd. v. J.K. Maratukalm (2001) 32 SCL 171(SC).It was held in Manas Kumar Gosh v. T.T .Mahmood (2000) 27 SCL 281 (Cal)].

FINDING OF CIVIL COURT IN RESPECT OF LEGALITY OF POSSESSION OF PROPERTY WOULD SUPERSEDE FINDING OF CRIMINAL COURT

Where during pendency of criminal prosecution against an employee, company filed civil suit for eviction and the criminal court found that the offence was proved and directed for restitution of property and the High Court upheld the order and subsequently, the civil court held that the appellant had not come into possession through the company, and had independent tenancy rights from the principal landlord, and therefore, refused eviction. It was held that notwithstanding the fact that the appeal against the civil court's decree was pending, criminal court's finding stood superseded by civil court's finding, and therefore, it could not be said that the appellant had been in wrongful possession of property entailing his conviction and punishment under section 630.[V.M. Shah v. State of Maharashtra (1997) 13 SCL 38 (SC)].

LABOUR COURT v. CRIMINAL COURT

There is no conflict between powers of Labour Court under Industrial Dispute Act, 1947 and powers of Criminal Court under section 630. However, mere pendency of reference before Labour Court cannot deprive Criminal Court of its powers under section 630. [Praveen Bhai Ganesh Bhai Chaudhary v. Neutral Gas and Allied Industries (P) Ltd. (2001) 33 SCL 176 (Guj)].

CONCLUSION

Section 452 is a self contained section. The Parliament has placed this section in the statute book to enable the companies to get back their properties from the clutches of delinquent officers and employees who try to drag the companies to unnecessary and costly litigation. In order to implement the provisions effectively, the courts have played a predominant role. The Bombay High Court in Kanakandi Gopal Krishan Nair v. Prakash Juneja (1994) 81 Comp. Cas. 104 (Bom.) has held that the provisions of section 452 are intended to provide speedy and efficacious redressal where a company's property is wrongfully withheld. Towards restoring this property it is essential that a continuous effort be made, particularly by the subordinate courts, to ensure that the delay factor is controlled to the maximum extent subject to the condition that the complaints are taken up and disposed of on priority basis to avoid unwarranted delay. Parties are confined within well defined narrow ambit and not allowed to dilate or protract the proceedings through extraneous avenues. No frivolous applications for adjournment stay of proceedings, etc. are permitted by the trial courts. The law is well settled now with regard to the position that the pendency of civil proceedings is no bar to the decision of an application under section 452 which fact is taken cognizance of such situations. The appeal court, in the first instance, should judiciously scrutinize and vigorously examine the revision applications and appeals before granting stay orders. The applications for discharge on frivolous and untenable pleas are required to be speedily and effectively disposed of and are not to be used as handles for protracting the litigation.. The provisions providing for retrieving company's property have been put on the statute book purposely and these cannot be either defeated, frustrated or put into cold storage through litigation at an interlocutory stage.[Abhilash Vinodkumar Jain (Smt.) v.Cox & Kings (India) ltd. (1995) 84 Comp. Cas 1 (Bom.)]. CS

Drafting Resolution with Class and Clarity



Prabir Bandyopadhyay, FCS

Sr. Manager & Company Secretary
Williamson Financial Services Ltd.
Kolkata

pbaoct@yahoo.com

If you can't explain it simply, you don't understand it well enough' – Albert Einstein .

In the legal world resolution is a tool through which an action is initiated in clear cut terms. The simplest and only meaning of resolution is 'determination' or 'decision'. One comes across resolutions of different sizes and contents of the same matter.

Drafting of resolutions is a very important and crucial function of company secretaries. A well drafted resolution enables seamless transition of a Board decision to actual realisation of the objective behind the resolution. Many a times a ill drafted resolution gives rise to protracted litigation. This article lists out certain practical tips for drafting perfect resolutions and gives certain models also.

A MODEL RESOLUTION

Let us consider a sample of a resolution to be considered by the Members of the company at their Annual General Meeting in respect of appointment of a person as an Independent Director of a company who was previously appointed as Additional Director by its Board of Directors:

"RESOLVED that Mr..... (DIN....) who, pursuant to the recommendation of the Nomination and Recommendation Committee, was appointed as an Additional Director of the Company as per Article ... of the Articles of Association of the Company read with Section 161 of the Companies Act, 2013 ('the Act') and whose period of office as Additional Director will expire on the date of the forthcoming Annual General Meeting of the Company and in respect of whom the Company has received a notice in terms of Section 160 of the Act proposing his candidature for the appointment as a Director of the Company at the forthcoming Annual General Meeting and who has furnished declaration in accordance with Section 152(4) of the Act that he is not disqualified to become a Director under the Act and also given his consent to act as a Director of the Company according to Section 152(4) of the Act and who fulfils the criteria of independence as provided in sub-Section (6) of Section 149 of the Act , be and is hereby appointed a Director as well as an Independent Director of the Company in terms of Section 149 of the Act for the period of five consecutive years commencing from and that the provisions of sub-Section (6) and (7) of Section 152 of the Act in respect of retirement of Directors by rotation shall not apply to him".

REDRAFTING OF THE MODEL RESOLUTION

The above resolution is an extreme example of a very comprehensive resolution to meet the analytic purpose of this Article. (In practice, such resolution may not contain all the recitations and references as given in the above draft but may consist of a good number of them). It bunches together the applicable provisions of law for the sake of justifying the proposal from the legal point of view and at the same time intimating the procedural part of compliance to establish its legal tenability.

The above Resolution can be redrafted as under :

"RESOLVED that Mr..... be and is hereby appointed a Director as well as an Independent Director of the Company as per Article .. of the Articles of Association of the Company and in terms of Section 149 of the Companies Act, 2013 for a period of five consecutive years commencing from"

The revised draft above puts forth candidly the proposal. The intended reader may read the draft first, know exactly what the proposal by a simple reading with the fast and utmost attention and look for its requirement, justification and legal compliance parts into the Explanatory Statement concerned and that is what the Explanatory Statement is all about. This way of systematic representation of the case will help the shareholder concerned to understand and make up his/her mind vote for/ against the Resolution, more analytically with ease.

ANALYSIS OF THE MODEL RESOLUTION IN VIEW OF THE REDRAFT

The first resolution in view of the second one may be analysed as under:

- 1) **DIN of the Appointee** : The DIN of the appointee may well be disclosed in the Explanatory Statement . The resolution should be made to the point and supportive information should find its place in the Explanatory Statement.
- 2) **Recommendation of the Nomination and Recommendation Committee**: This is a part of compliance as per Section 178(2) of the Act . Information regarding the preclearance of the resultant resolution had better not form part of the Resolution itself but the information document concerned.
- 3) **Additional Directorship** : His term of office as an Additional Director will expire on the date of the coming Annual General Meeting does not necessarily or automatically entitles him for consideration of his appointment as Director at that Meeting . Actually, this additional information is for helping the shareholders know of his status and merit i.e. previous experience as Director of the company. The Explanatory Statement is the right place for this information . The target reader will read this along with his qualification as given in the Explanatory Statement and think and make up his / her mind to vote for or against the resolution.
- 4) **Notice in terms of Section 160 of the Act**: The Notice is a precondition to raising the proposal by any of the candidate himself/ herself or any existing Member of the company - towards the appointment of a person as a Director at any General Meeting of Members. It is a part of the procedure to put forth the proposal and in no way forms part of the proposal itself. The Notice The Explanatory Statement is there to confirm this compliance.
- 5) **Declaration in accordance with Section 152(4) of the Act** : This declaration qualification is another precondition towards eligibility for the appointment as a Director. This may well be disclosed in the Explanatory Statement to make the Members aware of it.
- 6) **Consent to act as Director according to Section 152(4) of the Act**: This precondition to appointment supports the Resolution for appointment which should well be included in the Explanatory Statement. The 'support' (i.e. the consent) should not form part of the 'supported'(the resolution)' so that separate identity of each of them is maintained.
- 7) **Criteria of independence as provided in sub-Section (6) of Section 149 of the Act**: This vital information is the justification for taking into account the particular person's candidature as Independent Director. This to be considered together with other facts and credentials as disclosed in the Explanatory Statement so that the shareholders can make up their mind to vote for or against the appointment proposal. To repeat, this is not 'the proposal' but 'one of the points for considering the proposal' and so, should form part of the Explanatory Statement.
- 8) **Not to retire by rotation**: The Independent Director shall not be liable to retire by rotation because of such express provision in Section 149(13) of the Companies Act, 2013 and not because of that the Resolution has so provided for. This educative information should suitably be given in the Explanatory Statement - as this automatic and not something the shareholders will decide upon. i.e. to consent to or not to.

EXPLANATORY STATEMENT IS INTEGRAL PART OF RESOLUTION AND NOT ITS SUBORDINATE

Then : Section 173 (2) of the Companies Act, 1956 'Where any

“ The Resolution is not supposed to include such meaning, scope, implications, statutory requirements, benefits, concerns, reasons and logic; because, if it does so, it will overstrain and cast shadow on the moot point of the decision to be taken. This may ultimately mislead the readers i.e. the decision makers and the main purpose of the Resolution may be lost. The Resolution itself is the Principal Clause – straight and simple , the subordinate clauses are in the Explanatory Statement. ”

items of business to be transacted at the meeting are deemed to be special as aforesaid, there shall be annexed to the notice of the meeting a statement setting out all material facts concerning each such item of business,.....’

Now : Section 102(1) of the Companies Act, 2013 reads as under :

‘A statement setting out the following material facts concerning each item of

special business to be transacted at a general meeting, shall be annexed to the notice calling such meeting, namely:—

- (a) the nature of concern or interest, financial or otherwise, if any, in respect of each items of—
 - (i) every director and the manager, if any;
 - (ii) every other key managerial personnel; and
 - (iii) relatives of the persons mentioned in sub-clauses (i) and (ii);
- (b) any other information and facts that may enable members to understand the meaning, scope and implications of the items of business and to take decision thereon’.

The above cited Clause (b) is the written confirmation in the Act in respect of the legal status of Explanatory Statement which must disclose, inter alia, the meaning, scope, implication, statutory requirements, benefits, concerns, reasons and logic of considering the proposed Resolution . What is not there in writing but has to be essentially construed is that the Resolution is not supposed to include such meaning, scope, implications, statutory requirements, benefits, concerns, reasons and logic; because, if it does so, it will overstrain and cast shadow on the moot point of the decision to be taken. This may ultimately mislead the readers i.e. the decision makers and the main purpose of the Resolution may be lost. The Resolution itself is the Principal Clause – straight and simple , the subordinate clauses are in the Explanatory Statement.

Specific Disclosure

Of course, where there is statutory provision for a specific disclosure in the Resolution itself , the same has to be complied with and the consideration of meaning, scope, implication, etc. will be irrelevant. For example :

- Section 180(2) of the Companies Act, 2013 provides, ‘Every

special resolution passed by the company in general meeting in relation to the exercise of the powers referred to in clause (c) of sub-section (1) shall specify the total amount up to which monies may be borrowed by the Board of Directors.'

- Regulation 73(4) of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009 states 'The special resolution shall specify the relevant date on the basis of which price of the equity shares to be allotted on conversion or exchange of convertible securities shall be calculated'.

COURT DECISIONS TO CONFIRM THE INTEGRAL STATUS OF EXPLANATORY STATEMENT

The Bombay High Court in *Firestone Tyre and Rubber Co. v. Synthetics and Chemicals Ltd. and Others* 1971 41 Comp. Cas. 377 Bom. held on 7 November, 1969 : 'Having regard to the whole purpose and scope of the provisions enacted in section 173, I am of the opinion that it is mandatory and not directory and that any disobedience to its requirements must lead to nullification of the action taken'.

This mandatory status of Explanatory Statement were also found in the judgements of several court cases, e.g. *Mohanlal Ganpatram v. Shri Sayaji Jubilee Cotton and others* (1964) O GLR 807 on 18 February, 1964 (Gujarat High Court), *Shalagram Jhaharia v. National Co. Ltd. and Others* 1965 35 Comp. Cas. 706 Cal. on 13 February, 1964 (Calcutta High Court), etc.

The decisions confirm that the Explanatory Statement is part and parcel of a Resolution. Whatever is stated in the Explanatory Statement (barring any case of 'Specific Disclosure' mentioned above) is presumed to be stated in the Resolution.

ANOTHER MODEL RESOLUTION

Given below is a simple resolution for appointment (or re-appointment) of a Managing Director :

"RESOLVED THAT pursuant to Sections 196, 197, 198, 203 read with Schedule V to the Companies Act, 2013 and all other applicable legal provisions, if any, including any statutory modifications or re-enactments thereof and subject to such consents and approvals from any authorities, as may be necessary, from time to time, the Company hereby approves the appointment (or re-appointment) of and remuneration payable to Mr. (DIN:), Director of the Company, as Managing Director of the Company for a period of three years with effect from as per the terms and conditions as stated in the explanatory statement to this Resolution.

"RESOLVED FURTHER THAT the remuneration as stated in the explanatory statement concerned, shall be deemed to be the minimum remuneration payable to Mr. during the currency of his tenure as Managing Director, in case of absence or inadequacy of profits in any Financial Year.

"RESOLVED FURTHER THAT the Board be and is hereby authorized to take all such steps as may be necessary, proper or expedient to give effect to this Resolution."

THE SUPERFLUOUSNESS OF THE IMMEDIATELY ABOVE RESOLUTION

First, the expression 'and all other applicable legal provisions, if any,' gives impression that the author of the Resolution is not comfortable with his/ her knowledge regarding the applicable statutory provisions.

Secondly, the citing 'including any statutory modifications or re-enactments thereof' is absolutely un-necessary and cannot be

acted upon. This assertion may be discussed as follows :

- The law will take its own course and the law will prevail over the Resolution. A statute, when re-enacted contains a Section / part regarding 'Repeal and Saving'. The following examples may be noted: (i) The Foreign Exchange Regulation Act, 1973 was replaced by the Foreign Exchange Management Act, 1999. Section 49 sub-Section (1) of the new Act provides 'The Foreign Exchange Regulation Act, 1973 is hereby repealed and the Appellate Board constituted under sub-section (1) of section 52 of the said Act (hereinafter referred to as the repealed Act) shall stand dissolved'.

Then, sub-Section (5) of the said Section 49 provides, inter alia, as under :

'Notwithstanding such repeal, -

- a) anything done or any action taken or purported to have been done or taken including any rule, notification, inspection, order or notice made or issued or any appointment, confirmation or declaration made or any license, permission, authorization or exemption granted or any document or instrument executed or any direction given under the Act hereby repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act; '
- (ii) Section 465 of the Companies Act, 2013 which replaced the Companies Act, 1956 provides, inter alia, in its sub-section (1) 'The Companies Act, 1956 and the Registration of Companies (Sikkim) Act, 1961 (hereafter in this section referred to as the repealed enactments) shall stand repealed.'. Its sub-Section (2) provides, inter alia, '

'(2) Notwithstanding the repeal under sub-section (1) of the repealed enactments,—

- (a) anything done or any action taken or purported to have been done or taken, including any rule, notification, inspection, order or notice made or issued or any appointment or declaration made or any operation undertaken or any direction given or any proceeding taken or any penalty, punishment, forfeiture or fine imposed under the repealed enactments shall, insofar as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act;
- (b) subject to the provisions of clause (a), any order, rule, notification, regulation, appointment, conveyance, mortgage, deed, document or agreement made, fee directed, resolution passed, direction given, proceeding taken, instrument executed or issued, or thing done under or in pursuance of any repealed enactment shall, if in force at the commencement of this Act, continue to be in force, and shall have effect as if made, directed, passed, given, taken, executed, issued or done under or in pursuance of this Act; '

- Listing Agreement / LODR : The Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 provides in its Regulation 103 -

- 1) On and from the commencement of these Regulations, all circulars stipulating or modifying the provisions of the listing agreements including those specified in Schedule X, shall stand rescinded.
- (2) Notwithstanding such rescission, anything done or any action taken or purported to have been done or taken including any enquiry or investigation commenced or show cause notice issued in respect of the circulars specified in sub-regulation (1) or the Listing Agreements,

entered into between stock exchange(s) and listed entity, in force prior to the commencement of these regulations, shall be deemed to have been done or taken under the corresponding provisions of these regulations.

- **Not inconsistent with :** The term, 'not inconsistent with', if appears in the replacing / new / re-enacted statute, has purpose and effect accordingly. Therefore, a Resolution to do anything (e.g. to appoint / re-appoint a Director/ Managing Director) under the existing statute is absolutely valid and effective under the re-enacted statute unless the purported action (e.g. appointment / re-appointment or the procedure thereof) is inconsistent with the provisions of the statutory modification or re-enactment.

Further, consider this case : The Companies Act, 1956 had no concept of 'Independent Director'. So, if some company passed a resolution to appoint an Independent Director (keeping in mind the requirement of having such Directors on the Board as per the then Listing Agreements with or without mentioning the requirement of the then Listing Agreements) and the Resolution bore the words, 'and all other applicable legal provisions, if any, including any statutory modifications or re-enactments thereof' to cover future contingencies the said Resolution will fail under the new statute (i.e. the Companies Act, 2013) and a fresh Resolution to this effect under the new statute is required , but it will prevail under the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 (LODR) which is the successor of the Listing Agreements and as because LODR has a Repeal and Saving Regulation, i.e. Regulation 103, as quoted above.

Take another example: A resolution was passed by a company to borrow exceeding the limit of the aggregate of its paid up capital and free reserves in terms of Section 293(1)(d) of the Companies Act, 1956 and the Resolution was worded like '...pursuant to Section 293(1)(d) of the Companies Act, 1956 including any statutory modifications or re-enactments thereof...'. The Resolution cannot be acted upon under the re-enacted Companies Act, 2013 as the identical provision of Section 180 of the Companies Act, 2013 calls for a Special Resolution to be passed to give effect thereto as against the Ordinary Resolution in terms of Section 293(1)(d) of the Companies Act, 1956. A resolution afresh as a Special Resolution is required to be passed for the same matter (even if the contents are the same) to continue to borrow exceeding the aforesaid limit - after the new Companies Act, 2013 comes into force.

- **The law prevails :** Therefore, the clause 'and all other applicable legal provisions, if any, including any statutory modifications or re-enactments thereof ' or 'including any statutory modifications or re-enactments thereof' is absolutely superfluous and futile in so far as the future course of action is decided by the upcoming enactment or re-enactment or modification of the relevant statute. The said clause serves no purpose in the truest sense and hence, had better not appear in the Resolution.
- **Authorisation to the Board :** What does the concluding part of the Resolution (i.e., 'the Board be and is hereby authorised to take all such steps as may be necessary, proper or expedient to give effect to this Resolution) practically serve ? Section 179 of the Companies Act, 2013 (Section 291 of the erstwhile Companies Act, 1956) categorically states 'The Board of Directors of a company shall be entitled to exercise all such powers, and to do all such acts and things, as the company is authorised to exercise and do'. Whenever the shareholders of a company pass a Resolution, the Board of Directors of

the company is per se legally authorised to act upon that accordingly. Further authorisation in this respect given in the Resolution is immaterial!

RULES GOVERNING RESOLUTION

For the sake of class and clarity the following principles may be adhered to while drafting a Resolution :

1. **Straightforwardness:** The Resolution i.e. the decision, should be absolutely straightforward in its clear intention 'to do' or 'not to do'.
2. **Economical as opposed to liberal :** More words and more explanations do not necessarily serve the purpose of a Resolution , rather it may shroud the cardinal point of the decision to be taken. Being economical, while choosing words for a Resolution, is more desirable than being liberal.
3. **Objectivity :** A Resolution is a thread bare proposal which becomes a concrete decision with clear cut objective terms after it is passed. There should remain no scope of any subjective analysis.
4. **Reasoning :** Reasoning in the Resolution should be avoided . Reasoning should form part of the Explanatory Statement.
5. **Unconditional :** It should be unconditional, unless the condition is essential part of the decision.
6. **Quotation :** Quoting the provisions of law in the Resolution itself makes it onerous and unnecessarily time consuming to the readers. It puts burden on the readers to judge the Resolution against the quoted parts of the law in the right perspective and then to proceed. To consider the law and then to put forth the Resolution accordingly is the responsibility of the proposing company. This should be ideally discoursed in the Explanatory Statement concerned.
7. **Reference :** Accurate Sectional reference in the Resolution clarifies the basics and intention of the Resolution in brief with distinction .
8. **Purpose :** The one and only purpose of the Resolution is to set forth what to do in a crystal clear manner devoid of any intricacy.
9. **Narration :** Narrating the procedural part of the intended action - (whether preceding or succeeding) in the Resolution itself - tends to divert the reader's attention from the crux of the issue.
10. **Wording :** While drafting Resolution, the exact and key wording of the concerned provision of the law should be followed to the closest extent possible to eliminate any scope of analysis of discrimination between what is intended by the law and what is intended by the Resolution. Misleading or ambiguous or repetitive wording must be avoided.
11. **Explanation :** It must be accepted that 'Explanatory Statement' has been conceptualised with a definite purpose revealed in its terminology. It is not merely ornamental for the sole purpose of compliance (vide the case decisions mentioned above) .

CONCLUSION

This Article took into account the Resolution - meant for Notice convening General Meeting - to be passed by the Members (which includes e-voting). In case of postal ballot, the Postal Ballot Notice, while 'explaining the reasons' of the concerned Resolution in terms of Rule 22 of the Companies (Management and Administration) Rules, 2014, should play the role of Explanatory Statement as discussed above. Board Resolution together with its preamble giving explanation and requirement, is the Board's prerogative. In fine, let the saying of Albert Einstein echo : 'If you can't explain it simply , you don't understand it well enough'. CS

Transfer of Unpaid Dividend and Shares under IEPF Authority (Accounting, Audit, Transfer and Refund) Rules, 2016



M R Bothra, FCS

Vice President, Corporate Affairs &
Company Secretary
Spice Mobility Ltd., Noida (U.P.)

bothramr@yahoo.co.in

Chapter VIII of the Companies Act, 2013 deals with the 'Declaration and Payment of Dividend'. The Ministry of Corporate Affairs (MCA) vide its Notification dated 5th September, 2016 has brought into force the provisions of Section 124 and the remaining provisions of Section 125 i.e. sub-sections (1) to (4), (6) (with respect to the manner of administration of the Investor Education and Protection Fund) and (8) to (11) of Section 125 of the Companies Act, 2013 with effect from 7th September, 2016. After this Notification, all the provisions of this Chapter have become effective now. The newly enforced provisions deal with the Payment of Unpaid Dividend and the Administration etc. of Investor Education and Protection Fund (hereinafter referred to as 'Fund'). On the same day vide a separate Notification, the MCA has notified the Investor Education and Protection Fund Authority (Accounting, Audit, Transfer

This Article deals with the newly enforced provisions relating to the process for transfer of unclaimed/unpaid dividend to Unpaid Dividend Account and subsequently to the Fund, Transfer of shares to the Fund and Claiming of dividend amount and shares transferred to the Fund by the persons who are entitled to such dividend or shares. The Article also focuses on the new compliance under the Rules and the procedural problems being faced by the companies while implementing these provisions.

and Refund) Rules, 2016 (hereinafter referred to as 'Rules') which has also come into force with effect from 7th September, 2016.

DEPOSIT OF AMOUNT OF DECLARED DIVIDEND IN A SEPARATE BANK ACCOUNT

According to Section 123 (4) of the Companies Act, 2013 the amount of dividend, including interim dividend, shall be deposited in a scheduled bank in a separate account within five days from the date of declaration of dividend. Thus, the amount of dividend has to be deposited in a separate account to be opened with a scheduled bank within 5 days of the Annual General Meeting in which the dividend is declared by the shareholders. In case of interim dividend, it is required to be deposited within 5 days of the board meeting in which the board takes a decision to pay interim dividend.

Section 127 of the Companies Act, 2013 deals with the punishment for failure to distribute dividends and provides that where a dividend has been declared by a company but has not been paid or the warrant in respect thereof has not been posted within thirty days from the date of declaration to any shareholder entitled to the payment of the dividend, every director of the company shall, if he is knowingly a party to the default, be punishable with imprisonment which may extend to two years and with fine which shall not be less than one thousand rupees for every day during which such default continues and the company shall be liable to pay simple interest at the rate of eighteen per cent per annum during the period for which such default continues.

UNPAID/UNCLAIMED DIVIDEND TO BE TRANSFERRED TO UNPAID DIVIDEND ACCOUNT

Section 124 (1) of the Companies Act, 2013 provides that where a dividend has been declared

by a company but has not been paid or claimed within thirty days from the date of the declaration, the company shall, within seven days from the date of expiry of the said period of thirty days, transfer the total amount of dividend which remains unpaid or unclaimed to a special account to be opened by the company in that behalf in any scheduled bank to be called the Unpaid Dividend Account. These provisions are similar to the provisions contained in the erstwhile Section 205A of the Companies Act, 1956. However, sub section (2) of Section 124 now additionally provides that the company shall, within a period of ninety days of making any transfer of an amount to the Unpaid Dividend Account, prepare a Statement containing the names, their last known addresses and the unpaid dividend to be paid to each person and place it on the website of the company, if any, and also on any other website approved by the Central Government for this purpose, in such form, manner and other particulars as may be prescribed. No such Form has yet been prescribed for the purpose of uploading the requisite information on the websites. However, as an investor friendly measure, after coming into force of these provisions, the details of any unpaid/unclaimed dividend amount would be available on the website of the company and also on the website approved by the Central Government within a maximum period of one hundred and twenty seven days from the date of declaration of dividend.

If any default is made in transferring the total amount or any part of the amount required to be transferred to the Unpaid Dividend Account of the company, the company shall pay, from the date of such default, interest on so much of the amount as has not been transferred to the said account, at the rate of twelve per cent per annum and the interest accruing on such amount shall enure to the benefit of the members of the company in proportion to the amount remaining unpaid to them. Any person claiming to be entitled to any money transferred to the Unpaid Dividend Account of the company may apply to the company for payment of the money claimed.

TRANSFER OF UNPAID/UNCLAIMED DIVIDEND AMOUNT TO INVESTOR EDUCATION AND PROTECTION FUND

Section 124(5) provides that any money transferred to the Unpaid Dividend Account which remains unpaid or unclaimed for a period of seven years from the date of such transfer shall be transferred by the company along with interest accrued, if any, thereon to the Fund established under sub-section (1) of Section 125 and the company shall send a statement in the prescribed form of the details of such transfer to the Investor Education and Protection Fund Authority (hereinafter referred to as 'IEPF Authority') constituted under the provisions of sub section (5) of Section 125 which administers the said Fund.

Rule 5 of the said Rules requires the Company to transfer the unpaid or unclaimed amount to the Fund within a period of thirty days of such amounts becoming due to be credited to the Fund. As per the Clarification issued vide General Circular No.13/2016 dated 5th December, 2016, it is mandatory for the companies depositing amount under Section 125 of the Companies Act, 2013 to generate the challan online and to file Form No. IEPF-1 i.e. 'Statement of amounts credited to Investor Education and Protection Fund' mentioning the SRN of the challan in online mode only. The company is also required to file with the IEPF Authority one copy of the challan indicating the deposit of the amount to the Fund and shall fill in the full particulars of the amount tendered including the head of account to which it has been credited. The company shall, along with the copy of the challan furnish the Statement in Form No. IEPF-1 containing details of such transfer to the IEPF Authority within thirty days of submission of challan. Under the earlier provisions as prescribed

Under the relevant provisions contained in the old Act of 1956 it was categorically provided that no claims shall lie against the Fund or the Company in respect of individual amounts which were unclaimed and unpaid for a period of seven years from the dates that they first became due for payment and no payment shall be made in respect of any such claims. Thus, after the commencement of the Companies (Amendment) Act, 1999, no person could claim any money once transferred to the Fund. However, under the provisions contained in Section 125(4) of the Companies Act, 2013, any person claiming to be entitled to the amount referred in Section 125(2) may apply to the IEPF Authority for the refund of the said amount.

under the Companies Act, 1956, the companies were filing the said information in Form 1 INV.

Section 124 (7) provides that if a company fails to comply with any of the requirements of this section, the company shall be punishable with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees and every officer of the company who is in default shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

CLAIM OF UNPAID DIVIDEND AND REFUNDS FROM THE INVESTOR EDUCATION AND PROTECTION FUND

Section 125(2) of the Companies Act, 2013 provides the details of various amounts required to be credited to the Fund. Section 125(3) prescribes the purposes for which the Fund shall be utilised as under:

- (a) the refund in respect of unclaimed dividends, matured deposits, matured debentures, the application money due for refund and interest thereon;
- (b) promotion of investors' education, awareness and protection;
- (c) distribution of any disgorged amount among eligible and identifiable applicants for shares or debentures, shareholders, debenture-holders or depositors who have suffered losses due to wrong actions by any person, in accordance with the orders made by the Court which had ordered disgorgement;
- (d) reimbursement of legal expenses incurred in pursuing class action suits under sections 37 and 245 by members, debenture-holders or depositors as may be sanctioned by the Tribunal; and
- (e) any other purpose incidental thereto, in accordance with such rules as may be prescribed.

According to the earlier provisions contained in the corresponding Section 205C of the Companies Act, 1956, the Fund was to be utilised only for promotion of investors' awareness and protection of the interests of investors in accordance with the old Rules prescribed under the said Section. Thus, the provisions included in Section 125(3) of the Companies Act, 2013 has added additional avenues for which the Fund can be utilised.

The Proviso to sub section (3) of Section 125 specifically provides that the person whose amounts referred to in clauses (a) to (d) of sub-section (2) of section 205C transferred to Investor Education and Protection Fund, after the expiry of the period of seven years as per provisions of the Companies Act, 1956, shall be entitled to get refund out of the Fund in respect of such claims in accordance with Rules made under that section. Any person claiming to be entitled to such amount may apply to the IEPF Authority. Rule 7 of the Rules inter alia provides that any person, whose shares, unclaimed dividend, matured deposits, matured debentures, application money due for refund, or interest thereon, sale proceeds of fractional shares, redemption proceeds of preference shares, etc. has been transferred to the Fund, may claim the shares under provision to sub-section (6) of section 124 (dealt in details in the later part of this article) or apply for refund, under clause (a) of sub-section (3) of section 125 or under proviso to sub-section (3) of section 125, as the case may be, to the IEPF Authority.

This is a fundamental change so far as refund from the Fund is concerned. Under the relevant provisions contained in the old Act of 1956 it was categorically provided that no claims shall lie against the Fund or the Company in respect of individual amounts which were unclaimed and unpaid for a period of seven years from the dates that they first became due for payment and no payment shall be made in respect of any such claims. Thus, after the commencement of the Companies (Amendment) Act, 1999, no person could claim any money once transferred to the Fund. However, under the provisions contained in Section 125(4) of the Companies Act, 2013, any person claiming to be entitled to the amount referred in Section 125(2) may apply to the IEPF Authority for the refund of the said amount.

The company is under obligation to maintain record consisting of name, last known address, amount, folio number or client ID, certificate number, beneficiary details etc. of the persons in respect of whom unpaid or unclaimed amount has remained unpaid or unclaimed for a period of seven years and has been transferred to the Fund. The IEPF Authority shall have the powers to inspect such records. Any person whose unclaimed dividend has been transferred to the Fund may apply for refund to the IEPF Authority in Form No. IEPF-5 i.e. 'Application to the Authority for claiming unpaid amounts and shares out of Investor Education and Protection Fund (IEPF)'. The claimant shall send the copy of IEPF 5 along with the requisite documents to the concerned company for verification of his claim.

GUIDELINES FOR ISSUE OF REFUND AND VERIFICATION REPORT FORMAT AND SETTLEMENT OF CLAIMS FROM THE FUND

The IEPF Authority has issued the Guidelines dated 27.10.2016 to be followed by the companies for verification of refund claims of the investors and has also prescribed the format of the verification report. The said Guidelines provide for nomination of a nodal officer by the companies for the purpose of coordination with IEPF Authority and communicate the contact details of the nodal officer duly indicating his/her designation, postal address, telephone & mobile number and company authorised email id to the IEPF Authority. The company shall, within fifteen days of receipt of the claim form, verify the form,



claim and documents and submit its verification report to the IEPF Authority along with all the prescribed documents in IEPF 5.

An application received for refund of any claim under these Rules duly verified by the concerned company shall be disposed of by the IEPF Authority within sixty days from the date of receipt of the verification report from the company, complete in all respects and any delay beyond sixty days shall be recorded in writing specifying the reasons for the delay and the same shall be communicated to the claimant in writing or by electronic means.

A claimant shall file only one consolidated claim in respect of a company in a financial year. In case, claimant is a legal heir or successor or administrator or nominee of the registered security holder, he has to ensure that the transmission process is completed by the company before filing any claim with the Authority.

According to Rule 7(10) of the Rules the company shall be solely liable under all circumstances whatsoever to indemnify the IEPF Authority in case of any dispute or lawsuit that may be initiated due to any incongruity or inconsistency or disparity in the verification report or otherwise. The IEPF Authority shall not be liable to indemnify the security holder or company for any liability arising out of any discrepancy in verification report submitted etc. leading to any litigation or complaint arising thereof. Obviously, the companies are under obligation to maintain such records permanently in order to verify the claim of the applicant and submit the verification report to the IEPF Authority as required under the said Rule for the purpose of refund from the Fund.

UPLOADING DETAILS OF THE UNCLAIMED/UNPAID DIVIDEND ON THE WEBSITES

Rule 5(8) of the said Rules requires that every company shall within a period of ninety days after the holding of Annual General Meeting or the date on which it should have been held as per the provisions of section 96 of the Act and every year thereafter till completion of the seven years period, identify the unclaimed amounts, as referred in sub-section 2 of section 125 of the Act, as on the date of holding of Annual General Meeting or the date on which it should have been held as per the provisions of section 96 of the Act, separately furnish and upload on its own website and also on website of IEPF Authority or any other website as may be specified by the Government, a statement or information through Form No. IEPF-2 i.e. 'Statement of unclaimed and unpaid amounts', separately for each year, containing the prescribed information under that Rule. The Form is similar to the Form 5 INV as required earlier under the Investor Education and

Protection Fund (Uploading of information regarding unpaid and unclaimed amounts lying with companies) Rules, 2012.

FURNISHING OF ADVANCE INFORMATION RELATING TO AMOUNT DUE TO BE TRANSFERRED TO THE FUND DURING THE NEXT FINANCIAL YEAR

It is a new provision under Rule 8 of the Rules requiring the company to furnish to the IEPF Authority a statement in Form No. IEPF-6 i.e. 'Statement of unclaimed or unpaid amounts to be transferred to the investor Education and Protection Fund' within thirty days of end of financial year stating therein the amounts due to be transferred to the Fund in next financial year. The company is also required to furnish a statement to the IEPF Authority within thirty days of the closure of its accounts for the financial year stating therein the reasons of deviation, if any, in the amounts detailed in Form No. IEPF-6 at the beginning of the financial year and actual amounts transferred to the Fund during the year. The IEPF Authority shall furnish a report to the Central Government within sixty days of end of financial year giving details of companies who have failed to transfer the due amount to the Fund.

SHARES TO BE TRANSFERRED TO INVESTOR EDUCATION AND PROTECTION FUND

Section 124(6) of the Companies Act, 2013 has, for the first time in the history, imposed an obligation on the companies to transfer all shares in respect of which dividend has not been paid or claimed for seven consecutive years or more to the Fund along with a statement in Form No. IEPF-4 i.e. 'Statement of shares transferred to the Investor Education and Protection Fund' containing such details as may be prescribed. Any claimant of shares transferred to the said Fund shall be entitled to claim the transfer of shares from the Fund in accordance with such procedure and on submission of such documents as may be prescribed under the Rules. As earlier referred, the same Form No. IEPF-5 can also be used by the applicants for making an application to the IEPF Authority for claiming the shares transferred by the companies to the Fund.

An explanation has been inserted at the end of Section 124(6) by the Companies (Amendment) Act, 2015 clarifying that in case any dividend is paid or claimed for any year during the said period of seven consecutive year, the shares shall not be transferred to the Fund. The companies will have to thoroughly check the records for all the seven years in connection with each folio before transferring any share to the Fund because if dividend has been paid even for a single year out of the seven consecutive years for any Folio/ DP ID, the concerned shares of that Folio/ DP ID will not be transferred to the Fund. Rule 3 of the Rules requires the Company to credit to the Fund not only the shares as mentioned above but also all the resultant benefits arising out of such shares held by the IEPF Authority.

TIME LIMIT FOR TRANSFER OF SHARES TO THE INVESTOR EDUCATION AND PROTECTION FUND

Rule 6 of the said Rules prescribes in detail the process for transfer of such shares to the Fund and provides that such shares shall be credited to an IEPF Suspense Account (name of the Company) with one of the depository participants as may be identified by the IEPF Authority within thirty days of such shares becoming due to be transferred to the Fund. The Rules also require that for the purposes of effecting transfer of such shares, the Board shall authorise the Company Secretary or any other person to sign the necessary documents.

The Rule requires that the company shall inform at the latest available

address, the shareholder concerned regarding transfer of shares three months before the due date of transfer of shares and also simultaneously publish a notice in the leading newspaper in English and regional language having wide circulation, and on its website giving details of such shareholders and shares due for transfer. It further provides that in cases, where the seven years as provided under sub-section (5) of section 124 have been completed or are being completed within three months from the date of coming into force of these Rules, viz. 7th September, 2016, the company shall initiate the aforesaid procedure immediately and transfer the shares on completion of three months.

Where there is a specific order of Court or Tribunal or statutory Authority restraining any transfer of such shares and payment of dividend, the company shall not transfer such shares to the Fund. However, the company shall furnish details of such shares and unpaid dividend to the Authority in Form No. IEPF 3 i.e. 'Statement of shares and unclaimed or unpaid dividend not transferred to the Investor Education and Protection Fund' within thirty days from the end of financial year.

Generally, the process has to start much before 3 months from the due date for transfer of such shares to the Fund as compilation of the information may also take some time for informing to the individual shareholders concerned and releasing public notice in newspapers. There is confusion regarding calculation of three months period if the due date for transfer of such shares is falling immediately after the Notification came in to force. When should the Company transfer the relevant shares to the Fund in case the due date for transfer of such shares is falling within three months of coming into force of these Rules? Is it within three months from 7th September, 2016 or from the date on which the unpaid amount was due for transfer to the Fund or within three months after completion of the dispatch of the individual letters to the shareholders or from the date on which the public notice appeared in the newspapers?

In pursuance to these Rules, many companies have already given public notice and also sent intimation to the shareholders concerned individually. However, the same has not been acted upon in view of the clarification issued by the MCA. In view of this development, a clarification would be a welcome step to regularise the process already started by the affected companies for the purpose of transfer of shares to the Fund. The Authority should also come out with a clarification that no further advertisement is required to be given by the Companies for issue of duplicate share certificate as such advertisement generally contains a number of information such as Name of Shareholder(s), Folio Number, Number of shares held, Share Certificate Number, Distinctive Numbers and may run into a number of pages of the newspapers if given for all those shares for which duplicate share certificates are being issued by the company just for transferring them to the Fund. This has further got a valid reason to follow in view of the fact that the companies are issuing public notice in the newspapers as required under these Rules and the details of all the shares to be transferred to the Fund are also being made available on the website of the Company.

MANNER OF TRANSFER OF SHARES TO INVESTOR EDUCATION AND PROTECTION FUND

For the purpose of effecting the transfer of such shares to the Fund, Rule 6(3) of the said Rules has provided detailed process for transfer of both I) Shares held with a depository and II) Share held in physical form.

TRANSFER OF SHARES HELD WITH A DEPOSITORY

As per Rule 6(3)(c) for the purposes of effecting the transfer where

the shares are held with a depository, the Company Secretary or the person authorised by the Board shall sign on behalf of such shareholders, the delivery instruction slips of the depository participants where the shareholders had their accounts for transfer in favour of IEPF Suspense Account (name of the Company). On receipt of the delivery instruction slips, the depository shall effect the transfer of shares in favour of the Fund in its records.

A very pertinent question is how would the Company get the delivery instruction slips from so many depository participants/ shareholders? On what ground the Depository will entertain the request of the company and transfer shares of their clients who have opened their accounts to hold the securities in dematerialization mode? It will be a very tedious task for the companies to reach each and every depository participants from whom the shares held in demat mode are required to be transferred to the Fund. The Authority concerned should consider some other idea to transfer these shares from various depository participants by a corporate action or otherwise which can happen with the help of depository (ies) without reaching to individual depository participants by the Company.

Transfer of shares held in Physical Mode

As per Rule 6(3)(d) for the purposes of effecting the transfer where the shares are held in physical form, the Company Secretary or the person authorised by the Board shall make an application, on behalf of the concerned shareholders, to the company, for issue of duplicate share certificates. On receipt of such application, a duplicate certificate for each such shareholder shall be issued and it shall be stated on the face of it and be recorded in the register maintained for the purpose, that the duplicate certificate is "Issued in lieu of share certificate No..... for purpose of transfer to IEPF" and the word "duplicate" shall be stamped or punched in bold letters across the face of the share certificate. The particulars of every duplicate share certificate issued, shall be entered forthwith in a register of renewed and duplicate share certificates maintained in Form No. SH 2 as specified in the Companies (Share Capital and Debentures) Rules, 2014. After issue of duplicate share certificates, the Company Secretary or the person authorised by the Board, shall sign the necessary Form No. SH-4 (i.e. Securities Transfer Form as specified in the Companies (Share Capital and Debentures) Rules, 2014, for transferring the shares in favour of the Fund. On receipt of the duly filled transfer forms along with the duplicate share certificates, the Board or its Committee shall approve the transfer and thereafter the transfer of shares shall be effected in favour of the Fund in the records of the company.

The voting rights on shares transferred to the Fund, whether in demat mode or physical form, shall remain frozen until the rightful owner claims the shares. The Rules further provide that for the purpose of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, the shares which have been transferred to the Authority shall not be excluded while calculating the total voting rights.

The IEPF Authority shall maintain IEPF suspense account (name of the company) with depository participant on behalf of the shareholders who are entitled for the shares and all benefits accruing on such shares e.g. bonus shares, split, consolidation, fraction shares etc. except right issue shall also be credited to such IEPF suspense account (name of the company). Any further dividend received on such shares shall also be credited to the Fund and a separate ledger account shall be maintained for such proceeds. The shares held in such IEPF suspense account shall not be transferred or dealt with in any manner whatsoever except for the purposes of transferring the shares back to the claimant as and when he approaches the Authority. Any further dividend received on such shares shall be credited to the Fund and a separate ledger account shall be maintained for such

proceeds.

However, If the company is getting delisted, the Authority shall surrender shares on behalf of the shareholders in accordance with the Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2009. In case the company whose shares or securities are held by the Authority is being wound up, the Authority may surrender the securities to receive the amount entitled on behalf of the security holders. The proceeds realized from delisting of shares or amount received for the shares surrendered in winding up cases, as the case may be, shall be credited to the Fund and a separate ledger account shall be maintained for such proceeds.

In a middle level listed company there may be thousands of shareholders whose shares, held in physical form, are required to be transferred to the Fund. As per the prescribed procedure under the Rules, the Company is required to issue the duplicate share certificate for each and every such shareholder and then to sign the necessary Form No. SH - 4 for each such case separately for transferring the shares in favour of the Fund. It would be a good idea to amend the Rules to provide that only one duplicate share certificate is issued for all such shares which are held in physical mode and are required to be transferred to the Fund. This is more relevant in view of the mandatory provisions provided in the Rules itself that once the physical shares are transferred in the name of the Authority, the Authority shall dematerialise these shares and it shall keep only those shares in physical form, where de-materialisation of shares is not possible. When the intention of the legislation is to keep these shares only in de-materialisation mode by the Authority also, it should be enough if one consolidated duplicate share certificate for all such shares held in physical mode is issued by the Company and get it dematerialized in favour of the Fund instead of issue of separate duplicate share certificate for each Folio and then transfer all these duplicate certificates in favour of the authority followed by dematerializing of all these physical share certificates by the Authority. In any case, under the prescribed Rules, the company or depository, as the case may be, are under obligation to preserve copies of the depository instruction slips, transfer deeds and duplicate certificates for its records and, therefore, it is important that an alternate method to transfer the shares held in physical form is adopted on the same line as being followed by the RTA for transfer of shares under SEBI (Listing Obligations and Disclosure Requirement) Regulations, 2015 (hereinafter referred to as 'Listing Regulations') to comply with the requirement of transfer of securities issued pursuant to the public issue or any other issue, physical or otherwise, which remain unclaimed and/or are lying in the escrow account. As per the procedure adopted under the Listing Regulations, for shares held in physical form, the listed entity transfer all the shares into one folio in the name of 'Unclaimed Suspense Account' and dematerialise these shares in the 'Unclaimed Suspense Account' with one of the Depository Participants. A reference of such transfer of shares, in respect of which unpaid or unclaimed dividend has been transferred under Section 124(5) of the Companies Act, 2013 has also been made in Schedule VI of the Listing Regulations prescribing the manner of dealing with unclaimed shares.

MCA vide its General Circular No. 15/2016 dated 7th December, 2016 has issued a further Clarification that the matters, including simplification of transfer process and extension of date of such transfer are under consideration and the Rules are likely to be revised. The companies are hopeful that while issuing the revised Rules, the MCA would consider the representations received from the companies including the suggestion of minimization of the cost to be incurred by the companies for ensuring the compliance of the relevant provisions of the Rules. CS

The Journey of the Indian Competition Regime in the last 7 Years : way forward



G.R. Bhatia*

Partner & Head-Competition Law Practice, Luthra & Luthra Law Offices, New Delhi

gghatia@luthra.com

Competition in markets is benign as it ensures availability of goods/services in abundance of acceptable quality at affordable price. It is in this backdrop, the antitrust division of OECD has coined a maxim 'competition brings prosperity'. Competition, however, has three unique traits namely no one likes competition in his own field; (ii) competition is not stable; and (iii) competition kills competition. Accordingly, businesses do get allured to indulge in anti competitive conducts/structure at the first opportunity. Thus, it is a formidable challenge to maintain and sustain free and fair competition in every economy notwithstanding the level of development. All these necessitated over 130 countries to have antitrust laws and an agency to act as an umpire. Further, the competition dimensions and issues are complex and dynamic and this also makes imperative for jurisdictions to fine tune the law and agency from time to time so that it is in sync with market dynamics. It is in this backdrop that India bid good bye to the MRTP regime and has established in its place a modernised competition regime with the enactment of the Competition Act, 2002.

The Competition Act, 2002 was last amended in 2007. Since then technology, innovation and new business models have changed market dynamics both in domestic as well as international trade. Thus, reform of law and its processes have to always be work in progress. Some areas requiring reforms are indicated herein.

The Government of India established the Competition Commission of India (CCI) which is obligated to (a) eliminate practices having adverse effect on competition; (b) promote and sustain competition; (c) protect the interest of consumers; and (d) ensure freedom of trade carried on by other participants in markets in India. The CCI is also obligated, inter alia, to (a) provide an opinion on a reference from Central Government or a State Government on possible effect on competition of a proposed policy; and (b) take suitable measures for the promotion of competition advocacy, creating awareness and imparting training about competition issues. The twin enforcement dimensions namely prohibition of anti competitive agreements and abuse of dominant position became effective from 20th May, 2009 and the regulation of combinations (mergers/acquisition) came into force from 1st June, 2011.

The Government also created the Competition Appellate Tribunal to hear and dispose of appeals against the orders passed by the CCI and also to deal with cases for award of compensation (which are follow on actions post finding of infringement of law) for those who have been harmed on account of anti competitive/abusive practices of persons or enterprises. The Ministry of Corporate Affairs in the Government of India exercises administrative control and owe responsibility to make appointments of Chairperson and Members, to infuse grants/ allocate budgets, to make references for enquiries and opinion on competition matters/policies/laws, notifying thresholds for merger/acquisitions, to grant exemption to enterprises or class thereof from applicability of law wherever it deems appropriate.

Thus, the trident pillars of the competition regime are the CCI, the COMPAT and the Central Government. Broadly, this regime has now been in place for the last 7 years. In all these years, all the three institutions have lent unstinted support to each other and have endeavoured to build an effective, robust and credible competition regime.

As an oversight mechanism, the law mandates the CCI to prepare and lay before Parliament an Annual Report giving a true and full account of its activities performed in the year. A copy of Annual Report for the year 2015-16 has been put in public domain recently. An analysis of the Report reveals the following:

Until 31st March, 2016, the CCI has reportedly dealt with 707 cases of anti competitive

* Former ADG, CCI/MRTPC. The views expressed herein are the personal views of the author.

“ The scrutiny of orders by the COMPAT is a key accountability mechanism which ensures that the Commission works in a fair and transparent basis following the principles of natural justice. The COMPAT through various orders has made it palpably clear that the CCI being a quasi judicial body has to abide by the principles of natural justice and has shed light on many provisions which are not explicit. ”

agreements/abuse of which it instituted inquiries in 277 cases and post investigation by the Director General, 94 cases resulted in adverse sanctions. The CCI imposed under section 27 of the Act, a total penalty of Rs 13953 crores. The message is loud and clear that the CCI will enforce the law effectively and the businesses need to learn that their business conducts have to be on right side of law failing which the CCI can bite bitterly. Violation of competition law is injurious to wealth of delinquent business entity. While in 277 cases, the inquiries were initiated, the CCI dropped 395 cases at the prima facie stage. This leads to an inference that the CCI does not want to saddle business houses unnecessarily with the adverse effects of investigation besides giving a signal to filers of information/reference to file better researched and convincing information meeting at least the basic requirements. An inquiry into Section 3 and/or 4 of the Act can be initiated inter-alia on receipt of information from any consumer, trader or association of consumer/trade. In a period of 7 years, the CCI received 606 such information. It is heartening to note that the number of information filed with the Commission has been rising steadily over the years reflecting increasing confidence of the Informants in the competition regime. There have been few cases where all members have not held the same view. In such cases a majority order with a dissent has been passed. This reflects the independence which a member enjoys and also demonstrates an in depth analysis of the matter under the rule of reason doctrine in complicated competition cases.

In relation to alleged cases of anti competitive agreements/abuse of dominance, the CCI is mandated to get such cases investigated by the Director General. Accordingly, 277 cases were referred for investigation and out of these the 225 investigation reports were filed by DG in a period of 7 years. It is observed that the investigations are taking increasingly more time for completion. The reasons seems to be (a) ever increasing complexity of competition cases; (b) demand for cross examination in more number of cases; (c) directions to submit supplementary reports in many cases by the CCI (d) inadequate staff strength of the

DG and (e) absence of its cadre service and thereby lack of continuity of investigators.

From 1st June, 2011 till 31st March, 2016, the CCI reportedly considered 360 notices for proposed mergers/acquisition (353 were filed voluntarily and 7 notices were filed on asking by the CCI). Of these cases, 338 were approved without modification (with an average time of 20 days) and 2 cases were approved with modifications. No deal has been blocked by the CCI, till date. This shows that the CCI is conscious of the need for and usefulness of merger/acquisitions route to enhance size and scale which are sine qua non for businesses' success on long term basis. Also, it has allayed the hitherto apprehension (which existed at the commencement of merger regulation) of inordinate delays in clearance of such transactions. Keeping in view the needs of the market and the best practices in other mature jurisdictions and as a part of ongoing consistent effort to simplify and ease the merger regulation system and processes, the CCI has amended its Combination Regulations from time to time in quick succession. Thus it has not allowed its mergers reforms rabbit to become a turtle.

The Commission has the mandate to undertake competition advocacy as per Section 49 of the Act. In pursuance of this mandate, it has adopted a proactive approach to reach out to all the stakeholders through a set of diverse awareness measures such as workshops/seminars/conferences, competition advisory, internship etc. Studies do indicate that awareness about competition regime has gone up steadily. Further, in pursuance of its mandate, the CCI has entered into Memorandum of Understanding with 7 overseas competition authorities which happen to be India's major trading partners.

The scrutiny of orders by the COMPAT is a key accountability mechanism which ensures that the Commission works in a fair and transparent basis following the principles of natural justice. The COMPAT through various orders has made it palpably clear that the CCI being a quasi judicial body has to abide by the principles of natural justice and has shed light on many provisions which are not explicit. Uptil the close of financial year 2015-16, the COMPAT has disposed of 360 appeals. Out of these, the COMPAT upheld CCI's order in 216 appeals, in 144 appeals the order of CCI have been struck down. The COMPAT has remanded 114 matters to CCI for fresh examination.

The Central Government all along has maintained the level of budget grants which was Rs180 crores during 2015-16. The Central Government has been extremely conservative in grant of exemption to any enterprise or class thereof. Thus, it has not allowed dilution of efficacy of the regime. However, in all





these years, the Central Government filed only 23 references for inquiries. In these references also, the Government has just acted as post office i.e., it has merely transmitted the complaint without delving into the merits of the matter. Under Section 49, the Central Government made only one reference for opinion. The State Governments have neither filed any reference for enquiry nor a reference for legal advice on competition issue. This lack lustre approach of the State is certainly unfortunate and this gives an impression that in the wisdom of State, the markets are not infected with anti competitive practice viruses which need correction.

The CCI formed a *prima facie* opinion of existence of alleged violation of anti competitive practice/abuse in 277 cases. In most of these cases, the CCI at the time of instituting inquiry and direction to DG to investigate into the allegation, has not afforded an opportunity of being heard prior to passing of the prima facie order as it is not obligated to do so. However, it is noticed that only in 94 cases (out of 277 referred for investigation) infringement has been found. This clearly shows that in 183 cases, the alleged charged party(ies) have convinced the DG and subsequently the CCI, that there is either lack of jurisdiction or that evidence is insufficient/absence. Had these parties been given the opportunity at the prima facie stage, a lot of these cases may not have been investigated. Less interventionist approach would have immensely reduced the burden on investigating arm, the CCI as adjudicator and the charged business entity - everyone would have been better off.

The CCI has imposed a total penalty of Rs 13,953 crores and out this the total realization is just about Rs. 29 crores. The maxim 'spare the rod and spoil the child' worked in such matters. Most of the penalty orders have been challenged before the COMPAT on several grounds, inter-alia, (i) that the CCI took the entire turnover/profit of the charged company and not relevant turnover. Barring a few cases, the COMPAT has either struck down such penalty orders or has remanded the matter back for a fresh look. The Hon'ble Supreme Court is currently seized with the question as to whether the CCI can impose penalty on the total turnover as reflected in its annual accounts or on the relevant turnover. Hopefully, this issue will be settled once the order of the Apex Court is pronounced. It would be relevant to note that penalty over rupees ten thousand crores have been stayed by Compat or High Courts.

Out of 360 appeals disposed, the COMPAT has struck down 40% of the orders passed by the CCI. These are primarily on account of lack of jurisdiction, inaccuracies and flaws in investigation report of the Director General, non adherence of principles of natural justice, disproportionate penalty qua the nature and extent of offence or insufficiency of evidence. All these are curable and the CCI can follow the leads given by the COMPAT.

Of all the inquiries initiated, only 4% inquiries have been initiated by the CCI suo motu. This reflects that the CCI should take greater interest in initiating suo motu investigations, especially when it is an expert body having domain knowledge in competition issues. There is hardly any reference from a sector regulator to the CCI seeking its opinion on a competition aspect. The Competition (Amendment) Bill, 2012 (which lapsed with the dissolution of Lok Sabha) sought to amend the law making reference for opinion 'mandatory' for the CCI. This needs to be sorted out by the Government administratively until the amendment is carried out in the Act.

The Competition Act, 2002 was last amended in 2007. In the last 9 years, technology, innovation and new business models have changed market dynamics both in domestic as well as international trade. Thus, reform of law and its processes have to always be work in progress. The Act unlike the law in several matured jurisdictions does not provide for advance ruling and businesses have to undergo the hardship of competition risk assessment themselves. Since the enforcement is ex post, we can avoid/mitigate loss to society in case we have in place advance ruling as it exists in tax regime. Further, enquiries into alleged abuse of dominance do get protracted partly because of complexity involved and partly on account of deep pocket of alleged dominant player facing inquiry. The Act needs to have provisions for settlement in such cases to escape from avoidable litigation.

For oversight over finance and accounts, while the law mandates the Comptroller and Auditor General to undertake audit and report thereon is mandated to be laid before both houses of Parliament. However, there is no provision for review of law and the processes and it will be worth for the CCI as well as the Central Government to revisit their approach and processes. The Compat has struck down several of CCI's orders and CCI can avoid recurrence of such lapses. Likewise, it can put in public domain guidelines on several dimensions such as 'determination of relevant market', 'determination of dominance', 'penalty' etc. Competition Commission of Pakistan (CCP) which was established almost at the same time as that of CCI has put in place 'Guidelines' for information and guidance of trade, industry and consumers. Even on adherence of due processes and observance of principles of natural justice, the Global Competition Review (GCR) has put CCP at a higher pedestal. The CCI has many significant achievements and it has earned a well deserved place in the community of competition regulators across the globe. So it can do and overcome these pitfalls. Likewise, the Central Government (through the Research and Statistics Division of the Ministry of Corporate Affairs) can play more active role by making well researched references both on policy and business practices. CS

Gratuity: Exemptions, Taxability and Relief under the Income Tax Act, 1961



Nagaraj U Hiregange*, FCS

Advocate
Mumbai

nhiregange@gmail.com

The term 'gratuity' is derived from the Latin word 'gratus' meaning 'thankful'. Wharton's Law Dictionary defines the word gratuity thus : "Gratuity, is a kind of retirement benefit like provident fund or pension." There is a distinction between gratuity and pension, "Gratuity is a lump sum payment while pension is a periodic payment of a stated sum. They are both "efficiency devices" and are considered necessary for an "orderly and humane elimination" from industry of superannuated or disabled employees who but for such retiring benefits would continue in employment even though they function inefficiently."

Gratuity, is a kind of retirement benefit like provident fund or pension. The Payment of Gratuity Act, 1972 is the enabling legislation for gratuity payments. The Income-tax Act provides for exemption subject to certain ceilings. This article provides various illustrations covering all important aspects of payment of gratuity.

Justice S.S. Sandhawalia, of the Patna High Court in the case of Agent Muridhar Colliery Of Bharat ... v. Sital Chandra Pathak And Ors.1986 P.L.J.R. 1168. On 1 October, 1985 has commented thus: " the Payment of Gratuity Act, 1972, under which the claim and issues arise, it is significant to notice that the same does not even attempt to define 'gratuity' in any one of its provisions. However, it is manifest therefrom that thereunder the right to gratuity is an enforceable statutory right available to an employee engaged in a factory, mine, oilfield, plantations, ports, railway companies, shops and other establishments."

Gratuity may be a part of the salary package of the employee i.e. cost to the company (CTC) when joining a company or may already be a part of it in the existing company. Let us understand what is gratuity, how one can claim exemption and relief under the Income Tax Act, 1961 and how it is taxable in the hands of the employee and legal heirs under the Income Tax Act, 1961.

Under the Payment of Gratuity Act, 1972, gratuity shall be payable to an "employee" on the termination of his employment after he has rendered continuous service for not less than five years-

- on his superannuation.
- on his retirement or resignation.
- on his death or disablement due to accident or disease.

However, the condition of five years of continuous service is not necessary if the service is terminated due to death or disablement.

EXEMPTIONS UNDER THE INCOME TAX ACT

Under the Income Tax Act, the exemption in respect of Gratuity has been classified as follows -

- Section 10(10)(i) - Gratuity received by Government employees and employees of local authority.
- Section 10(10)(ii) - Gratuity received by a non-Government employee covered under the Payment of Gratuity Act, 1972
- Section 10(10)(iii) - Gratuity received by a Non-Government employee who is not covered under the Payment of Gratuity Act, 1972.

EXEMPTION UNDER SECTION 10(10)(i)

Any gratuity received by an employee of the Government and Local Authority being in

* Also ACIS (London).

‘ The person responsible for paying any income chargeable under the head “Salaries” and consequently gratuity shall, at the time of payment, deduct income-tax on the amount payable at the average rate of income-tax computed on the basis of the rates in force for the financial year in which the payment is made, on the estimated income of the assessee under this head for that financial year after taking into account the deduction under section 10(10)(ii) or 10(10)(iii) as applicable. ’



the form of death cum retirement gratuity is wholly exempt. In this case the gratuity received by the employee or in the case of the death of the employee, his widow or nearest family member or legal heirs as applicable, would be wholly exempt. It is however to be noted that employees of Statutory Corporations will not fall under this category.

Illustration: Mr. Paras is an employee of the Brihanmumbai Municipal Corporation. He retired from his services in August 2016 and received Rs. 15,00,000 as gratuity. In this case the entire sum will be exempt from tax.

EXEMPTION UNDER SECTION 10(10)(ii)

The exemption under this section is applicable to those employees who are covered under the Payment of Gratuity Act, 1972 and are Non Government employees.

The following employees are covered under the Payment of Gratuity Act, 1972 -

Section 2(e) of the Payment of Gratuity Act 1972, defines employees. It says “employee” means any person (other than an apprentice) who is employed for wages, whether the terms of such employment are express or implied, in any kind of work, manual or otherwise, in or in connection with the work of a factory, mine, oilfield, plantation, port, railway company, shop or other establishment to which this Act applies, but does not include any such person who holds a post under the Central Government or a State Government and is governed by any other Act or by any rules providing for payment of gratuity;

Section 4 of the Payment of Gratuity Act 1972, states that gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for not less than five years-(a) on his superannuation, or (b) on his retirement or resignation, (c) on his death or disablement due to accident or disease.

The condition of completion of continuous service of five years shall not be necessary where the termination of the employment of any employee is due to death or disablement.

Sub-section 3 of Section 4 of the Payment of Gratuity Act,

states that the amount of gratuity shall not exceed Rs. 10,00,000, unless anything contrary has been mentioned in the contract of employment.

Thus it can be seen, that any payment which is outside the purview of the Payment of Gratuity Act, 1972 does not fall under section 10(10)(ii) of the Income Tax Act, 1961.

Section 10(10)(ii) says that the exemption shall be the least of the following -

- 15 days’ salary multiplied by the number of years of service
- Maximum amount specified by the Central Government, i.e. Rs. 10,00,000.
- Gratuity actually received.

The following should be kept in mind while calculating the salary -

-7 days instead of 15 days in case of employees of a seasonal establishment.

-15 days salary = Salary last drawn x 15/26

-Salary for this purpose will include only Basic salary and dearness allowance.

Illustration: If Mr. Jay’s monthly salary at the time of retirement is Rs. 22,000 (basic), dearness allowance is Rs. 4000, commission is 1% of turnover, and Bonus is Rs. 5000, then salary for the aforesaid exemption will be Rs. 15,000, computed as follows -

26000 (Basic + DA) x 15/26 = Rs. 15000

In case of piece rated employee, 15 days’ salary will be computed on the basis of average total wages (excluding overtime wages) received for a period of 3 months immediately preceding the termination of his service. (Piece work is any type of employment in which a worker is paid a fixed piece rate for each unit produced or action performed regardless of time.)

Illustration: If in the above Illustration, Mr. Jay is a piece rated worker and the salary drawn by him in three months preceding retirement is Rs. 26,000 including Rs.2,000 overtime wages, then the salary for the aforesaid exemption will be Rs. 4615 (rounded off), computed as follows -

Step 1 - Computation of 3 months' salary

Three months' salary will be Rs.24000 (26000 - 2000 being overtime wage)

Step 2 - Computation of monthly salary

One month salary will be Rs.800 (24000/3)

Step 3 - Computation of Salary for exemption

Salary will be 4615 (rounded off) (8000 x 15/26)

Part of the Year, in excess of 6 months will be taken as one full year. Thus where continuous service has been provided for a part of the year exceeding six months, the period shall be rounded off to one year.

Illustration: If the period of service is 7 years and 7 months, then 8 years shall be the duration of the service. If the period of service is 7 years and 5 months, then 7 years shall be the duration of service. If the period of service is 7 years and 6 months, then 7 years shall be taken. If however it is 7 years, 6 months and 3 days, the period of service shall be taken as 8 years as it exceeds 6 months.

EXEMPTION UNDER SECTION 10(10)(iii)

In cases where the employees are not covered under the Payment of Gratuity Act, 1972, exemption in respect of gratuity will be the least of the Following -

a. Half month's average salary for each completed year of service, i.e.,

[Average monthly salary x 1/2] x completed years of service

b. Maximum amount specified by the Central Government i.e. Rs. 10,00,000

c. Gratuity actually received.

The following should be kept in mind while calculating the Salary-

- Average monthly salary is to be computed on the basis of average salary for 10 months immediately preceding the month of retirement. It is to be noted that, it is 10 months immediately preceding the month of retirement and not the date of retirement.

Illustration: Mr. Jugal retires from service on 15-04-2016. His average salary will be computed on the basis of the salary for the period of 01-06-2015 to 31-03-2016 (i.e. 10 months preceding the month of retirement).

For this purpose salary will include Basic Salary, Dearness Allowance (if included in terms of service) and commission based on fixed percentage of turnover achieved by the employee.

While computing the year of service, any fraction of the year is to be ignored.

Illustration: If the duration of Service is 8 years 11 months and 26 days, then only 8 years will be considered as service period for computation and the balance 11 months and 26 days will be ignored.

As per Board's letter F.No. 194/6/73-IT(A-1) Dated 19.06.73 exemption in respect of gratuity is permissible even in cases of termination of employment due to resignation.

Let us now understand sections 10(10)(ii) and 10(10)(iii) with the help of a comprehensive illustration .

Ms. Maitri retired from XYZ Ltd. on 15- 02-2016, after serving a period of 32 years and 7 months. Following are the other details-

- Basic salary per month during 10 months preceding the month of retirement (i.e. monthly salary from 01-04-2015 to 31-01-2016) : Rs. 2,00,000.
- Dearness Allowance per month during 10 months preceding

the month of retirement (i.e. monthly DA from 01-04-2015 to 31-01-2016) :

- (a) Forming part of salary for computing retirement benefits : Rs. 40,000
- (b) Not forming part of salary for computing retirement benefits : 20,000

- Commission of 5% on sales effected on sales achieved by Ms. Maitri during 10 months preceding the month of retirement (Turnover achieved each month Rs. 4,00,000)
- Gratuity received at the time of retirement : Rs. 50,00,000.

Let us compute the amount of exempted and taxable gratuity considering :

- i. Ms. Maitri is covered by the Payment of Gratuity Act, 1972.
 - ii. Ms. Maitri is not covered by the Payment of Gratuity Act, 1972.
- (i) When Ms. Maitri is covered by the Payment of Gratuity Act, 1972.

As per clause (ii) of sub-section 10 of section 10, exemption with respect to gratuity received by an non Government employee is least of the following -

1.	15 days salary for each completed year of service or part in excess of 6 months. (Note 1)	Rs. 49,50,000
2.	Maximum amount specified by the Central Government	Rs. 10,00,000
3.	Amount actually received.	Rs. 50,00,000

The amount of exemption under Section 10(10)(ii) will be Rs. 10,00,000 being least of the above. Thus the taxable amount of gratuity will be Rs. 40,00,000 (Rs. 50,00,000 - Rs. 10,00,000)

Note 1 : Computation of 15 days' salary for each completed year of service or part in excess of 6 months. :

- Part of year in excess of six months will be rounded off to one full year.
- Salary for the purpose of this calculation will be the last drawn salary.
- The term "salary" would include basic salary and any dearness allowance (all dearness allowance, irrespective of whether it forms part of salary while computing retiring benefits.)
- While computing 15 days' salary, we will divide monthly salary by 26.

Based on the above, computation of 15 days salary will be as follows:

Monthly salary will be Rs. 2,60,000 (Rs. 2,00,000 + Rs. 40,000 + Rs. 20,000)

15 days salary will be Rs. 1,50,000 (Rs. 2,60,000 x 15/26)

Duration of the service is 32 years and 7 months which will be rounded off to 33 years (For computation of exemption).

Thus total amount of salary will be Rs. 49,50,000 (Rs. 1,50,000 x 33years).

(ii) When Ms. Maitri is not covered by the Payment of Gratuity Act, 1972

As per clause (iii) of sub-section (10) of section 10, exemption with respect to gratuity received by an non Government employee is least of the following -

1.	Half month's salary for each completed year of service. (Note 1).	Rs. 41,60,000
2.	Maximum amount specified by the Central Government.	Rs. 10,00,000
3.	Amount actually received.	Rs. 50,00,000

The amount of exemption under Section 10(10)(iii) will be Rs. 10,00,000 being least of the above and the taxable amount of gratuity will be Rs. 40,00,000 (Rs. 50,00,000 - Rs. 10,00,000)

Note 1 : Computation of Half month's salary for each completed year of service :

- Any part of the year will be ignored while computing the duration of service.
- Salary for the purpose of this calculation will be the average salary for 10 months preceding the month (not the day) of the retirement.
- The term "salary" would include basic salary and dearness allowance forming part of salary while computing retirement benefits and commission based on fixed percentage of turnover achieved by the employee.
- Half month's salary will be computed by dividing average salary by 2.

Based on the above, salary will be as follows:

Basic salary per month, for 10 months immediately preceding the month of retirement	Rs. 200,000
+ Dearness allowance per month (forming part of salary while computing retirement benefits), for 10 months immediately preceding the month of retirement	Rs. 40,000
+ Commission received at 5% for sales effected - 5% of Rs. 400,000	Rs. 20,000
Total monthly Salary for purpose of computing exemption	Rs. 2,60,000

This is the average monthly salary for the past 10 months of Ms. Maitri.

Based on the above, computation will be as follows -
Half month's salary will be Rs. 130,000 (Rs. 260,000/2)

Duration of the service is 32 years

Thus total amount of salary will be Rs. 41,60,000
(Rs. 1,30,000 x 32).

TAXABILITY OF GRATUITY

Now let us understand the position of the balance amount left after the exemption has been claimed.

After claiming the exemption under sections 10(10)(ii) and 10(10)(iii) the balance gratuity, in the hands of the employee; if any will be taxable under the head "Income from Salary" as the definition of Salary under Section 17 includes gratuity and will be taxed depending on the slab rate as applicable.

When the employee dies while still in active service, the Central Board of Direct Taxes has clarified vide Circular : No. 573, dated 21-8-1990, that any lump sum payment made gratuitously or as gratuity to the widow or legal heirs of the dead employee, will not be chargeable to tax.

ILLUSTRATION

- Under normal circumstances Mr. Rohan would get superannuated in the year 2029. However he dies while in active service on 21st March 2016. In this case the widow of Mr. Rohan will receive the gratuity and it will not be taxable as per the Circular no. 573, dated 21-08-1990.
- Mr. Rohan retires on 29th March 2016 but unfortunately expires on 31st March 2016. In this case even though the gratuity is received by the widow of Mr. Rohan or his legal heirs, the gratuity will be taxable, after claiming exemption, in the hands of Mr. Rohan as he had retired before his death.

TDS ON GRATUITY



Retirement benefits receivable by an employee is taxable under the head 'salaries' as "profits in lieu of salaries" as provided in section 17(3). As such they attract the provisions of TDS contained in section 192 and other relevant sections. Accordingly, the employer must take them into account and compute the TDS at the time of retirement of an employee.

The person responsible for paying any income chargeable under the head "Salaries" and consequently gratuity shall, at the time of payment, deduct income-tax on the amount payable at the average rate of income-tax computed on the basis of the rates in force for the financial year in which the payment is made, on the estimated income of the assessee under this head for that financial year after taking into account the deduction under section 10(10)(ii) or 10(10)(iii) as applicable. Section 192(2A) provides that, tax is to be deducted after allowing relief under section 89. This relief will be allowed only if the employee submits the information as prescribed in Form 10E to the employer.

ILLUSTRATION

Mr. Monish retires on 31st March 2016 and is to be paid a gratuity of Rs. 15,00,000. He is entitled to exemption of Rs. 10,00,000 and currently draws a salary of Rs. 100,000 per month. He has not declared any other income to the company. Here the company must deduct tax for both his salary and the gratuity to be paid to him based on the average rate of tax applicable. i.e. TDS would be at 20.30% on Rs. 100,000 salary and Rs. 500,000 gratuity (after exemption).
Note - Average rate has been calculated as follows -

Annual Salary (Rs. 100,000 x 12)	Rs. 12,00,000
+ Gratuity (Only Taxable portion)	Rs. 05,00,000
Total Income	Rs. 17,00,000
Tax on above based on slab rates	Rs. 335,000
+ Education cess	Rs. 10,050



Total tax payable	Rs. 345050
Average rate of tax = (Rs. 345050/ 17,00,000) x 100	20.30%

RELIEF UNDER SECTION 89

Under section 89, relief can be claimed if gratuity is received in excess of the limit specified under section 10(10)(ii) and 10(10)(iii). Rule 21A(3) of the Income Tax Rules gives guidelines on how to claim the relief under section 89.

However no relief is admissible if taxable gratuity is in respect of services rendered for less than five years. Cases in which relief is admissible can be divided into two categories, namely, (i) where the gratuity payable is in respect of past services of 15 years or more, and (ii) where such period is more than 5 years but less than 15 years. Relief in a case falling in the first category is worked as under :

1. Determine the average rate of tax on the total income, including the gratuity in the year of receipt.
2. Find out the tax on gratuity at average rate of tax computed at (1) above.
3. Compute the average tax rate by adding one third of the gratuity to the other income of each of the preceding years.
4. Find out the average of the three average rates computed in the manner specified in (3) above and compute the tax on gratuity at the rate.
5. The difference between tax on gratuity computed at (2) and that at (4) will be the relief admissible under section 89.

In cases covered under the second category, the relief is computed as per the above mentioned guidelines with the only difference being, instead of average of the average rates of the preceding 3 years, the average of rates of the preceding two years is computed by adding one half of the gratuity to the other income of each of the preceding two years.

ILLUSTRATION

Mr. Atul (Aged 59 years) received from his employer Rs. 590,000 as retirement gratuity on 31st March 2015, after rendering a continuous service of 16 years. Of this Rs. 500,000 is exempt under section 10(10). In addition to the gratuity, he received a salary of Rs. 10,00,000 during the year and Rs. 75,000 as interest from bank deposits. For the Assessment Years (AY) 2014-15, 2013-14, 2012-13 his income was Rs. 720,000 (salary 640,000 plus bank interest on deposits Rs. 80,000), Rs. 440,000 (salary Rs. 350,000 plus bank interest on deposits Rs. 90,000), Rs. 350,000 (salary Rs. 300,000 plus bank interest on deposits Rs. 50,000), respectively. The relief that Mr. Atul can claim under Section 89 is worked out as under -

	Assessment Years			
	2012-13	2013-14	2014-15	2015-16
	Rs.	Rs.	Rs.	Rs.
Salary Income	300,000	350,000	640,000	10,00,000
Add. One third (i.e. Rs. 90000 x 1/3) of the taxable gratuity (Rs. 90000) in the income of each of the three AYs 12-13, 13-14, 14-15; and the entire taxable gratuity in the year 15-16	30,000	30,000	30,000	30,000
Gross Salary which is taxable salary	330,000	380,000	670,000	10,90,000
Bank interest	50,000	90,000	80,000	75,000
Gross Total income which is the Net Income	380,000	470,000	750,000	11,65,000
Income tax	20,000	27,000	80,000	174,500
Add. Education cess	400	540	1,600	3,490
Add. Secondary and Higher Secondary Education cess	200	270	800	1,745
Tax on total income	20,600	27,810	82,400	1,79,735
Average rates of tax	5.42%	5.92%	10.99%	15.43%
Average of the average rates of tax for previous 3 AYs	7.44%	7.44%	7.44%	-
Tax on Rs. 90,000 @ 7.44%				6,696
Tax on Rs. 90,000 @ 15.43%				13,887
Refund under section 89				7,191

Thus, tax for Assessment Year 2015-16 (i.e. Rs. 1,79,735 - Rs. 7,191) = Rs. 1,72,544.

CONCLUSION

From the above discussion and illustrations one can know the exact position regarding treatment of gratuity and how an employee or his heirs can claim exemption under the Income tax Act, 1961 for any gratuity received; the tax that is required to be deducted at the time the employee or his heirs' receive the gratuity and the relief that the employee can claim. CS

SOURCES

<http://www.incometaxindia.gov.in>
Wharton's Law Dictionary

Listing of Stock Exchanges: A logical step forward for Indian demutualised Stock Exchanges



Nitesh Bhati, ACS
Faculty Member
National Institute of Securities Markets
(NISM)
Navi Mumbai
nitesh.bhati@nism.ac.in

BACKGROUND

As the Securities Market has been seen as backbone of national economy, the Stock Exchanges have been seen as heart of a Securities Market. Stock Exchanges, not only provide the infrastructure / platform for trading but also act as Central Counter Party with settlement guarantee to each trade that take place on their platform. Stock Exchanges also act as a first level regulator by ensuring the Listing Compliances by companies listed on their platform. The prime law for

Listing will enable the stock exchanges to easily tap the primary market to raise the fund from public at large and also provide secondary market to its shareholders to enable them to liquidate their investment at any time with fair and transparent price. Listing also facilitates better decision making due to diversified shareholdings and also brings transparency due to mandatory disclosures and regulatory / public scrutiny.

securities market trades, i.e. Securities Contract Regulation Act, 1956, gives independent powers to Stock Exchanges in respect of approval of Listing, suspension of trading and delisting of the companies listed on their platforms. A collapse of a Stock Exchange may result in a big loss to investors' money as well as loss of confidence in economy of the nation. We have seen one of such example in recent past, as failure of National Spot Exchange Ltd. Even though, NSEL fiasco was related small segment, i.e. spot trading in commodities, we have seen huge loss of investors' money and more than that loss of confidence among commodity market investors and intermediaries.

The aforesaid reasons emphasis on robust governance at the Stock Exchange. To ensure the same, no entities are allowed to function as Stock Exchange without having recognition by securities market regulator, i.e. Securities and Exchange Board of India (SEBI), under Securities Contract Act, 1956. Further, to ensure better compliance and governance at Stock Exchanges, SEBI has set very high standards of governance and compliances for Stock Exchanges under SEBI (Stock Exchanges and Clearing Corporations) Regulation, 2012.

The Stock Exchanges have been initially formed as association of broker, with mutual ownership, high barriers for new entrants and a regional monopoly. Over the period of time, domestic & international competition, technology advancement and globalization compelled the stock exchanges, to give up their exclusivity and undergo restructuring. In early twenty-first century, under the corporatization and demutualisation scheme, SEBI has asked Stock Exchanges to convert itself from mutually owned "not for-profit" association to a "for profit" company owned by shareholders. Further, SEBI has directed the Stock Exchanges to dilute their 51% shareholding to public. Further, the scheme has also provided that after the demutualisation, Stock Exchanges may choose to be a listed or may remain as an unlisted, closely held public company.

Over a period of the time, many stock exchanges, which were not able to survive in fast moving environment of technology advancement and competition, became defunct Stock Exchanges. Bombay Stock Exchange Ltd. (BSE) and National Stock Exchange Ltd. (NSE) have emerged as country's largest Stock Exchanges.

Recently, both these Stock Exchanges have shown their eagerness to go for listing of their own shares on Stock Exchange, to provide secondary market to its stakeholders to enable them to unlock their wealth. However, "Listing of Stock Exchange" has open debates about possible conflict of interest between Stock Exchange's regulatory and business roles.

ADVANTAGES FROM LISTING OF STOCK EXCHANGES

A listed corporate entity is an efficient organizational form for large enterprises which has to face domestic and international competition. Listing of corporate entity brings lots of advantages not only to shareholders but also all the stakeholders. Listing is a major milestone in the growth of a corporate entity. In today's global competitive environment, where change in technologies and economic conditions are so rapid, Stock Exchanges have their own challenges to have their trading systems and other facilities up to date. For the same, Stock Exchanges require large amounts for time to time investments. Stock Exchanges, without listing, cannot access to public money due to regulatory reasons as well as liquidity concern among the prospective investors. Listing will enable the stock exchanges to easily tap the primary market to raise the fund from public at large and also provide secondary market to its shareholders to enable them to liquidate their investment at any time with fair and transparent price. Further, Listing facilitates better decision making due to diversified shareholdings and also brings transparency due to mandatory disclosures and regulatory / public scrutiny.

NSE and BSE, being well-established "for profit corporate entity", also wish to take advantage of these listing benefits. The existing shareholders of BSE and NSE, which include big financial institutions, Foreign Portfolio Investors (FPI) and its trading members (brokers), want listing of these Stock Exchanges, which will enable them to get fair valuation of their investments and liquidity to get exit from investment as per their desires.

POSSIBLE CONFLICT OF INTEREST AND THREATS FROM LISTING OF STOCK EXCHANGES

Listing brings lots of advantages for a corporate entity. However, Stock Exchange has been seen differently than merely a commercial corporate entity which has to keep the balance between commercial and regulatory role. Therefore, the thought of allowing listing of Stock Exchanges, brings different issues in the mind of the Regulator as well as securities market players, related to possible conflict of interest and threats attached to listing of Stock Exchanges.

A listed entity has a different type of continuous pressure to deliver expected or above expected return on quarter to quarter basis. The performance of a listed entity is measured by movement in market price of shares also. In such scenario, it will be more difficult for Stock Exchanges to perform their regulatory role properly. The pressures for delivering market

“The performance of a listed entity is measured by movement in market price of shares also. In such scenario, it will be more difficult for Stock Exchanges to perform their regulatory role properly. The pressures for delivering market expected returns to ensure better share price performance, may result in a dilution in focus on regulatory duties or even reduction in regulatory resources by stock exchanges.”

expected returns to ensure better share price performance, may result in a dilution in focus on regulatory duties or even reduction in regulatory resources by stock exchanges. Further, if the price of stock exchanges shares falls with overall fall in securities market due to extraordinary event, it may also lead to loss of credibility of Stock Exchange in such a situation when it has to stand with highest credibility to undertake the responsibility to provide settlement guarantee to securities market trades.

In India, to ensure diversified shareholding and control, there is no concept of promoter of stock exchange. The major institutional shareholders, not only provide the capital but also help in decision making and ensure better governance in stock exchange. It is true that listing will bring the liquidity for shareholders of the Stock Exchanges which is essential to get access to public funding at low cost. However, listing will also enable the major shareholders of the Stock Exchanges to get exit from their responsibilities and stake, as and when they want seeing valuation at secondary market. In such a case, the stock exchange may not have any or enough major mature shareholders with long term perspective which may lead the Stock Exchange. This may place the Stock Exchange in a situation like a ship without captain. It may be other way around also, where the control of a Stock Exchange would be taken over by any group of individuals or entities by buying the shares from secondary market which may result in loss of advantages of diversified shareholding.

GLOBAL SCENARIO

The first stock exchange to demutualise was the Stockholm Stock Exchange in 1991. Over the period of time, globally several stock exchanges have been demutualised and subsequently became publicly listed corporations. As per World Federation of Exchanges Cost & Revenue Survey 2012, at end-December 2012, twenty-three (23) member Stock Exchanges of World Federation Exchanges (WFE) were publicly listed corporations.

Among the top 10 Stock Exchanges based on market



capitalization of issued shares of domestic companies, as of April, 2016 (Monthly reports, World Federation of Exchanges), the following 8 Stock Exchanges are publicly listed:

1. New York Stock Exchange, US
2. Nasdaq OMX Group, US
3. Japan Exchange Group, Japan
4. London Stock Exchange Group, UK
5. Euronext, Europe
6. Hong Kong Exchanges and Clearing, Hong Kong
7. TMX Group Inc., Canada
8. Deutsche Boerse, Germany

The two major Stock Exchanges, which are not listed, belong to China i.e. Shanghai Stock Exchange and Shenzhen Stock Exchange. These stock exchanges are not yet demutualised. Further, as per World Federation of Exchanges Cost & Revenue Survey 2012, the following nine (9) member Stock Exchanges are demutualised exchanges with transferable ownership but not listed:

1. Borsa Istanbul, Turkey
2. BSE Limited, India
3. Budapest Stock Exchange, Hungary
4. China Financial Futures Exchange, China
5. Malta Stock Exchange, Malta
6. National Stock Exchange of India, India
7. Oslo Børs, Norway
8. Taiwan Stock Exchange, Taiwan
9. Korea Exchange, Korea

It may be noted that India's two largest stock exchanges i.e. BSE and NSE, which are among top 15 major stock exchanges around the globe based on market capitalization, are part of this list. It is clearly visible from aforesaid data that globally, listing is the next logical step after demutualisation, in the evaluation of Stock Exchanges as economically important institutions. However, in Indian scenario, this globally accepted logical step has already been long delayed. NSE was established as demutualised public limited company

in 1992 and BSE has been demutualised in 2005. However, both the Stock Exchanges are still waiting for their listing.

INDIAN EXPERT'S AND REGULATOR'S VIEW

SEBI constituted a Committee under the Chairmanship of Dr. Bimal Jalan, (Former Governor, Reserve Bank of India) to examine issues arising from the ownership and governance of Market Infrastructure Institutions (MIIs) including Stock Exchanges. The committee inter alia stated under its report that the investors of Stock Exchanges shall need to be long-term investors who are sufficiently motivated to take a keen interest in the functioning of the Stock Exchange and to contribute to its growth by providing the necessary value addition in terms of technology, market/product design, managerial inputs etc. The Stock Exchange should not become a vehicle for attracting speculative investments. Therefore, the Committee is not in favor of permitting listing of Stock Exchange.

The SEBI Board, while framing SEBI (Stock Exchanges and Clearing Corporations) Regulation, 2012, had accepted most of the recommendations of the committee on ownership and governance of Market Infrastructure Institutions. However, SEBI rejected the suggestion of the committee to disallow listing of a Stock Exchange's shares. The Board decided that in view of the decision taken regarding measures to address conflicts of interest, Stock Exchanges may be permitted to list. Accordingly, SEBI (Stock Exchanges and Clearing Corporations) Regulation, 2012 has provided the provisions for listing of Stock Exchanges.

SELF- LISTING OR CROSS-LISTING

Self Listing is a case where the Stock Exchange is allowed to list its own shares on its own stock exchange. However, this may lead to conflict of interest for ensuring various listing compliance mandated by SEBI under SEBI (Listing Obligations and Disclosure Requirements/Regulations, 2015). The regulations put lots of responsibility on Stock Exchange to ensure the compliance by listed entities. In the case of self-

Empowering one of the competing Stock Exchanges with power of supervision, inspection and enforcement of other Stock Exchange may bring the threats of exaggerate surveillance and unjustifiable actions. This may lead to ultimately damage the reputations of both the stock exchanges which are supposed to be with high standard of governance.

listing, it will be like allowing stock exchange to ensure its own compliances.

Cross Listing is a case where the Stock Exchanges are allowed to list only to other Stock Exchange. It may lead to reduce the conflict of interest but it also comes with a threat where your competing stock exchange is given power to monitor your compliance and take action on non-compliance. As Andreas M. Fleckner of the Max Planck Institute for Comparative and International Private Law says in a paper titled Stock Exchanges at the Crossroads: "To the well-known principle 'No one shall judge his own cause', we might add another idea, 'No one shall judge a competitor's cause'. The reasoning: If one passes judgement on a competitor, it will affect her own position in the competition and therefore bias her judgement."

Stock Exchanges, being for profit corporate entity, are subject to market competition for enhancing their business revenue and profit. Typically there are two dimension of competition among the Stock Exchanges:

- a) To get more companies listed on their platform
- b) To get more trades on their trading platform

In Indian scenario, competition for traders is more than competition for listing. The reason being, in India, the companies are allowed to be listed on more than one Stock Exchange (i.e. dual listing). Most of the companies, generally chose to list on both largest stock exchange of India i.e. BSE and NSE. However, the newer segments of listing and trading, such as SME Trading Platform and Institutional Trading Platform have brought the competition among BSE and NSE for listing also. As far as competition for getting more trade is concerned, both exchanges are trying their best to reduce the cost and increase the efficiency to attract more trading at their platform.

In such a competing environment, empowering one of the competing Stock Exchanges with power of supervision, inspection and enforcement of other Stock Exchange may bring the threats of exaggerate surveillance and unjustifiable actions. This may lead to ultimately damage the reputations of both the stock exchanges which are supposed to be with high standard of governance.

Since, self-listing and cross-listing, both has its own pros and cons, Indian securities market regulators SEBI, has decided to go for cross-listing rather than self-listing. SEBI, under SEBI (SECC) Regulation, 2012, has provided for only cross listing and not for self – listing of Stock Exchange.

OWNERSHIP OF STOCK EXCHANGES

The stock exchange, being for-profit corporate entities, is controlled by its shareholders based on their shareholding. SEBI has provided for lots of checks and balances under SEBI (SECC) Regulation, 2012, to ensure that shareholding of the Stock Exchanges remain well diversified and it shall not be controlled by small group of individuals and entities. Such checks and balance include "Fit and Proper" criteria for each shareholders of the Stock Exchange, regulatory approval for buying shares of the stock exchange beyond 2%, maximum limit on holding of shares by group of individual and entities (i.e. 15 % for Public Financial Institutions and 5 % for others) etc.

As mentioned earlier, listing may allow any person to buy the shares of the stock exchange from secondary market. Accordingly, it may lead to failure of aforesaid checks and balances put in place by SEBI. To ensure these compliances in case of Listed Stock Exchange, SEBI, vide circular no. CIR/MRD/DSA/01/2016 dated January 01, 2016, advised stock exchanges and depositories to put in place the mechanism for the same. But the actual implementation of such things, will be a challenge for the stock exchange getting listed as well as stock exchange, which is allowing listing of such stock exchange on its platform.

CURRENT STATUS

Bombay Stock Exchange (BSE)

BSE, India's oldest Stock Exchange, has recently completed 140 years from its establishment. BSE has been demutualised in year 2005. At the time of demutualisation itself, the exchange as well as shareholders, have envisage the listing of its shares to ensure the liquidity for its shareholders. BSE has made the mention about the same in its Corporatization and Demutualisation Scheme. Since, demutualisation BSE has approached SEBI at various occasions for getting its



'in-principle approval' for listing. The trading members who has got shares under demutualisation scheme as well as new public shareholders who has been allotted / sold shares, wishes to unlock their investment value. The prolonged wait of these shareholders have become painful which is resulting as pressure on the management of stock exchange also.

SEBI, by providing provision for listing of stock exchange under SEBI (SECC) Regulation, 2012, has made a path for BSE Listing. It has been reported in the media, that BSE has recently got SEBI in principle approval also and they are in process of filing the draft offer document with SEBI to initiate the process of the initial public offer which will be followed by Listing. BSE has expressed in media to accept the regulators condition of the cross-listing of shares. Thus, BSE's shares may be listed on NSE post initial public offer.

National Stock Exchange (NSE)

National stock Exchange was established in 1992 as demutualised corporate entity by a group of leading Indian financial institutions at the behest of the government of India to bring transparency to the Indian capital market. Life Insurance Corporation of India (LIC), State Bank of India (SBI), IFCI Limited, IDFC Limited and Stock Holding Corporation of India Limited were the founding shareholders of the NSE. Over the period of time, NSE has attracted investment from various institutional shareholders including Foreign Portfolio Investors also.

As per the commentary in media, NSE was not comfortable to list on competitor's Stock Exchange i.e. BSE. The NSE was preferring to have either self-listing or cross-listing with mandatory disclosure and supervision directly by the regulator or neutral body. However, the existing SEBI regulations has not provided for such thing. As reported recently in media, it appears that as shareholders continued piling on the pressure, the NSE board has decided to go ahead with cross-listing as per the existing norm prescribed by SEBI. Further, NSE has proposed to list on overseas stock exchange after the domestic listing.

CONCLUSION

Following the global trend, India took the first step of demutualisation of Indian Stock Exchanges, way back in 1992 by establishing NSE, as first demutualised for profit corporate entity and subsequently demutualised other stock exchanges including BSE. Listing of Stock Exchange has been global accepted next logical step after completion of demutualisation. Hence, disallowing listing could defeat the purpose of demutualisation. All the leading stock exchange globally are listed and keeping well the balance between their commercial and regulatory roles. India is already too late for the next logical step to allow listing of our demutualised Stock Exchanges. In early 2016, SEBI, has cleared the air, by giving in-principle approval to BSE and by putting necessary regulatory provisions in place. Securities Markets are hopeful to see listing of BSE and NSE, soon in this calendar year itself. It will be worth seeing how the stock exchange will satisfy their shareholders as well as the regulator, by balancing their commercial and regulatory roles. Further, time will only tell how these two competitors (BSE and NSE) play their role as first level regulator to ensure listing

compliance of each other. Ensuring benchmarked governance among the listed Stock Exchanges will be another challenge for regulator which hopefully SEBI will overcome sagaciously.

ACKNOWLEDGEMENTS

1. Report of the Group headed by Justice M.H. Kania, former Chief Justice of India on Corporatisation & Demutualisation of Stock Exchanges
2. Report of the Committee, chaired by Dr. Bimal Jalan, (Former Governor, Reserve Bank of India), on 'Review of Ownership and Governance of Market Infrastructure Institutions' – November, 2010
3. Policy on Market Infrastructure Institutions - Agenda and Minutes of SEBI Board Meeting held on April 02, 2012
4. Securities Contracts (Regulation) (Stock Exchanges And Clearing Corporations) Regulations, 2012
5. Listing of Stock Exchanges - Agenda and Minutes of SEBI Board Meeting held on November 15, 2015
6. SEBI circular no. CIR/MRD/DSA/01/2016 dated January 01, 2016 Procedures for ensuring compliance with Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012 by Listed Stock Exchanges.
7. Stock Exchanges at the Crossroads - Andreas M. Fleckner, Max Planck Institute for Comparative and International Private Law
8. World Federation of Exchanges Cost & Revenue Survey 2012
9. Monthly Statistics Reports, World Federation of Exchanges - April, 2016
10. Various print and online media reports on listing of the Stock Exchanges CS

SPECIAL ISSUE OF CHARTERED SECRETARY

It is proposed to bring out a special issue of Chartered Secretary on...

Insolvency Professionals

In February/March 2017 issue of Chartered Secretary. Members and others are welcome to contribute articles for consideration by the Editorial Advisory Board for publication in the said special issue.

The articles may kindly be forwarded to:

The Director (Publications), the ICSI, 22, Institutional Area, Lodhi Road, New Delhi – 110003.
e-mail: ak.sil@icsi.edu

Input Tax Credit Under GST- Another Backlash on Black Money



Dr. Monika Goel*, FCS

Practising Company Secretary
& Corporate Trainer
Monika Goel & Associates
Noida

monikagoelfcs@gmail.com

Demonetisation is being considered as a classic move against black money, but the master stroke in form of GST input tax credit system is yet to come. The concept of Input Tax Credit is not something new; the benefit of tax credit has been available since the year 2000 but the new form of input tax credit under GST can be a bolt from the blue for tax evaders.

GST will not only make India a one tax nation but will also be a biggest reform to check misreporting or non-reporting of the transactions in the books of account. The right administration of the GST technology can make the manipulation of financial statements a very difficult exercise in the new tax regime.

Studies have found that among many reasons of evasion of taxes in India two reasons primarily contribute to higher evasion of taxes, one weak enforcement of tax laws and the two, cost of tax evasion being cheaper than cost of compliance. It has been noticed in the CBDT Annual Reports that in the present setup in transactions where CENVAT is not available to end user, clearance without payment of duty has been the preferred mode of tax evasion. On analyzing the data of searches conducted by the department, instances have come to notice where even the reputed manufacturers indulge in under valuation in case of consumer products or goods meant for mass consumption. Manufacturers of Tobacco products such as Gutkha and Khani being in the unorganized sector have traditionally been highly susceptible to evasion with the products attracting high duty structure. The above instances indicate difficulty in tax administration coupled information asymmetry in unorganized economy leading to mis-utilization of exemptions and benefits.

GST would be a revolutionary step to redefine the policy mechanism. Under the GST setup differentiated tax policy would be removed and the basic exemption threshold would be reduced to an annual turnover Rs. 20 lakhs (Rs. 10 lakhs for businesses in the North-Eastern states). Further, intensive use of technology in administering GST would raise the levels of enforcement and would block the clandestine methods of tax evasion in the new regime.

Provisions relating to cross utilization of input tax credit and its impact on reduction of total tax liability have been covered in various papers on GST. The objective of this paper is to study the mechanism of Input Tax Credit including the procedural and technological barriers as envisaged under the Model GST Law and to highlight the impact of such barriers on black money in the economy.

MECHANISM OF INPUT TAX CREDIT UNDER GST

The basic idea behind the mammoth exercise of introduction of GST is to provide for multi stage tax with tax credit at various stages of supply chain. Input Tax Credit (ITC) in form of CENVAT Credit and VAT Credit can be separately availed in the present tax structure. In the pre GST setup, ITC of VAT is only available to the dealers. Manufacturers and service providers cannot claim VAT credit. ITC of Central Excise duty, Service Tax & CVD, on the other hand can be availed only by manufacturers and service providers and it is not admissible to dealers in goods. Input Tax Credit of CST, Entry Tax, Luxury Tax is not available in the present ITC regime. GST is definitely removing that lacuna. It is going to provide an uninterrupted and continuous chain of input tax credit. Under GST law, ITC will follow supply chain completely. Unlike the present structure, ITC under GST would be available not only in intra-State transactions but also in inter-State transactions with respect to both goods as well as services. Moreover, tax paid at the time of import of goods and services would also be creditable. This would undoubtedly reduce the cascading effect of taxes considerably.

Under the present structure of input tax credit one to one correlation between input and output

* Professor and Head of Department, Manav Rachna International University, Faridabad and Founder Faculty, Monika Goel's Online Classes for CS Professional Students.



is not required. The records of input tax credit are maintained in a CENVAT Credit Register where the amount of eligible CENVAT on goods and services is credited on receipt of inputs and capital goods in the premises of the manufacturer/ dealer or service provider and on payment of invoice in case of service tax. The requirement of receipt in the premises has however been relaxed in certain cases. The assessee is required to submit the monthly CENVAT returns (in forms ER 1, ER 2, ER 3 as the case may be) at regular intervals, reporting the assessable values and quantity manufactured and cleared during the period. The assessee also reports in the returns the details of the CENVAT credit utilized during the period along with other details. The assessee in the present structure is required to maintain the invoices of his supplier, which can be subjected to scrutiny. It is not required for him to disclose the details of suppliers invoice in his ER-1/ER-2/ER-3 returns. This has left a lot of scope for fictitious credit.

GSTR-1 AND GSTR-2

Under the proposed GST regime, two forms would be required to be filed by every assessee on a monthly basis, GSTR-1 and GSTR-2. The proposed GSTR 1 form would contain details of outward supplies made by the taxpayer. GSTR-1 is required to be filed by 10th of the every month. The GSTR-2 form is a return for inward supplies/purchases received. This is to be submitted by the assessee five days after the submission of the GSTR-1 form i.e 15th of the every month. The most interesting part of the Model GST Law is that details of invoices filed by the supplier in the GSTR-1 would be auto populated in GSTR-2 to be filed by the purchaser.

GSTR-2 would be auto populated, on the basis of GSTR-1 of counter-party supplier, on or after 11th day of month. The purchaser however has been given the facility of adding invoices / debit note / credit note, not submitted by counter-party supplier, between 12th to 15th day of the month. Further the other details that are not auto-populated, i.e. import of services, eligibility of ITC and quantum thereof and purchases from unregistered taxpayer shall also be furnished in GSTR-2.

While submitting GSTR-1 every assessee is required to submit complete details of every invoice raised by him which includes Invoice No., Date, Value, Harmonized System of Nomenclature for goods or Service Accounting Code(HSN/SAC), Taxable value, the rate and amount of IGST, CGST, SGST and Additional Tax charged, Place of supply of goods or services (only if the place is different from the location of recipient), amount of supply attracting GST on reverse charge. These details will also be reflected in

GSTR-2 which is a return on inward supplies.

The following is a comparative table of the Returns filed in the present structure and proposed GST structure:

S. No.	Particulars	Present Structure	Proposed Structure under GST
1.	Nature of Transactions to be Reported	Production and Removal of goods and details of CENVAT Credit taken and Utilized	Outward Supplies made by the Taxpayer and Inward Supplies and Purchases Received
2.	Frequency of Returns	Monthly	Monthly
3.	Number of Forms to be filed	One	Two
4.	Types of Forms for different assesses	Five E.R.1 for manufactures E.R-2 for SEZs clearing goods in DTA E.R-3 for small scale industries (quarterly submission) ST-3 for service providers (six monthly submission) VAT Returns (Monthly)	Two standardized forms GSTR-1 for Outward Supplies made by the Taxpayer; and GSTR-2 for Inward Supplies and Purchases Received to be submitted monthly by all assesses.
5.	Auto population of basic details on login	Not available	The GSTIN and Name of taxpayer auto-populated on login.
6.	Auto Population of fields	Not available	In GSTR-2 the details of inward supplies by registered dealers, supplies attracting reverse charge, details of credit notes/debit notes, inward supplies in earlier tax periods, ISD credit , TDS credit and ITC received on invoice partial credit availed earlier will be auto populated from counter party returns.
7.	Details of intermediate goods	Details of intermediate goods transferred or received without payment of duty to be provided.	No such details required.
8.	Details of duty paid	Consolidated amount of duty paid through CENVAT credit or current account to be provided.	Invoice wise details of outward supplies including GSTIN of the registered person to whom invoice is issued, date , no., value, HSN and taxable value to be provided along with IGST, CGST, SGST, Additional tax collected in terms of rate and amount to be separately provided for each invoice. Interstate supplies to a customer with invoice value more than Rs. 2.5 lakhs to be separately tabulated.
9.	Details of credit notes/ debit notes	Not provided separately but included in the consolidated amount referred to in 8 above.	Details of credit notes/ debit notes to be matched invoice wise and differential tax IGST, CGST, SGST, Additional tax collected in terms of rate and amount to be separately provided for each invoice.

10.	Nil rated, exempt transactions	Covered in details of manufacture, clearance details.	Classified item wise for interstate and intrastate supplies to registered persons and to consumers.
11.	Export transactions	Covered in details of manufacture, clearance details.	Classified invoice wise without payment of GST and with payment of GST.

With one to one invoice wise auto population, submission of details of debit notes/ credit notes, exempt goods, GST has plugged in all scope of manipulation, fake bills and excess utilization of CENVAT Credit. Secondly, it would also handle the tax evasion by over claiming expences. The tax payer would not be able to inflate the manufacturing cost or claim any indirect expences in form of advertising, travelling, hotel etc as both goods and services are being clubbed into one tax. In this way the mechanism of GST has been planned to be so technology driven that it would not leave any scope for over invoicing and fictitious credit.

MISMATCH OF INWARD AND OUTWARD SUPPLY

The matching of GSTR-1 and GSTR-2 mechanism ensures that every inward supply furnished by the recipient for a particular tax period shall be matched to the corresponding outward supply furnished by the supplier in their respective returns. This is done to check the accuracy of the claims of ITC moreover the same also needs to be matched with the additional duty of customs paid under section 3 of the Customs Tariff Act, 1975 in respect of goods imported by him.

Once verified i.e. if there is no discrepancy then the same is accepted and communicated to the recipient. On the other hand, in case of discrepancies, the same is informed to both the parties to make for necessary corrections in FORM GST ITC-1 through the Common Portal on or before the last date of the month in which the matching has been carried out. Discrepancy is made available to both the supplier and the recipient separately, who may make suitable rectifications in the statement of outward supplies/inward supplies to be furnished for the month in which the discrepancy is made available. Where the discrepancy is not rectified an amount to the extent of discrepancy shall be added to the output tax liability of the recipient in his return in FORM GSTR-3 for the month succeeding the month in which the discrepancy is made available.

On the whole any excess or shortage or duplication in claim of ITC has to either be adjusted or supported by the relevant documents to arrive at the actual figures. Any unmatched mismatches therefore, will be highlighted and rejected in the GST mechanism and in this way, fictitious or excess credit is completely overruled.



E-LEDGERS UNDER GST

The novel concept of accumulating the credit of input tax admissible to every registered taxable person in Electronic Ledgers has been introduced in the Model GST Law. Once an assessee will register on the GST portal called GSTN, two E-ledgers would be generated under its registration number. They are Electronic Credit Ledger and Electronic Cash ledger. Both the ledgers can be viewed by a tax payer on the portal.

Electronic credit ledger: means the input tax credit ledger in electronic form maintained at the common portal for each registered taxable person. All the input taxes, CGST, SGST, IGST will be accumulated in electronic format in this ledger on the common portal of GSTN. Input Tax Credit as self-assessed in monthly returns will be reflected in the ITC Ledger. The credit in this ledger can be used to make payment of tax only and no other amounts such as interest, penalty, fees etc can be paid by debiting this ledger.

Electronic cash ledger: The existing Personal Ledger Account under the Excise and Service Tax has been replaced with Electronic Cash Ledger under GST. The cash ledger will reflect every deposit made towards tax, interest, penalty, fee or any other amount by a taxable person by internet banking or by using credit/debit cards or National Electronic Fund Transfer or Real Time Gross Settlement or by any other mode. The amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of the Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed.

CARRY FORWARD OF INPUT TAX CREDIT IN TRANSITION PERIOD

As per the Model GST law, a registered taxable person shall be entitled to take, in his electronic credit ledger, the amount of CENVAT credit carried forward in the return relating to the period ending with the day immediately preceding the appointed day, furnished, by him under the earlier law in the prescribed manner. However the registered taxable person shall not be allowed to take credit unless said amount is admissible as input tax credit under the CGST Law. Similarly a registered taxable person, shall also be entitled to take, in his electronic credit ledger, credit of the amount of Value Added Tax [and Entry Tax] carried forward in the a return relating to the period ending with the day immediately preceding the appointed day, furnished, by him under the earlier law, not later than ninety days after the said day, in the prescribed manner. Similar to CENVAT Credit the registered taxable person shall not be allowed to take VAT credit unless said amount is admissible as input tax credit under this SGST Act.

A REFORMED REGIME AWAITED....

GST is going to be the biggest tax reform in various ways. The key task for the government at this stage is to design a tax policy to bring the unorganized sector into the tax net. The proposed reverse charge mechanism has to be effectively utilized to cover the unorganized sector. Digital payment systems will also aid in linking the unorganized sector into the GST network. GST will not only make India a one tax nation but will also be a biggest reform to check misreporting or non-reporting of the transactions in the books of account. The complete model of GST is digitally driven and requires a big investment in IT infrastructure and capacity building. The right administration of the GST technology can make the manipulation of financial statements a very difficult exercise in the new tax regime.

CS

2

RESEARCH CORNER



- A STUDY ON INFRINGEMENT OF FCRA, 2010 BY NGOs
- OPTION PRICING IN VALUATION OF BUSINESS ENTITIES
- ALL INDIA RESEARCH PAPER COMPETITION ON MERGER & ACQUISITION
- RESEARCH COLLOQUIUM ON INDIAN COMPANIES ACT – DECODING UNSOLVED MYSTERIES

A Study on Infringement of FCRA, 2010 by NGOs



Meenu Gupta, ACS

Company Secretary, Noida

guptameenu90@gmail.com

INTRODUCTION

Foreign Contribution (Regulations) Act, a law that regulates the acceptance and utilization of foreign contribution by individuals or assesseees or companies, was actually came into being in late sixties in 1976 when international firms were suspected of having relation to numerous trade unions, student bodies, youth companies, political companies, etc. The new FCRA, 2010 being effective from May 1, 2011 made cancellation of 10,118 registration licenses of Non-Government Organisations (NGOs) to accept foreign funds due to non-compliance of amended provisions. A significant number of Indian NGOs including Amnesty International, Sabrang Communications, to name a few, violated FCRA rules. The author seeks to focus on amended provisions, its effect on NGOs and case laws violating the rules pertaining to utilization of funds and by NGOs.

Recent FCRA amendments tightened the noose towards NGOs receiving foreign contribution making it easier for NGOs to file returns online while also announcing disclosures and penalties for violation. However, seeing the number of FCRA violation cases on rise, the need is to streamline and modernise the online FCRA system and make all dealings transparent. Also, FCRA's applicability depends on the way CSR is implemented. If a foreign source company pays NGOs to do charitable work, NGOs must have FCRA permission. If the company works directly with beneficiaries, then no FCRA is required. The most common way in which CSR is administered in India, however, is through the company's own foundation or trust which should get FCRA registration before accepting any grant or donation from the mother company.

OBJECTIVES OF THE STUDY

The Research Paper is undertaken for the following objectives:

1. To work out the need of enacting the Foreign Contribution Act.
2. To peep into recent amendments in the Act in 2015
3. To analyse the Act with respect to its pros and cons
4. To enlist and brief the cases of violation of FCRA with emphasis upon NGOs.
5. Suggestions to stakeholders and other role players under the Act.
6. To have a glimpse on foreign contribution receipts in India over last few years, thereby analyzing impact on Country's Economy.
7. Impact of foreign contribution on Indian Economy.

I. WHY FCRA ACT?

The main purpose behind the enactment of FCRA was to curb the use of foreign funds and hospitality for nefarious and anti-national activities or purposes. The idea was to regulate the acceptance and use of foreign contribution so that the recipient institutions and individuals function in a manner consistent with the values of a sovereign democratic republic. The Ministry of Home Affairs, Government of India was assigned the responsibility of implementing FCRA. The protection of sovereignty, democracy and republican nature of the Indian Government forms the basis of FCRA.

The need for having such regulatory law was felt in the late sixties when foreign agencies

including CIA were suspected of having links with various trade unions, student bodies, youth organisations, political organisations etc. The then Home Minister in 1969 raised this issue in both the Houses of Parliament and the need to regulate foreign funding was discussed. It was agreed that the government would not allow foreigners or foreign money to dictate or influence the functioning of the Government, Political Parties and Other Institutions of India.

Introduction of FCRA Bill - Finally the Foreign Contribution (Regulation) Bill, 1973 was introduced in Rajya Sabha on 24.12.1973. This bill was forwarded to the joint committee of the Parliament in 19.02.1974. The joint committee consisted of 20 members of Rajya Sabha and 40 members of Lok Sabha with Shri Manubhai Shah as the Chairperson of the committee. The joint committee held 33 meetings at different places. The committee also invited views and opinions from various state governments, bar councils, political parties, trade unions, attorney general, universities etc. The committee presented its report to the Parliament on 6-1-1976. The Bill was passed in the Parliament and it came into force vide Notification No. GSR 755(E) dated 5th August 1976. After several recommendations at the Standing Committee, Rajya Sabha levels on 27 August 2010, the Parliament passed the Foreign Contribution (Regulation) Bill, 2010 while it received President's assent on September 26, 2011 and the Foreign Contribution (Regulation) Act, 2010 came into force from May 1, 2011.

II. AMENDMENTS FCRA, 2015 – STICKY WICKET FOR NGOS

The Home Ministry has drawn up new draft guidelines which stipulates that NGOs must not use foreign funds for activities "detrimental to national interest, likely to affect public interest, or likely to prejudicially affect the security, scientific, strategic or economic interest of the state."

However, no definition of 'national interest', 'public interest' or 'security, scientific, strategic or economic interest' has been provided, opening the door to official action against a whole range of activities that are otherwise legal under Indian law.

4.	NGOs will have to reveal the details of their social media accounts, and disclose whether their office bearers are part of other NGOs, to help in profiling them.	
----	---	--

The proposed new rules come at a time when the government has already been acting against NGOs that receive foreign funds. By two recent orders, the government had cancelled the license to receive foreign aid of almost 15,000 NGOs, citing anomalies in their adherence to FCRA rules.

Reacting to the new draft guidelines, the head of a major NGO told, "The government does not have to bind NGOs around in iron chains of restrictive compliance. This is especially so given the open license other sectors like corporates receive. Here there is a presumption that all that the corporate sector does is 'beneficial' while everything an NGO does is seen at the outset as a possible threat." The NGO representative, who requested not to be identified, said, "Social good and noble intent is not the preserve of government alone. Governments are trustees of the people and people are beneficiaries. NGOs, civil society organisations and trades unions are all a part of 'the people' and have voice and agency."

The new rules have not only increased the frequency with which NGOs are required to file information with the government, they also have provisions that require the disclosure of additional information. As for the 'nothing against the economic interest of the state' declaration that the government wants NGOs to make, the NGO source added, "Putting such vague assertions into declarations opens the floodgates to government discretion to challenge any activity it does not like by claiming it goes against national interest. This is the aim of putting such things into declarations so that there is a perpetual sword hanging over one's head that can come into play whenever there is dissent or disagreement with the government."

The Intelligence Bureau submitted a report on foreign-funded NGOs claiming that the work of 'antinational, foreign-funded NGOs' working on issues related to nuclear projects, genetically modified organisms, mining and other big projects, had led to a decline of 23 per cent in the country's GDP growth rate. The government moved swiftly after this report to rein in the NGOs that it now considers detrimental to the economic interest of the country.

The report, titled "Concerted efforts by select foreign-funded NGOs to 'take down' Indian development projects," stated: "A significant number of Indian NGOs (funded by some donors based in the U.S., the U.K., Germany, the Netherlands and Scandinavian countries) have been noticed to be using people-centric issues to create an environment which lends itself to stalling development projects. These include agitations against nuclear power plants, uranium mines, coal-fired power plants (CFPPs), genetically modified organisms (GMOs), mega industrial projects (Posco and Vedanta), hydel projects (at Narmada Sagar and in Arunachal Pradesh) and extractive industries (oil, limestone) in the northeast."

These kinds of notifications and the general atmosphere of intolerance and exclusion which sees NGOs and others rushing

S. No.	Additional / New Amended Rules, 2015	Older Rules
1.	It requires any NGOs receiving foreign funds to register themselves and to report the receipt of such funds on its website or a government prescribed website within 7 days, making the task of running an NGO in India even more difficult than it already was.	The rule replaces the older rule under which only foreign donations in excess of Rs. 1 crore were to be notified at the end of the year.
2.	Require banks to disclose information regarding the entry of foreign funds for NGOs in India within 48 hours.	Earlier, banks were only mandated to disclose details of contributions in excess of Rs. 1 crore, within 30 days.
3.	It provides for new forms for registration, renewal of registration and disclosure of receipt of foreign funds, which need to be filled and uploaded on government portals. A declaration is to be attached with these forms by NGOs stating that foreign funds received will not be used for activities detrimental to national interest or prejudicial to the state's "security, scientific, strategic or economic interest."	

to court for protection are actions against democratic principles. That in itself is against the 'national interest'.

Laws governing NGOs

Primarily, India's NGOs are divided into three segments societies, trusts and charitable companies. Societies are either registered under the Centre's Societies Registration Act, 1860, or a state government's version of the law. While private trusts are registered under the central government's Indian Trusts Act, 1882, public ones are registered under the state legislation concerned. And charitable companies are set up according to section 8 of the Companies Act, 2013.

Formation and registration of NGOs, either as trusts or societies, do not involve a lot of complexities. Small NGOs, too, are able to register themselves without any professional help under these Acts. However, registration as a section 8 company under the Companies Act, 2013, is more complex and time-consuming. For charitable companies, compliance requirements are high, as loans and advances are easily available to a charitable company, compared to a trust or a society. All such NGOs come under the purview of the Income Tax Act, 1961. While societies or trusts are liable to get their income (donation) exempted from tax, a charitable company has to pay taxes, according to the profits shown in its balance sheet.

According to the FCRA, any NGO that accepts foreign contribution has to register with the central government. Such contributions can only be accepted through designated banks. Further, the NGO has to report to the central government any foreign contribution within 30 days of its receipt, in addition to filing annual reports with the home ministry. It must also report the amount of foreign contribution, its source, how it was received, the purpose for which it was intended, and the manner in which it was utilised. In case of non-compliance with provisions of the FCRA, the government can penalise an NGO and, subsequently, suspend or cancel its licence. If these NGOs don't file annual returns, the government can issue a show-cause notice and, subsequently, suspend or cancel their foreign funding licences, as it deems fit.

Many NGOs don't have sophisticated finance and legal teams, nor do they have the funds to conduct audits. Of the 42,000 organisations registered under FCRA, about 10,000 hadn't filed mandatory financial returns (Form FC-6) for the years 2009-10, 2010-11 and 2011-12, as of October 1, 2014. Section 18 (rule 17) of the FCRA clearly mandates the filing of returns in Form FC-6, duly accompanied with the balance sheet and statement of receipt and payment, certified by a chartered accountant.

Penalties for non-submission of annual returns aren't harsh enough. Moreover, there is a complete absence of provisions or checks to see whether contributions to NGOs actually reach the intended beneficiaries. The government should run a strong awareness campaign on various aspects of the FCRA, akin to those for the income tax or service tax laws. This campaign has to run along with any strict action that the government takes for non-compliance.

III. ANALYSIS OF FCRA ACT, 2010

Recent amendments to the Foreign Contribution (Regulation) Act bring with it the good as well as bad aspects in terms of

increase in compliance requirements.

Good

- Charitable organizations will be allowed to maintain multiple bank accounts for management and utilization of FCRA funds provided only one bank account is maintained for receiving all foreign contribution.
- Both, 'Registration' and 'Prior Permission' shall be granted or rejected within a period of 90 days from the date of receipt of application. Currently this time frame is stipulated only for applications for Prior Permission.
- Presently foreign contribution cannot be transferred to organizations which are not registered nor have prior permission under FCRA. FCRA 2010 will now allow such transfer with 'Prior Approval'. However, the rules in this regard are yet to be framed.

Bad

- Under FCRA 2010, 'Foreign Company' is defined and under the definition given u/s 2(g), Indian companies are not included. However, u/s 2(j) 'foreign source' includes an Indian company if more than 50% of its equity is held by foreigners.
- The definition of 'foreign contribution' includes various types of foreign receipts. It does not distinguish between commercial receipts and voluntary contributions. In fact, Explanation 3 to section 2(h) excludes income from business, trade or commerce. This section states that any fee or cost against business, trade or commerce shall not be considered as foreign contribution. In other words, such receipts can be treated as local income. However this provision is in conflict with the amended section 2(15) of the Income Tax Act which prohibits trade or business related receipts above Rs.10 lakhs. NGO are therefore urged to exercise caution.
- Section 3 specifies persons who are ineligible to receive foreign contribution. To the existing list a few more have been added. Of particular concern is the inclusion of, "Organization of a political nature". The term 'Political Nature' has not been defined.

Ugly

- Section 8 states that the administrative expenses shall not exceed 50% and any expenditure of administrative nature in excess of 50% shall be defrayed with prior approval of the

Central Government.

- Registration under FCRA will require renewal every 5 years. However, the Act has provided relief to all the existing NGOs for the first 5 years from the date of enactment. In other words, all existing NGOs will be required to renew their registration at the end of the period of 5 years from the date of enactment of FCRA 2010. According to Section 16 of the proposed Act, all NGOs should apply for renewal of the certificate within 6 months prior to the expiry of the 5 years period.
- It requires any NGOs receiving foreign funds to register themselves and to report the receipt of such funds on its website or a government prescribed website within 7 days, making the task of running an NGO in India even more difficult than it already was.
- Require banks to disclose information regarding the entry of foreign funds for NGOs in India within 48 hours.
- It provides for new forms for registration, renewal of registration and disclosure of receipt of foreign funds, which need to be filled and uploaded on government portals. A declaration is to be attached with these forms by NGOs stating that foreign funds received will not be used for activities detrimental to national interest or prejudicial to the state's "security, scientific, strategic or economic interest."
- NGOs will have to reveal the details of their social media accounts, and disclose whether their office bearers are part of other NGOs, to help in profiling them.
- Sweeping powers have been given to the authorities for rejecting applications for prior permission or registration. Take for example, under Section 12, "the applicant should not have been prosecuted or convicted for indulging in activities aimed at conversion or creating communal tension". Inclusion of the term 'prosecuted' is of tremendous concern since it implies that even if there is a false or frivolous legal proceeding going on registration could be denied.
- FCRA Registration may be cancelled for various reasons including lack of activity for a period of 2 years. Currently NGOs have been enjoying the benefit of keeping their registered status alive by simply filing 'Nil' returns despite not receiving or utilizing foreign funds for many years.
- Also, any organization whose FCRA certificate has been cancelled / revoked shall not be eligible for registration or prior permission for a period of 3 years from the date of cancellation.
- FCRA 2010 further provides that after cancellation of registration certificate, all the foreign contribution and assets thereof (created since the inception of the organization) shall vest with such authority as may be prescribed. The government authorities shall take charge of the foreign contribution and the FC assets till the registration is restored.

IV. CASES OF NGOs DEALING WITH INFRINGEMENT OF FCRA

Foreign Contribution (Regulation) Act, 2010, (FCRA) and Foreign Contribution (Regulation) Rules, 2011, came into force from May 1, 2011. Since then, notices were issued to around 21,000 associations in 2011 and 10,343 associations in 2014 for not filing annual returns continuously for three years. Consequently, registration of 4,138 associations was cancelled in July, 2012, and 10,118 in March, 2015 after issuance of show-cause notices to such associations and giving them adequate opportunity, as per the Home Minister, Kiren Rijiju.

In 2014, penalty amounting to Rs 5.20 crore has been imposed on 341 associations for late/non-submission of mandatory annual returns and of Rs 51.99 lakh on 24 associations for receipt and utilisation of foreign contribution without obtaining registration of prior permission under the FCRA. Consequently, registration of 4,138 associations was cancelled in July, 2012, and 10,118 in March, 2015, after issuance of show-cause notices to such associations and giving them adequate opportunity, as per the minister's statement.

- Teesta Setalvad's NGO: FCRA violation case:** The Central Bureau of Investigation (CBI) claims Teesta's Sabrang Communications & Publishing Pvt Ltd (SCPPL) received "foreign contribution" of US\$ 2.9 lakh (nearly Rs. 1.8 crore) from US-based Ford Foundation. These funds were allegedly received and spent in contrast to provisions of FCRA norms.

Facts of the case: CBI had on July 8, 2015 registered a case against Setalvad and Anand alleging that her firm SCPPL had received around US \$2.90 lakh in foreign donations, violating FCRA provisions. According to the agency, SCPPL was not registered under FCRA for collecting money from abroad and the amount of US \$2.90 lakh was, therefore, received in violation of the Act as the organisation needed to seek prior approval from the Union Home Ministry.

Further, foreign funds received by the couple in their two trusts -- Citizens for Justice and Peace and Sabrang Trust-- were frequently transferred to SCPPL also in complete violation of FCRA norms. The agency said the high court ought to have considered that they have "surreptitiously" mixed foreign contribution with their domestic funds and committed offence under the law.

Under the scanner are two contracts entered between Sabrang Communications and Ford Foundation in April 2004 and September 2006. The agency need to quiz Ford Foundation representatives to know what prompted them to make a grant to Teesta's firm and why foreign contribution was made to firm not registered under FCRA. On questioning, Teesta revealed that there was no exclusive book of accounts for foreign contributions received and utilised maintained by her and funds were utilised towards publication of a periodical 'Communalism Combat' in which the two directors even contributed as columnists, which is in sharp contrast to the FCRA norms.

Javed Anand, Teesta's husband, however, refuted the CBI's contention claiming that Sabrang Communications and Ford Foundation were consultancy contracts and therefore did not fall under the purview of FCRA and therefore the said amount was actually consultancy fees paid by Ford Foundation. He clarified that the "money diverted" from Sabrang Trust and CJP to the SCPPL was for the purpose of reimbursement of shared expenses. In 2002, when the CJP was formed, upon a request from the trustee of CJP, SPCCCL agreed for a shared expenses towards reimbursements that were made time to time by SCPPL. It is ridiculous to allege that reimbursement of shared expense amounts to diversion of funds.

- Lawyers Collective, an NGO- Violation under FCRA for utilization of funds:** Lawyers Collective, a public interest NGO

working in the areas of human rights, legal aid and litigation to provide expert legal assistance to the underprivileged, especially women and children, workers in the unorganised sector and other members of marginalised groups.

Facts of the case: Lawyers Collective received foreign contribution of Rs 32 crore between 2006 and 2014. The MHA inspection team found that a large part of the money was spent on activities which were outside the list of items for which it had been collected. Paying volunteers to organise dharnas, receiving foreign contributions while working for the government, sending foreign donations outside India, spending foreign money to lobby with parliamentarians are some of the main violations of FCRA.

Rs 88,978 was paid to Delhi Network of Positive People on October 21, 2009 for paying 250 people for holding a dharna outside the Law Ministry. They were paid Rs 200 each for food and conveyance to stage a protest for the HIV/AIDS Bill. To hold paid dharnas by utilising foreign contribution is a violation of Section 8 of the FCRA, 2010.

A large amount of foreign contribution was spent on air travel, board and lodging of Indira Jaising's husband Anand Grover and other members of Lawyers Collective for draft legislation meetings and advocacy with MPs. Rs. 13 lakh was spent on media and advocacy with 67 MPs in April 2010 and 99 MPs in August 2010. The utilisation of Foreign Contribution for advocacy indulging in lobbying with MPs and thereby influencing the political process and parliamentary institutions is in clear violation of the letter and spirit of the FCRA Act. Section 3 of the FCRA clearly prohibits acceptance of foreign contribution by any member of any party so that parliamentary institutions are not influenced in any manner.

A large sum of foreign contribution was used by Lawyers Collective for air travel and other expenses to attend conferences and charity dinners in different parts of the world. This is a violation of Section 7 of the FCRA as there is no provision for using money received from abroad outside India as per the inspection report of Ministry of Home Affairs.

iii. **Greenpeace India:** In April 2015, the MHA suspended registration of the NGO saying it had violated norms by opening five accounts to use foreign donations without informing the authorities concerned. On MHA directions, the IDBI, ICICI and Yes Bank had frozen the NGO's accounts.

Facts of the Case: The ministry of home affairs claimed that Greenpeace had violated FCRA by mixing its foreign and domestic contributions. The affidavit has been filed in a plea moved by the NGO challenging the suspension of its FCRA registration and freezing of its foreign and domestic contribution accounts. Greenpeace India then moved an application challenging the "arbitrary decision" of the MHA and was granted relief on May 27 by the court which allowed it to use two of its accounts for receiving and utilising fresh domestic donations for day-to-day functioning. The court had on 27 May, 2015 allowed Greenpeace to use two of its accounts for the purpose of receiving and utilizing fresh domestic donations for its day-to-day functioning. It also allowed the NGO to liquidate its fixed deposits, saying these and fresh donations should be used for its aims and objectives, and in accordance with law.

iv. **Kerala Catholic Charismatic Renewal Services (KCCRS) under Catholic NGO:** The Union Home Ministry has cancelled the permission granted to an organisation under the Catholic Church in Kerala to collect foreign contributions after a probe found that it violated rules.

Facts of the case: KCCRS was found to have transferred "almost the entire" foreign contribution, ie. Rs 34,19,944 it received between May 2008 and February 2012 to another organisation "Jeevana Samridhi", in Ernakulam district. "Jeevana Samridhi" is neither registered under Foreign Contribution (Regulation) Act (FCRA) nor received prior permission for receiving such money. The Kerala Catholic Bishop's Council (KCBC), the apex body of Catholic Church in the state, recognises the KCCRS.

The organisation did not file the mandatory annual returns for 2006-07 and 2008-09 besides failing to furnish documents for 2012-13 within prescribed period. It had also "not maintained proper vouchers" for cash payments. Its FCRA registration was suspended on July 31, 2014.

v. **Open Society Foundations: US NGO:** Open Society Foundation (OSF) promoted by US billionaire George Soros donates to NGOs working in the realms of media, rights and justice, and education. It allegedly donated money to unregistered organisations and recipients were asked to work for religious conversion, climate change, democratic rights, etc. FCRA states donors can no longer send money directly to unregistered firms without obtaining prior clearance from Home Ministry. The OSF was active participant in "protests and rallies of anti-national nature".

vi. **World Movement for Democracy:** The US-based NGO working closely with civil society donated money to Indian unregistered NGOs under FCRA.

vii. **National Endowment for Democracy:** A US-based non-profit foundation dedicated to the growth and strengthening of democratic institutions around the world has donated to Indian NGOs not registered under the FCRA Act.

V. NUMBERING OF FOREIGN FUNDING INTO INDIA

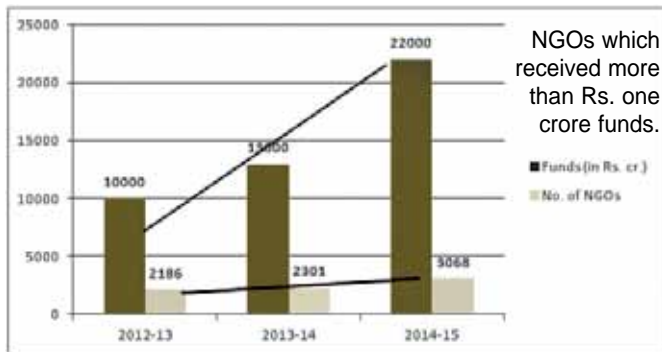
At present a total of 33,346 associations are registered under FCRA and 12,980 crore have been received in year 2013-14 under FCRA. Foreign funding for Indian non-governmental organisations (NGOs) doubled in 2014-15 to Rs 22,137 crore (\$ 3.4 billion) compared to Rs 12,000 crore (\$ 1.8 billion) in 2013-14, but with 10,000 NGO registrations cancelled in 2015, foreign contributions are likely to drop this fiscal.

Delhi, Tamil Nadu, Andhra Pradesh (unified), Karnataka and Kerala together got 65 per cent of foreign aid coming to India. Of Rs 45,300 crore (\$7 billion) in foreign funding to Indian NGOs over four years from 2011-12 to 2014-15, Rs 29,000 crore (\$ 4.5 billion) was received by organisations in the national capital and these four (five after Telangana) states. Organisations in Delhi received Rs 10,500 crore (\$ 1.6 billion), while each of the five states received close to Rs 5,000 crore (\$770 million) over the past four years.

India receives foreign contributions from 165 countries, of roughly 200 countries identified by the World Bank. Health, education and child-welfare together received Rs 4,500 crore (\$ 690 million) of the Rs 12,000 crore received in 2011-12, according to the analysis of

the latest 2011-12 annual report of the Foreign Contribution (Regulation) Act while NGOs associated with religious activities collected Rs 870 crore, NGOs with research activities got Rs 539 crore in 2011-12.

Foreign Funding of NGOs raised in 2014-15



A total of 3,068 non-governmental organisations (NGOs) received foreign funding above Rs. 22,000 crore in 2014-15. The NGOs (in figure) reported receiving more than Rs. 1 crore from foreign donors. This amount was 83.3 per cent (nearly double) more than Rs. 12,000 crore received by 2,301 such NGOs during 2013-14. In fact, 80 per cent of this funding went to NGOs based in seven States — Delhi, Andhra Pradesh, Maharashtra, Kerala, Tamil Nadu, Karnataka and West Bengal.

In second half of 2015, the Indian government cancelled registrations of more than 10,000 NGOs across the country.

The union government alleged that due to not filing of annual returns for the financial years 2009-2010, 2010-11 and 2011-12, the government had cancelled the registration of these NGOs in 2015. Most number of registrations were cancelled from state of Andhra Pradesh (1,420), followed by Uttar Pradesh (1,147) and Tamil Nadu (10,068).

The most prominent of the cancellations was Greenpeace, an organisation that campaigns to protect the environment, whose licence was cancelled by the Ministry of Home Affairs (MHA) on September 3, 2015.

Impact on Indian Economy

- I. Although the amount of foreign funding is on rise, but the serious question that these numbers (cancellation of 10,000 license) raise is the effect that the reduced foreign funding will have on philanthropic work and social welfare in India. NGOs have a long history of being development partners of the state and the government's decision to restrict their finances could have a serious impact upon the work done as well as increase their dependence upon the state.
- II. **Impact on CSR Contribution:** FCRA norms may hurt CSR contributions of Indian companies with large foreign shareholding. To carry out CSR programmes, companies work with or pay NGOs, schools or hospitals. Some like Infosys, HDFC, ICICI and Hindustan Lever have started their own foundations. Under the Foreign Contribution (Regulation) Act 2010, companies with over 50% foreign shareholding can make donations only to NGOs that have obtained FCRA clearance. This applies to donations by such companies even to their own foundation.

As the ministry of home affairs tightens the noose on FCRA compliance this year (2015), NGOs might not be the only victims of the law's blurriness and inherent suspicion of any foreign source of funds. Companies with large foreign shareholding may also suffer, and in turn the social work many communities count on them to fund.

FCRA is complex, and especially so for publicly held companies whose shareholding pattern varies by the day. Under FCRA, any entity with over 50% investment from foreigners, PIOs, OCIs, foreign companies or FIIs is considered a foreign source. FCRA's applicability depends on the way CSR is implemented. If a foreign source company pays NGOs to do charitable work, the NGO must have FCRA permission. If the company works directly with beneficiaries, then no FCRA is required. The most common way in which CSR is administered in India, however, is through the company's own foundation or trust. These trusts should get FCRA registration before accepting any grant or donation from the mother company. If the foundation contracts another NGO, the latter should have FCRA registration or prior permission. Secondly, the CSR grant and the interest on these funds will be foreign contribution. All the usual FCRA restrictions come into play. These funds cannot be given to political parties, media, and government officers. FCRA does not cover use of facilities without charge, or volunteering. It also leaves out some receivers such as hospitals. The Companies Act may mandate social responsibility, but the FCRA curtails it, affecting companies, NGOs that seek corporate funding, and social initiatives across the board, and thereby the foreign contribution in the Economy.

III. **Funds accepted for prohibited activities:** Cancellation of NGO licenses are due to accepting funds for "prohibited activities", which include funding legal costs of bail, writ petitions of Indian NGOs and their activists, and undisclosed payment of salaries by foreign NGOs to foreign activists having negative impact on economic growth. The incidence being of the Islamic Research Foundation, an NGO run by Salafist preacher Zakir Naik, facing a ban under Unlawful Activities Prevention Act (UAPA), who influenced as many as 50 youth from different Countries to join global terror outfit, Islamic State through his speeches, creating prejudice regarding other religions by telling how other religions holy books and its beliefs are wrong.

IV. **Impact on Swachh Bharat Abhiyan:** MHA has allowed exemption to the Swachh Bharat Mission from the FCRA, 2010 for accepting foreign contribution in cash or kind from foreign corporates, NGOs and PSUs. With an aim to bring one more activity under CSR activity, this will also attract more aid for the Swachh Bharat (Gramin) Project brought by PM in 2014 in its 2019 target of building 12 crore toilets in rural India. This will be a source of another foreign contribution to the Country.

VI. SUGGESTIONS TO STAKEHOLDERS (Including Regulators, NGOs, Govt, Professionals, Indian Citizens)

Although in 2015, the home ministry simplified the Foreign Contribution Regulation Rules making it easier for NGOs to file their returns online, reducing human interface to zero, the report of Central Bureau of Investigation before the Supreme Court showed that less than 10% of the 29-lakh registered NGOs across



the country file their annual income and expenditure statements. The amendments also increased the compliance requirements while imposing heavy penalties in case of non-compliance. Also, in order to keep a check on the funding of NGOs, organisations receiving more than Rs.one crore as government grant and donations above Rs 10 lakh from abroad have been brought under the ambit of the Lokpal as under the new rules, office bearers of such NGOs will be treated as “public servants” and charged under the anticorruption law in case of irregularities.

i. Suggestions to Govt. & Indian Citizens:

- There is a complete absence of provisions or checks to see whether contributions to NGOs actually reach the intended beneficiaries. Govt. should run strong awareness campaigns for small NGOs who do not have sufficient legal funds to hire professionals to make them aware of compliance provisions of FCRA Act, the income tax and service tax laws.
- Supreme Court has admitted a petition saying that India’s two major political parties, the BJP and the Congress receive illegal foreign funding and like other major democracies, India doesn’t permit political parties to receive foreign donations, but no notice has been issued to them by the Govt. Following this, we see a trend where Govt. officers and elected representatives, political and some religious organisations and affiliates are protected but others are harassed.
- All Indian Citizens and Govt. are accountable to find a balance between religious freedom and its misuse, accepting funds from overseas to aid in the economy, but not for civil society, people’s interest and corporate interests. Both are responsible to build a trust between different ideas of India to help save both from harassment.
- For a handful of NGOs who may be doing something wrong, about 13,000 are completely paralysed. Hence, it would be more honest and important that the Government of India bans foreign funding of our NGOs. We are no more the “white man’s burden.”

ii. Suggestions to Indian NGOs:

- The users do not have the full picture of the financing (sources and uses of funds) of the entire spectrum of NGOs since only 10% of registered NGOs disclose their annual accounts. Also, they are not part of the Government and hence Comptroller and Auditor General of India do not audit their accounts. They are also not covered by the Right to Information Act since they are not part of the Government.

Many do not have any information on their websites. It will be appropriate that all NGOs insist that they be covered under the Right to Information Act, even though as of now it is not applicable to those who do not receive funds from the Government.

- Seeing the increase in number of NGO license cancelled by the Home Ministry due to non-compliant FCRA norms, it is all the more important that Indian NGOs are financed by Indian sources to prevent them from propagating global agenda. Indian NGOs should access funds from domestic sources and there are millions of charity minded Indians. It is not required for Europeans or Americans to send money for our NGOs who spend it on establishment expenses and conversion propaganda to fill up the statistical “Soul harvesting” exercise of foreign Evangelical groups.
- To enhance their credibility, NGO needs to publish their sources and uses of funds voluntarily on their websites, including the break-up of administrative and other expenses. This insistence will go a long way in establishing their credentials as real believers in transparency and Right to Information.

iii. Suggestions to Regulators:

- Many international donors and several NGOs from Europe and the US are registered under FEMA and using their liaison offices in India to disburse funds to NGOs in India in violation of FCRA norms. Since FEMA is regulated by finance ministry, MHA is unable to monitor the flow of funds effectively and take action against them. The finance ministry should stop registering NGOs under FEMA so that there is only one custodian, an ‘umbrella legislation’ being the MHA to monitor flow of foreign funds to these organisations.

iv. Suggestions to Professionals:

- The figures disclosing the number of cancellations of registered NGO licenses due to misutilisation of funds and accepting funds for ‘prohibited activities’, non-filing of annual returns, all remind the responsibility of professionals including Chartered Accountants, Company Secretaries, etc. who have defaulted in performing their part of duty and in guiding the registered NGOs of the compliance provisions under the Act. Since professionals are trained to handle compliances under every law, their role can reduce the number of registered NGOs coming under MHA scrutiny.

CONCLUSION

Although recent amendments allowed charitable organizations to maintain multiple bank accounts for management and utilization of FCRA funds, it will bring down the receipts of foreign funding into India by cancellation of 10,118 registered associations in March 2015 and tightening the FCRA norms. Many NGOs didn’t have sophisticated finance and legal terms nor have funds to conduct audits. Government should run a strong awareness campaign on various aspects of FCRA akin to those for Income Tax and Service Tax laws. The serious questions these numbers raise is the effect that reduced foreign funding will have on philanthropic work and social welfare in India. CS

REFERENCES

- <http://www.mha.nic.in/fcra.htm>, Ministry of Home Affairs – Foreigners Division, FCRA wing
- *Financial Express, Economic Times, the business newspapers*
- *Right to Information Act*

Option Pricing in Valuation of Business Entities



K S Ravi

Chartered Accountant
Ravi & Shrihari Chartered Accountants
Bengaluru

ksravi121@gmail.com

REAL OPTION AN INTRODUCTION

Stewart Mayers should be given the credit for inventing the 'Real Options Model (1977)', which was primarily used in valuing investments in volatile environments both economic or otherwise. This model determines the managerial flexibility values, embedded in investment opportunities. Though theoretically we may build models, real life situations are dynamic and unpredictable. Option Pricing or the Real Option Model provides a systematic approach in valuing financial asset, which can be extended in valuing projects and businesses.

The existing methodologies of valuations like the EPS, EBITDA or the DCF do not adequately address the true value of an intangible, which is dependent on the 'value in use' to the bidder. The real option model provides some flexibility to the managers to measure the value of intellectual property/knowledge assets and to exercise call or put option as they go along, depending on its yield.

PRESENT STATUS OF INTANGIBLE VALUATION

When one looks at intangible assets, it is a matter of great concern that either the historical cost convention model or the fair valuation model fail to value them as required, on account of uncertainties, and they do not clearly demonstrate the future potential of business entities. It may so happen, that the managements fail to realize that the intangible components in business may far outweigh the tangible portion and is often not realized until there is a credible database to support it.

Since most intangibles are created and grow with business trajectory, their presence and impact remain out of focus as they are not part of figures in the financial statements. It has been agreed that valuations of intellectual capital and its future potential are often reflected in the stock market prices, but this would be true only if the valuation is not skewed by speculation and other inefficiencies that normally rule the market. Again, any valuation based on market prices, is not an effective scientific tool to depend upon in investment decisions. Further, unquoted entities may have to depend on other methods where market valuations are absent. The question that then arises is whether intangibles should form part of financial statements, if so how? This then brings us to the shores of reliable intellectual property valuation or the core competency valuation that have the energy for better cash flows for the business entity.

If we look at the existing models that are in vogue, we broadly have the Value Measurement model and the Financial Valuation model to reckon with.

Value Measurement Model: This has two distinct steps to be considered to measure the value of an asset. The first is the identification of all the assets that are to be measured. Structuring them in the order of importance. Having identified them, the next step is to establish relationships between them and allowing them to be nurtured to ensure performance superiority among the benchmarked peers. There have been several studies and attempts in this direction like the Balanced Scorecard and Intellectual Capital Benchmarking System that have contributed to the developments in this field.

Financial Valuation of Intangibles: Traditionally, intangible's valuation takes up five methods (including the two variants of the income approach) for determining its worth. The market approach, the income approach, relief from royalty approach, the technology factor

approach and the cost approach.

Market Approach: In this approach one tries to find a comparable market based transaction, which is identical or substantially similar, and exchanged at arm's length. Adjustments are made for significant dissimilarities, if any. It is easier said than done, as it is often hard to obtain transactions of a similar nature. Also, influencing factors such as geography, bankruptcy, industrial sickness, liquidity issues, etc., play a major role in harmonising the intangible value. In spite of many of the above-mentioned hurdles and although difficult to come across intangible assets transactions of a similar nature, it is not impossible to identify a few, to make necessary adjustments for its acceptability. It is agreed that an active market may not exist for the intangibles, may not be traded frequently and may differ from others due to their uniqueness. However, it has been established that the market approach of valuing intangibles is practical, more logical and can be applied to all types of intangibles based on the market information.

Income Approach: The asset is worth the present value of future economic benefits. It takes into consideration the projection of the future income/ net cash flow that goes to the benefit of the owner. This requires the quantum of flow to be estimated along with the number of years, the assets will keep yielding. Further, one has also to consider the risks associated with the volume and timeframe while the model is being put to use.

Discounted Cash Flow: In general, the Discounted Cash Flow (DCF) model works on the following parameters:

- Income stream into the future;
- Number of years the income stream is likely to exist; and
- Risks associated with the generation of income stream.

The formula for determining the Net Present Value (NPV) of a stream of cash flows of future years is as depicted below:

$$NPV = \sum_{t=0}^N \frac{C_t}{(1+r)^t} - I$$

Where:

- t – is the time of cash flows
- N – total time of cash flows
- r – discount rate
- C – cash flow at that point in time
- I – initial investment

Internal Rate of Return (IRR) is the rate when NPV = 0. NPV > 0 is desirable. Higher the IRR greater would be its desirability.

A word of caution that may be required here is that the cash flow from the intangible asset, or the cash flow as a cause from the intangible asset, has to be appropriately segregated from the overall income flow of the business, if overall NPV of the business is determined.

Income forecast is an estimate that depends on the geography, economic environment, market competition, availability of substitutes, etc. Length of the forecast period (5, 10, 15, ...) again depends upon how long the intangible asset will continue to remain in use requiring conservative estimate of its useful life. The third parameter delves into the aspect of risk associated in generating



future income. As we all know that business has to confront risks such as market risk, specific industry risk, operational risk and economic risk, which are inherent, are factored into what is called as the discount rate.

Discount rate is important in determining the present value of future cash flows, which is factored in the rate of return depending upon different situations of risk, elements of inflation, etc. This discounted cash flow tells us how much a sum of money is worth today, given a specified rate of return. When the discount rate is adjusted to reflect risk, the rate has to obviously increase. The greater the discount rate the lower is the present value. Normally, the Weighted Average Cost of Capital (WACC) or the Capital Asset Pricing Model (CAPM) rates are used in arriving at an appropriate rate for discounting the cash flows.

Weighted Average Cost of Capital, is the minimum rate at which a firm must earn on its assets to satisfy its creditors and owners.

$$WACC = (E/F) * Ce + (D/F) * Cd (1- Tx)$$

- E = Market value of Firm's Equity
- D = Market value of firm's Debt
- Ce = Cost of Equity
- Cd = Cost of Debt
- Tx = Tax Rate

Under **Capital Asset Pricing Model (CAPM)**, the effort is towards determining and applying the appropriate rate for the discount rate in DCF method in arriving at the net present value of future cash flows. The expected return from an asset or a portfolio, equals the rate of return from investment in risk free asset plus risk premium. Analytically, it can be represented as follows:

Expected Return = Riskless Return + Beta (Expected market return – Risk Premium)

$$Re = Rf + \beta (Rm - Rf)$$

- Re = The expected return rate (Risk – Adjusted Discount Rate)
- Rf = Rate of risk free investment
- Rm = Return rate of market benchmark
- β = Sensitivity of return from assets to market returns.

A variant of DCF method is the '**Relief from Royalty Approach**', which deals with determining the relief of royalty value payable on



the intangible asset, if hired. Present value of future payments is worked out and compared with the benefits of owning or acquiring the intangible asset. Accuracy in valuation will depend upon the royalty rate used for discounting. Since this method uses royalty rates that simulate market place transactions and mimic revenue forecast model (DCF), it is often considered a combination of Income Approach and Market Approach.

Yet another variant of the DCF method is the '**Technology Factor Approach**', which opens a window for determining the market value of the business based on 'value in use' of the underlying technology.

Future cash flows using the technology is estimated based on its use. Present value is calculated using a suitable discount factor. This approach considers the maximum contribution that the technology can make to the business cash flows. It is further analysed to make adjustments for scaling the percentage down, if required, to make it more conservative and acceptable. The resulting technology factor is then multiplied by the net present value of the concerned business to calculate the value of technology. This method is more suitable and effective when the intangible is to be licensed or the technology is crucial in a given set of operations.

The last method is the **Cost Approach**, which determines the value of the intangible based on the premise that a knowledgeable and prudent purchaser would pay exactly for the asset not more than what it would cost to replace it. It would be the fair value of the asset that is determined by working out the replacement cost after considering depreciation for the number of years it has already worked. However, this is not favourable when we are dealing with intangibles. We all know that intangibles can swing the fortunes on either side by performing extremely well or may encounter failures beyond recognition. All these are not captured under historical cost measurement concept or under the cost approach.

The concept of replacement/substitution often ignores the amount, timing and duration of future economic benefits. Therefore, they are best suited in valuing assembled workforce, drawings, designs and internally developed software, where cash flows are not significant. However, when cash generating intangible assets are considered, the model fails and other approaches have to be attempted.

REAL OPTION MODEL AN ALTERNATIVE

We all know that knowledge and service industries have created

and are creating a significant impact on the economic environment across the world. While the physical and monetary assets and liabilities have been fairly defined both under the historical cost convention and fair valuation methods, the measurement of knowledge and intellectual capital seems to be elusive, in spite of some traditional methods to value them. The traditional methods, as discussed above, may have provided a yardstick but have not been able to capture the nuances associated with the intellectual capital. The real option model provides some flexibility to the managers to measure the value of the intellectual property and to exercise call or put option as they go along, depending on its yield.

In order to confront and survive or sustain challenges, companies can no longer ignore the knowledge capital. Either investments are made internally, or, intellectual assets are acquired to continue doing business. It is often seen that so long as such investments are within the risk appetite of the entity, the entity survives a disaster. But if it has overstepped the threshold on account of overvaluation, it obviously would lead the entity to its gallows. Be that as it may, large companies can no longer ignore the importance of investment into knowledge capital in spite of the valuation tools not being adequately sharp. The existing methodologies like the EPS, EBITDA or the DCF do not adequately address the true value of an intangible based on the 'value in use' to the bidder. It is abundantly clear that in spite of sophistications embedded in the DCF, the future is erratic and dynamic to hold on to the predicted or the projected figures, however conservative they may have been. It is in situations like this, that real option model provides a fair degree of flexibility for the managements to consume time before a call option is made on the investment or a final decision is taken. It is merely an extension of the financial option.

FINANCIAL OPTIONS

A financial option is a derivative instrument whose value depends on volatility of the underlying financial instrument or a security from which it is derived. These options are a right, but not an obligation to subscribe for the underlying financial asset at a fixed price over a specified time period. The pre-determined price is called the exercise or the strike price and the last date of the time period is the expiry date. Buying it, is the call option and selling it is the put option as has already been detailed above. The European options have to be necessarily exercised on the maturity date, while the American options can be exercised on any date before the expiry.

ADVANTAGES OF REAL OPTION AGAINST EXISTING ALTERNATIVES

But in the real options, the decisions are concerned with capital budgeting and resource allocation, bringing in the call options and put options depending on the risks and probable opportunities associated with them. Very many examples exist in the real world and some of them include large R & D Projects, opportunities of extracting mineral resources, real estate investments and acquiring or developing intangibles. Unlike the financial options, there is no ready market information as they are not readily traded and are unique in their own respect. The market for such options are neither matured nor efficient to follow the course of financial options. Since real options are contingent upon many uncertainties, they are often termed as compound real options.

The static DCF Model often fails when large R & D Projects are being conceived. Prediction of future cash flows often fails when the projects are large and a host of uncertainties encompass a

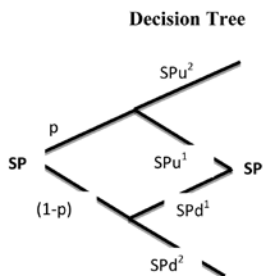
proposal. The NPV methodologies are deterministic and static and therefore less useful when circumstances change. They are deterministic in the sense that they do not factor for the probability of a range of outcomes, and static for the reason that once a strategy has been adopted there is less likelihood of changing paths after acquisition or after execution has started. Extraction of mineral or mineral oils is one such example of how cash flows remain obscure until there is considerable progress in the execution of the project. Whether to continue the project or to cut short the loss will become clear when sufficient investments have already been made. It is in situations like these, that real options play a vital role not only for staggered investments but also for valuing the resource or the intangible with prospects of good cash flows with a long gestation. Obviously, the value of future growth options based on present investments have a significant impact on company's valuation or will create an intangible value for companies that are not quoted in the public market.

In a real option scenario, managers desist in making allocation of resources on projects to its full potential as there is no assurance to its success rate. Mostly they are staggered, or, small investments are made on pilot projects to study the impact. Based on the impact study, decisions are taken whether to abandon the project altogether or go full stream as it has the potential of generating expected cash flows. If the project is conceived as one having the desired potential, the valuation of the company accelerates which the DCF Model fails to capture.

MATHEMATICAL MODELS SUPPORTING REAL OPTION DECISIONS

There are two mathematical models that support the valuation of option pricing or the real option opportunities for the managers. They are the Binomial method and the Black-Scholes option pricing formula, while the former uses the discrete time approach the later uses the continuous time approach. The Binomial option pricing model assumes a perfectly efficient market and therefore identifies points and nodes in the timeframe from the start to the expiry date. A decision tree is developed with nodes, resulting in an increase or decrease in values associated at each nodal point. Another assumption that is made in the Binomial is that it is traded in a market that presents no arbitrage opportunities and therefore remains risk neutral.

The probabilistic payoffs determined at each node are then discounted to arrive at the present value. This then provides the real option pricing on an investment that have uncertainties in future cash flows.



SP = Strike Price

SPu¹ = Strike Price on the up-swing with probability "p"

SPd¹ = Strike Price on the down swing with probability "(1-p)"

SPu² = Strike Price on the up-swing with probability "p" at the second node deriving its strength from SPu¹

SPd² = Strike Price on the down swing with probability "(1-p)" at the second node deriving its strength from SPd¹

The Black-Scholes formula is a little more intricate than the Binomial model and requires detailed mathematical calculation to arrive at results. This article makes no effort in going into the nuances of these models except for bringing home the fact that there are well laid out methods for scientifically calculating the values under option pricing alternative. When the time period or the nodes of the binomial model gets closer and closer, the discrete time periods become continuous and the model fits the requirements of the Black-Scholes model which is more reliable in terms of the output value. It is a function of 5 variables-

$$SN(d_1) - K e^{-rt} N(d_2)$$

$$\text{Where: } d_1 = \log\left(\frac{S}{K}\right) + (r + \frac{\sigma^2}{2})t$$

$$d_2 = d_1 - \sigma\sqrt{t}$$

S – Current value of the underlying asset

K – Strike price of the option

t – Life to expiration of the option

r – Riskless interest rate

σ^2 -Variance in log (value of the underlying asset)

e^{-rt} is the present value factor and shows that the exercise price on call option does not have to be paid until expiration. $N(d_1)$ and $N(d_2)$ are probabilities, estimated by using a cumulative standard normal distribution, while the values of d_1 and d_2 are obtained from an option.

IMPORTANCE OF REAL OPTION IN MINING PROJECTS

If we want to understand the core aspect of real option, we may look upon the example of two finance professors, Michael Brennan and Eduardo Schwartz, who have demonstrated the importance of real option strategy by way of an example of rights on a gold mine. A firm had the option, but no legal obligation, to exploit a gold mine. Being assured of gold deposits in the mine, the firm had to decide whether to make investments in mining it. It was not merely the volume of deposits alone that was important but it also depended upon the price of gold in future and what investments it would take to exploit it. Obviously, cost and benefits had to be weighed before making the investment. The problem being stochastic in nature, the decision of valuing it could not be taken based on the simple DCF methodology. To overcome this difficulty, the professors assumed the cost of mining to be 'X' and the probabilistic payoff of mined gold to be 'Y', which also incorporated the time value of money (through the NPV process). With this they looked at payoff alternatives as follows:

(i) Y – X if and only if Y ≥ X and (ii) 0 if and only if Y ≤ X

Interpreting the alternatives, they said that if the payoff exceeds the cost, a call option is exercised. On the other hand, if the cost exceeds the NPV of the probabilistic expected values of the underlying asset, the option is left to expire worthless. The intrinsic value of the company is then dependent on such real option decisions, which cannot simply be determined from the traditional DCF analysis.

LONG GESTATION OF PHARMA INDUSTRY AND APPLICABILITY OF REAL OPTION

It now boils down to the fact that valuation of an entity, with all its intangibles, has many more rigours than what is simply imagined under the traditional methods of valuation. The valuation of an entity on real option basis, also incorporating the management’s flexibility to take decisions, is the aggregate of free cash flows and value of investments made into R & D or other intangibles for reaping expected future benefits. Let us consider the stages involved in the drug discovery process and years involved to reach the market, which is tabulated as hereunder:

Research & Development	Years involved
1. Discovery of a molecule	1
2. Patent process initiated	4-5
3. Pre-clinical Trials	4-15
4. Clinical Trials (phase 1 to 3)	6-8
5. Registration (for marketing)	1-4
Total Time	12-28

Table 1

Source: Kellogg & Charnes 2000, www.pfizer.com

These stages in long gestation projects bring uncertainty to the investments made and if they remain unrealized because of negative cash flows due to market failures, in spite of successful pre-market efforts, one can imagine the havoc it can cause to the entity and the industry. Often decisions are taken, and values established, on real option models to abandon the effort midway if it appears that the investments are not likely to succeed. This therefore provides the required flexibility to the management to either proceed or abandon, and eliminates the valuation rigidity in the traditional DCF model.

MARKET PERCEPTION AND REAL OPTION VALUATION

Markets obviously recognise growth companies and peep into projects that are treading their growth paths. While the world keeps changing, the prospects for new opportunities keep coming up on the horizon. Even for existing projects, alternatives show up and baffle managers who are at their helm. Investors and venture capitalists who are on the prowl happen to sense and bet upon companies that have a potential for growth. The real options held by these companies, are viewed and valued differently, where the traditional models fail. It should also be noted that real options, that these companies hold, provide avenues of making staggered investments. Venture capitalists often wait and watch to pump more resources. Follow-up investments are made if their original investment turns out to be on the winning horse. It thus gives time for investors to slowly open up and beef up investments, or abandon the project completely with an exit option. Unlike the NPV, which can be used as a complimentary indicator, real option does not necessarily have to hit upon a discrete number. It has more to do with carefully looking at all the alternatives and choosing the one that is expected to offer a better option. If it ends up as a road-block, attempts are made to abandon all the alternatives to cut losses at the earliest. With technology as an aid to businesses today, it should be possible to collect large database and interpret them through mathematical models to reach reliably safe

destinations.

LITERATURE ON REAL OPTION THEORY

Existing literature on real options theory, talks about introducing uncertainties in the growth path and managing risks by changing paths if required. It builds in the required flexibilities to encounter uncertainties. Although it may appear to be subjective, but in a sense, real option lays open myriad ways of taking strategic decisions, at each decision point, which has to consider options with keenness and expertise. Therefore, it provides the required confidence of making it look like an empirical decision.

On a close observation of what has been stated above, the elements that constitute a real option include the following:

- Investments to be made
- Cash flows from such investments over a determined time period
- Time to expiration when the option becomes invalid
- Volatility associated with the returns
- Risk free rate, which is used in discounting the future cash flows

The first two elements are anyway part of the DCF in determining the NPV of any project. But the other three are peculiar to the real option analysis. Further, in the third element if the time to expiration increases, it increases the option value as it gives sufficient or more time to take positions with the new information coming in from time to time. It provides more time to decide on further investments or retract based on the information value. Since this is an option, the investor stands to gain in a volatile environment when there is exuberance in the market, as he makes investments at a fixed price when the market values of such investments are much higher. He is protected when there is a downswing in the market conditions, when he can choose not to invest any further.

Comparison between financial option and real option:

	Financial Option	Real Option
S	Value of the underlying	NPV of cashflows from investments/projects
X	Exercise Price	Initial outflow in exercising the investment option
T	Time for option expiry	Time until a decision is to be made on the project
Sigma	Standard deviation (volatility) of the value of the underlying	Probability distribution – uncertainty of the future value
R	Risk-free interest rate	Risk-free discount rate
	Short maturity periods	Maturities are longer-may be several years
	Stable and less volatile on account of short maturity period	Volatile-varies with time
	Marketable and traded	No market for comparison
	Management’s involvement has no bearing on valuation	Management’s action drive the value of real options

Table 2

REAL OPTION APPLICABILITY IN OILFIELD EXPLORATION

Let us now look at typical case real option application in the development of oilfields and extracting oil from it. As has been discussed real options come to the fore when project is conceivable with uncertainties associated with them. What are the uncertainties that we encounter in oilfields? Typical uncertainties can be of two types- technical uncertainty and uncertainty of markets, when production reaches matured levels of yield (of course one cannot

deny other uncertainties depending on where the oil field is located). If innovations get introduced as the project progresses, with flexibilities for management to act, all such attempts will turn out to be useful and significant when decisions are taken at each node of the project time path.

Project managers in oil and gas projects encounter lot of uncertainties and therefore each action path have to be weighed against others to determine the best possible options and the possibilities that are expected to turn out to be right. The traditional methods like the NPV or the IRR do not consider the fluctuations and variability either in output or the cash flows, which in fact is real in oil and gas field projects. Either the gains are overestimated or anticipating non-viability the project is altogether shelved. The real option alternative comes in handy where the fluctuations of volumes and prices are factored and with management holding the right to alter the course of action to maximize growth opportunities and minimize project slippages to ward of viability crisis.

Oil and gas companies, to start with, have to minimise capital investment cost, maximise operational cost efficiencies and ensure recovery to its maximum potential. To determine what structures are to be put into place will depend on host of factors including reserves available, regulatory requirements, environmental issues and so on and so forth. Decisions may not be possible upfront and therefore structural requirements are scaled up and robustness is established as the project progresses. It gives confidence to invest more when the estimated potential of recovery keeps on increasing. In the alternative, if it is found that the potential will be no better than what was forecast, capital investment is curtailed and attempts are made to recover investments already made, without plans of further expansion. Oil and gas field developments go through the following phases and each phase has numerous decision making points, helping the subsequent phases to be altered based on what decisions are taken in the earlier phase.

- Exploration
- Conceptual study
- Execution and engineering
- Production

Real option is a tool to provide flexibilities to management, in large projects like these, to alter decisions when more information flows in. Often, when oil wells are drilled the results of one may be completely different from another and therefore decisions based on drilling the first well may have to be changed based on the results of another. This apart, the lessons of an onshore oilfield can be distinct and different from that of an offshore well.

REAL OPTION IN CONSTRUCTION OF A PARKING LOT

To understand the concept let us look at a simple case of constructing a parking lot. There is uncertainty anticipated about how the facility is going to be used. Although, efforts have been made to estimate a reliable and faithful cash flow, it is best but an estimate and things could go either way when the facility is opened up. If the investments are made on a large facility, there may be a situation that the facility is not used optimally and therefore the project investment could fail. On the other hand, if the facility is curtailed on the assumption that the usage may be limited, there may be a lost opportunity of not catering to a larger crowd. The management therefore decides to have the foundation to the full expanded capacity, restricting the superstructures to a safe estimate. If the usage increases, management can always expand the superstructure as the foundation can bear the additional load.



If the crowd remains limited and therefore its usage, management may shelve expansion plan until the parking density increases. This restricts the loss on account of additional investment, only to the foundation, and cost on the superstructure is saved. There are many such real-life situations like the telecom industry, power companies, pharma companies, etc., that make use of real option strategies on long gestation projects.

CONCLUSION

The concept of real option is still evolving and several contributions on the subject have been made by economists like Mason and Merton (1985), Trigeorgis and Mason (1987), Trigeorgis (1988), Brearly and Myers (1991) and Kautilaka & Marces (1988, 1992). But, the concept is even today conceived as difficult, complex and not easily understood. Further, the exercise price is not known in a real option scenario and the time of expiration is also uncertain. Since there are no competing markets for such investments, measuring volatility becomes difficult. If the assumptions are not carefully looked at, as time progresses, real option valuation will put the entity on its back-foot. Though the real option exercises are already in practice for long gestation projects, the exercise requires in-depth involvement to convert them into mathematical credible models that stands to reason out for the option exercised. This being the current situation, the application of real option valuation begs for involvement of more experts and practitioners to make it more acceptable. CS

REFERENCES

- Dixit A.K, Pindyck R. S. 1994 - *Investment Under Uncertainty*
- Brennan M.J Schwartz E.S. 1985 - *Evaluating Natural Resource Investments*
- Abisoye Babajide, 2007 – *Real Options Analysis As A Decision Tool In Oil Field Developments*
- Sudi Sudarsanam, 2003 – *Valuation Of Intellectual Capital And Real Option Models*
- Amam M, Kaulatilaka N, 1999 – *Real Options – Managing Strategic Investments In An Uncertain World*
- Trigeorgis L, 1996 – *Real Options – Managerial Flexibility and Strategy in Resource Allocation*
- Fischer Black, Myron Scholes – *The Pricing Of Options And Corporate Liabilities*
- John C Cox, Stephen A Ross & Mark Rubinstein – *Option Pricing: A Simplified Approach*
- Ashwath Damodaran – *Option Pricing Theory & Applications*



PCH-4

ICSI-CCGRT

ANNOUNCES

Unique

All India Research Paper Competition on Merger & Acquisition



ICSI-CCGRT is pleased to announce *unique* “All India Research Paper Competition on Merger & Acquisition” with an objective of creating proclivity towards research among its Members, both in employment and practice. The purpose of research is to identify specific questions and try to find out a comprehensive and definitive answer. Since research in all disciplines and subjects, must begin with a clearly defined goal, this study is also designed keeping those objectives in mind.

Prologue

Mergers and Acquisitions in India have evolved through a

distinct phase of regulations. On one side of the regulatory spectrum there has been a discouragement to the formation of combinations due to fear of concentration of economic power in the hands of few and on the other side there have been encouragement to varied forms of M&As due to reasons of optimum utilization of resources, social benefits and growth of and competitiveness of Indian corporate sector. Changing regulations and increased competition and competitiveness of Indian corporate firms brought about substantial change in strategy formulations. Growth through inorganic routes became significant corporate strategy formulation.

The merger control regime in India has been in force for over five years and has significantly transformed the manner in which M&A activity is governed in India. The Competition Commission of India (CCI) regulates the enforcement of Sections 5 and 6 of the Competition Act, 2002 (Act) that were brought into effect on 1 June 2011. The Act provides for a mandatory suspensory regime and transactions which meet the jurisdictional thresholds (based on asset and turnover computation) require a prior notification to the CCI. Over the last six years, there have been a total of 407 Form I (short form) merger notifications that have been filed with the CCI out of which 338 merger notifications have been approved to date. Additionally, in relation to Form II (long form) merger notification, the CCI has approved 21 of the total 26 merger notifications filed to date. Notably, the CCI has never blocked a transaction so far. The CCI has been proactive in ensuring that the merger review process is streamlined with international best practices and has engaged with various stakeholders regularly, thereby simplifying the merger notification process.

Objectives:

- To explore the newly notified Sections of Companies Act, 2013 pertaining to Merger & Acquisition- 230, 231, 232, 233, 233A and 233B
- To understand the provisions of Competition Act provision, Competition Commission Judgment and approval / deny of Competition Commission.
- To comprehend SEBI (LODR) Provisions and approvals / denials of SEBI.

Themes on which Research Papers are invited

- * Compromise between a company and its creditors and between a company and its members
- * Impact of amendments to Combination Regulations of Competition Commission of India
- * Takeover Code and Listing Agreement
- * M&A Trend in key sectors of Indian Economy- Banking & Financial Services; Steel; Power and Telecom
- * International Mergers & Acquisitions- The Regulatory Trajectory
- * Business Valuation Issues in Merger and Acquisition
- * Tribunal's role in sanctioning the scheme of M&A
- * Fast Track Mergers
- * Merger of small companies / holding and subsidiary companies and its impact on growth of MSME Sector
- * Case Studies- Failed Mergers & Acquisitions (Exploring Legal Causes)
- * Hostile Takeovers and Legal Ramifications

Research Paper / Manuscript Guidelines

- * Original papers are invited from Company Secretaries in employment & practice, Academicians, Research Scholars and other Professionals.

- * The paper must be accompanied with the author's name(s), affiliations(s), full postal address, email ID, and telephone/fax number along with the title of the paper on the front page.
- * Full text of the paper should be submitted in MS Word using Times New Roman, font size 12 on A4 size paper in 1.5 spacing, with a maximum of 5000 words.
- * The text should be typed double-spaced only on one side of A4 size paper in MS Word, Times New Roman, 12 font size with one-inch margins all around.
- * The author/s' name should not appear anywhere else on the body of the manuscript to facilitate the blind review process. The research paper should be in clear, coherent and concise English.
- * Tables / Exhibits should be numbered consecutively in Arabic numerals and should be referred to in the text as Table 1, Table 2 / Exhibit 1, Exhibit 2 etc.
- * All notes must be serially numbered. These should be given at the bottom of the page as footnotes.
- * The following should also accompany the manuscripts on separate sheets: (i) An abstract of approximately 150 words with a maximum of five key words, and (ii) A brief biographical sketch (60-80 words) of the author/s describing current designation and affiliation, specialization, number of books and articles in refereed journals, membership number of ICSI and other membership on editorial boards and companies, etc.
- * The research papers should reach the Competition Committee on or before 15th of January, 2017.
- * Participants should email their research papers on the following email id: ccgrt@icsi.edu

Further Information for Authors/Participants

- * The decision of the Reviewing Committee will be final and binding on the participants.
- * The Institute of Company Secretaries of India reserves the right to publish or refer the selected papers for various publications viz; Souvenirs, Books, Study materials published by the institute or in any seminar / conference / workshop / Research Programs conducted by institute either on its own or jointly as per ICSI Guidelines with other organizations and also in regular course of activities of ICSI. Further, the authors whose papers will be selected will receive Program Credit Hours (PCH).
- * ICSI reserves all intellectual property rights including in particular copyright, trade mark, design and other intellectual rights. The authors are not entitled for any remuneration or compensation or royalty. The participants / authors shall submit the Declaration Form to the institute at the time of submission of paper.
- * The papers will be scrutinized by an Expert Committee.
- * For any query / assistance, kindly contact at: ak.sil@icsi.edu
- * 4 PCH will be given to the members of ICSI, as per the Credit Hour Guidelines of the institute.

CS Ahalada Rao V
Chairman
ICSI-Research Committee

CS Vineet K Chaudhary
Chairman
Corporate Laws and
Governance Committee

CS Ashish Doshi
Chairman
ICSI-CCGR
Mgmt Committee

relevance for the Company Secretaries in practice and employment & Ignited Minds, i.e. our students pursuing Company Secretary Course and the fruits it bear for CS fraternity.

The session will also throw light on the procedure or process to be embraced by the participants during the voyage of this workshop. Now all these can only be accomplished, if the activities are executed in a group, as the adage goes, “United We Stand and Divided We Fall”, so in journey of attaining excellence in research, it is imperative to march together. Keeping this crucial point in view, the first stage focuses upon group formation and significance of group study.

The Second Move: Brain Storming

Once the participants will be conversant with the theory behind formation of the Research Group, its goals and process to be adhered as a participant, the next move goes by the axiom, “Two Heads are Better than One”. Yes, we are talking about brainstorming, as in today’s dynamic Legal, Business & Economic environment, decision taken by one expert may prove detrimental to the interest of the organization and stakeholders. So, in view of the immense value brainstorming holds, this session will unite various groups (after formation of groups during the colloquium), who will engage into a detailed discussion on the assigned Chapters/Sections of the Companies Act, 2013. As various people have different perceptions and it consumes paramount time to reach the point of reconciliation. Keeping this in view, substantial time will be allocated for the mentioned session, so that all participants with the combination of 3Ds, ‘Dedication, Determination & Discipline’ give their optimum output. This session aims to throw light on significant issues covered in the three chapters, i.e. Chapters - 14, 15 & 16 of Companies Act, 2013.

The Third Move: Discussions with Debate

After participants discussed their viewpoints among their group members, the next stage involves holding in-depth discussion with other group members. This will assist in forming better views or in formulating refined and unsullied conclusions on the mentioned three Chapters of the Companies Act, 2013.

Since this session is a metamorphosis from a ‘River to an Ocean’, as all group members share their thoughts/opinions, it demands ample time and so not few hours rather full is allocated for the mentioned session.

This will be in the presence of Panelist.

Chapters of Indian Companies Act, 2013 for Symposium

Chapters	Title of the Chapters
14	Inspection, Inquiry and Investigation
15	Compromises, Arrangements and Amalgamations
16	Prevention of Oppression and Mismanagement

All Participants should carry their own Laptop, Books, Bare Acts, and other relevant reading material.

Date, Time and Venue

Day & Date: Time: Friday, 27th of January, 2017, 10:00 a.m. to Saturday, 28th of January, 2017 5:00 p.m.

Venue: ICSI-CCGRT, Plot No.101, Sector-15, Institutional Area, CBD-Belapur, Navi Mumbai-400614

Rs. 3500/- Per participant including Service Tax @15% for participants registering on or before 10th of January, 2017 (Early Bird Discount)

Rs. 4000/- Per participant including Service Tax @ 15% for participants registering on or before 16th of January, 2017 after that Rs 4500 per participate including service tax @15 %

Above cost covers Conference kit, Lunch (2), Dinner (1), Morning & Evening snacks (4), tea /coffee at ICSI-CCGRT.

Out station delegate- Hotel assistance will be provided on request from the participants for the hotel in adjoining area of CCGRT on chargeable basis.

For Registration

Fees may be paid through Pay U link (link available on CCGRT website-Pay U Money Link

<https://www.payumoney.com/customer/users/paymentOptions/#/5CC5C752DEA07B6F2813FB0136AE4CBF/ICSI-CCGRT/103967> / local / Par cheque payable at Mumbai in favour of “ICSI-CCGRT A/c” and sent to: Dr. Rajesh Agarwal, Director, ICSI-Centre for Corporate Governance, Research & Training (ICSI-CCGRT), Plot No. 101, Sector-15, Institutional Area, CBD Belapur, Navi Mumbai- 400 614

Phone: 022-41021515/04, Fax: 022-27574384, email: programs.ccgrrt@gmail.com;

Note: Registration Fee is Non-Refundable

Limited participants 50 only

Dr. Rajesh Agrawal
Director
ICSI-CCGRT

3

LEGAL WORLD



- THE STATE TRADING CORPORATION OF INDIA LTD & ORS V. THE COMMERCIAL TAX OFFICER & ORS [SC]
- SEBI V. BURREN ENERGY INDIA LTD& ANR [SC]
- STATE BANK OF INDIA V. SANTOSH GUPTA & ANR [SC]
- JORSINGH GOVIND VANJARI V. DIVISIONAL CONTROLLER MAHARASHTRA STATE ROAD TRANSPORT CORPORATION [SC]
- LANCO ANPARA POWER LTD V. STATE OF UTTAR PRADESH & ORS [SC]
- RAKESH SANGHI V. BENNETT, COLEMAN & COMPANY LTD & ANR [CCI]
- VEER PRATAP NAIK V. AVEVA INFORMATION TECHNOLOGY INDIA PVT LTD [CCI]
- LAXMI AUTOMATIC LOOM WORKS LTD V. DEPUTY COMMISSIONER OF INCOME TAX (RECOVERY) & ANR [DEL-DB]
- BHUPINDER SINGH BAWA V. ASHA DEVI [SC]



Corporate Laws

CS:LMJ 15:01:2017

THE STATE TRADING CORPORATION OF INDIA LTD & ORS v.
THE COMMERCIAL TAX OFFICER & ORS [SC]

Interveners: Advocate Generals for the States of Madras, Punjab, West Bengal, Gujarat & Rajasthan.

Writ Petitions No.202 -204 of 1961

P.B.Sinha(CJ), S.K.Das, Gajendragadkar, S.K.Sarkar, K.N. Wanchoo, M.Hidayatullah, K.C. Das Gupta, J.C. Shah & N. Rajagopala Ayyangar JJ. [Decided on 26/07/1963]

Equivalent citations: 1963 AIR 1811; 1964 SCR (4) 89; (1963) 33 Comp Cas 1057.

Companies Act, 1956 read with Constitution of India and (Indian) Citizenship Act, 1955 – company filed writ petition under Art.32 before the Supreme Court challenging the imposition of sales tax on it – whether company is a citizen entitled to invoke fundamental rights under Art.32 – Held, No.

Brief facts:

The Sales-tax Authorities of the States of Andhra Pradesh and Bihar sought to assess the Corporation to sales tax under their respective Sales Tax Acts and issued notices of demand. The Corporation claiming to be an Indian citizen filed petitions under Art. 32 of the Constitution for quashing the said proceedings on the ground that they infringed its fundamental rights under Art. 19(1) (f) and (g) of the Constitution.

Preliminary objections having been taken by the respondents to the maintainability of the said petitions, the Constitution Bench hearing the matters referred the two following questions for decision by the special bench:[comprised 9 judges].

“(1) whether the State Trading Corporation, a company registered under the Indian Companies Act, 1956, is a citizen within the meaning of Art. 19 of the Constitution and can ask for the enforcement of fundamental rights granted to citizens under the said article; and

(2) whether the State Trading Corporation is, notwithstanding the formality of incorporation under the Indian Companies Act, 1956, in substance, a department, organ of the Government of India with the entirety of its capital contributed by Government; and can it claim to enforce fundamental rights under Part III of the Constitution against the State as defined in Art. 12 thereof.

Decision: Petitions dismissed.

Reason:

It is clear on a consideration of the provisions of Part III of the Constitution that the makers of the Constitution deliberately and advisedly made a clear distinction between fundamental rights available to ‘any person’ and those guaranteed to ‘all citizens’. In other words, all citizens are persons but all persons are not citizens, under the Constitution.

In our opinion, it is not correct to say, as was contended on behalf of the petitioners, that the expression “citizen” in Art. 5 is not as wide as the same expression used in Art. 19 of the Constitution. One could understand the argument that both the Constitution and the Citizenship Act have not dealt with juristic persons at all, but it is more difficult to accept the argument that the expression “citizen” in Part 11 of the Constitution is not coterminous with the same expression in Part III of the Constitution. Part II of the Constitution, supplemented by the provisions of the Citizenship Act (LVII of 1955) deals with “citizens” and it is not correct to say that citizenship in relation to juristic persons was deliberately left out of account so far as the Constitution and the Citizenship Act were concerned. On the other hand, the more reasonable view to take of the provisions of the Constitution is to say that whenever any particular right was to be enjoyed by a citizen of India, the Constitution takes care to use the expression “any citizen” or “all citizens”, in clear contradistinction to those rights which were to be enjoyed by all, irrespective of whether they were citizens or aliens, or whether they were natural persons or juristic persons. On the analogy of the Constitution of the United States of America, the equality clause in Art. 14 was made available to “any person”. On the other hand, the protection against discrimination on denominational grounds (Art. 15) and the equality of opportunity in matters of public employment (Art. 16) were deliberately made available only to citizens. In this connection, reference may be made to the Constitution of the United States of America (1) “Corporations Citizens of the United States within the meaning of this article must be natural and not artificial persons; a corporate body is not a citizen of the United States.” (p. 965) “Persons” defined “Notwithstanding the historical controversy that has been waged as to whether the framers of the Fourteenth Amendment intended the word, “persons” to mean only natural persons, or whether the word, “persons” was substituted for the word “citizen” with a view to protecting corporations from oppressive State legislation, the Supreme Court, as early as the Granger cases, decided in 1877, upheld on the merits various State laws without raising any question as to the status of railway corporation-plaintiffs to advance, due process contentions. There is no doubt that a corporation may not be deprived of its property without due process of law; and although prior decisions have held that the “liberty” guaranteed by the Fourteenth Amendment is the liberty ‘of natural, not artificial, persons, nevertheless a newspaper corporation was sustained, in 1936, in its objection that a State law deprived it of liberty of press. As to the natural persons protected by the due process clause, these include all human beings regardless, of race, colour or citizenship.” (p. 981). We have already referred, in general terms, to those Senate Document No. 170, 82d. Congress, Ed. Edward S. Corwin, provisions of the Constitution, Part III, which guarantee certain rights to “all persons” and the other provisions of the same part of the Constitution relating to fundamental rights available to ‘citizens’ only, and, therefore, it is not necessary to recount all those provisions. It is enough to say that the makers of the -Constitution were fully alive to the distinction between the expressions “any person” and “any citizen”, and when the Constitution laid down the freedoms contained in Art. 19(1) (a)-(g), as available to “all citizens”, it deliberately kept out all noncitizens. In that context, non-citizens would include aliens and artificial persons.

The question may be looked at from another point of view. Art. 19 lays down that “all citizens” shall have the right to freedoms enumerated in cls. (a) to (g). Those freedoms, each and all of them, are available to “all citizens”. The Article does not say that those freedoms, or only such of them as may be appropriate to particular classes of citizens, shall be available to them. If the Court were to hold that a corporation is a citizen within the meaning of Art. 19, then all the rights contained in cls. (a) to (g) should be available to a corporation. But clearly some of them, particularly those contained in cls. (b), (d) and (e) cannot possibly have any application to a corporation. It is thus clear that the Rights of citizenship envisaged in Art. 19 are not wholly appropriate to a corporate body. In other words, the rights of citizenship and the rights flowing from the nationality or domicile of a corporation are not coterminous. It would thus appear that the makers of the Constitution had altogether left out of consideration juristic persons when they enacted Part II of the Constitution relating to “citizenship”, and made a clear distinction between “persons” and “citizens” in Part III of the Constitution. Part III, which proclaims fundamental rights, was very accurately drafted, delimiting those rights like freedoms of speech and expression, the right to assemble peaceably, the right to practise any profession, etc., as belonging to “citizens” only and those more general rights like the right to equality before the law, as belonging to “all persons”.

In view of what has been said above, it is not necessary to refer to the controversy as to whether there were any citizens of India before the advent of the Constitution. It seems to us, in view of what we have said already as to the distinction between citizenship and nationality that corporations may have nationality in accordance with the country of their incorporation; but that does not necessarily confer citizenship on them. There is also no doubt in our mind that Part II of the Constitution when it deals with citizenship refers to natural persons only. This is further made absolutely clear by the Citizenship Act which deals with citizenship after the Constitution came into force and confines it only to natural persons.

We cannot accept the argument that there can be citizens of this country who are neither to be found within the four corners of Part II of the Constitution or within the four corners of the Citizenship Act. We are of opinion that these two provisions must be exhaustive of the citizens of this country, Part II dealing with citizens on the date the Constitution came into force and the Citizenship Act dealing with citizens thereafter. We must, therefore, hold that these two provisions are completely exhaustive of the citizens of this country and these citizens can only be natural persons. The fact that corporations may be nationals of the country for purposes of international law will not make them citizens of this country for purposes of municipal law or the Constitution. Nor do we think that the word “citizen” used in Art. 19 of the Constitution was used in a different sense from that in which it was used in Part II of the Constitution. The first question, therefore, must be answered in the negative.

I have no cause for anxiety about Corporations in general and companies in which the States own all or the majority of the shares in particular. They are amply protected under our Constitution. There can be no discrimination, no taxation without authority of law, no curbs involving freedom of trade, commerce or intercourse and no compulsory acquisition of property. There is sufficient guarantee there and if more is needed then any member (if citizen) is free to invoke Art. 19(1) (f) and (g) and there is no doubt that the corporation in most cases will share the benefit. We need not be apprehensive that corporations are at the mercy of State Governments. For these reasons answers to the question posed are against the State Trading Corporation.

LW 01: 01: 2017

SEBI v. BURREN ENERGY INDIA LTD& ANR [SC]

Civil Appeal No. 361 of 2007

Ranjan Gogoi & N.V. Ramana, JJ. [Decided on 02/12/2016]

SEBI Acquisition & Takeover Regulations – acquirer entered into a MoU (share purchase agreement) for the acquisition of shares on 14/02/2005 – acquirer appointed its nominees as directors in the parent company of the target company on 14/02/2005 – public offer made on 15/02/2005 – whether the appointment of directors violates the provisions of the Takeover Regulations – Held, Yes.

Brief facts:

Burren Energy India Ltd (“Burren”) is incorporated in England, to acquire the entire of the equity share capital of one Unocal Bharat Limited (“UBL”), which is incorporated in Mauritius. The shares of UBL were acquired by one Unocal International Corporation (“UIC”) incorporated in California in USA. UBL at the relevant time, held 26.01% of the issued share capital of Hindustan Oil Exploration Co. Ltd. (“the target company”).

Burren entered into a share purchase agreement with UIC on 14th February, 2005 to acquire the entire equity share capital of UBL, in England and by virtue thereof all the shares of UBL were registered in the name of Burren on the same day itself. On account of this transformation Burren came to hold 26.01% of the share capital in the target company. As the acquisition was beyond the stipulated 15% of the equity share capital of the target company the Regulations got attracted making it obligatory on the part of Burren to make a public announcement, which was accordingly made for sale/purchase of 20% of the shares of the target company at a determined price of Rs.92.41 per fully paid up equity share was made on 15th February, 2005 by Burren and UBL acting as a person acting in concert.

On 14th February, 2005 i.e. date of execution of the share purchase agreement Burren appointed two of its Directors on the board of UBL and on the same date UBL, which is a person acting in concert with Burren, appointed the same persons on the board of directors of the target company. This, according to SEBI, amounted violation of Regulation 22(7) of the Regulations inasmuch as the said appointment was made during the offer period which had commenced on and from 14th February, 2005 i.e. date of execution of the share purchase agreement. The adjudicating authority imposed a penalty of Rs.25 lakhs which was set aside by the Securities Appellate Tribunal. Hence the appeal by SEBI.

Decision: Appeal allowed.

Reason:

The main thrust of the contentions advanced on behalf of the appellant appears to be that the words ‘Memorandum of Understanding’ are, in an appropriate situation may also include a concluded agreement between the parties. Even in a given case where a Memorandum of Understanding is to fall short of a concluded agreement and, in fact, the concluded agreement is executed subsequently, the ‘offer period’ would still commence from the date of the Memorandum of understanding. If the offer period commences from the date of such Memorandum of Understanding, according to the learned counsel, there is no reason why the

same should not commence from the date of the share purchase agreement when the parties had not executed a Memorandum of Understanding. It is also submitted that the commencement of the 'offer period' from the date of public announcement would primarily have relevance to a case where acquisition of shares is from the market and there is no Memorandum of Understanding or a concluded agreement pursuant thereto.

In reply, the respondents urged that Regulation 22(7) of the Regulations can have no application to the present case inasmuch as the disqualification from appointment on the board of directors of the target company will operate only when the acquirer or persons acting in concert are individuals and not a corporate entity.

In the present case, while Burren was the acquirer, UBL was the person acting in concert. This is evident from the letter of offer (public announcement) dated 15th February, 2005. The embargo under Section 22(7) is both on the acquirer and a person acting in concert. The expression 'person acting in concert' includes a corporate entity [Regulation 2(1) (e) (2) (i) of the Regulations] and also its directors and associates [Regulation 2(1) (e) (2)(iii) of the Regulations]. If this is what is contemplated under the Regulations we do not see how the first argument advanced by Shri Divan on behalf of the respondents can have our acceptance.

Insofar as the second argument advanced by Shri Divan is concerned it is correct that in the definition of 'offer period' contained in Regulation 2(1)(f) of the Regulations, relevant for the present case, a concluded agreement is not contemplated to be the starting point of the offer period. But such a consequence must naturally follow once the offer period commences from the date of entering into a Memorandum of Understanding which, in most cases would reflect an agreement in principle falling short of a binding contract. If the offer period can be triggered of by an understanding that is yet to fructify into an agreement, we do not see how the same can be said not to have commenced/started from the date of a concluded agreement i.e. share purchase agreement as in the present case. On the view that we have taken we will have to hold that the learned Tribunal was incorrect in reaching its impugned conclusions and in reversing the order of the Adjudicating Officer. Consequently the order of the learned Tribunal is set aside and that of the Adjudicating Officer is restored. The penalty awarded by the Adjudicating Officer by order dated 25th August, 2006 shall be deposited in the manner directed within two months from today.

LW 02: 01: 2017

STATE BANK OF INDIA v. SANTOSH GUPTA & ANR [SC]

Civil Appeal Nos. 12237-12238 of 2016 [Arising Out Of SLP (C) Nos.30884-30885 of 2015] along with batch of appeals.

Kurian Joseph & Rohinton Fali Nariman, JJ. [Decided on 16/12/2016]

SARFAESI Act read with constitution of India and constitution of Jammu & Kashmir – whether provisions of SARFAESI Act are applicable to the State of J&K – Held, Yes. Whether Constitution of India is superior to the Constitution of J&K – Held, yes.

Brief facts:

The Constitution of India is a mosaic drawn from the experience of nations worldwide. The federal structure of this Constitution is largely reflected in Part XI which is largely drawn from the Government of

India Act, 1935. The State of Jammu & Kashmir is a part of this federal structure. Due to historical reasons, it is a State which is accorded special treatment within the framework of the Constitution of India. This case is all about the State of Jammu & Kashmir *vis`-a-vis`* the Union of India, in so far as legislative relations between the two are concerned.

The present appeals arise out of a judgment dated 16.7.2015 passed by the High Court of Jammu & Kashmir at Jammu, in which it has been held that various key provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as "SARFAESI") were outside the legislative competence of Parliament, as they would collide with Section 140 of the Transfer of Property Act of Jammu & Kashmir, 1920. The said Act has been held to be inapplicable to banks such as the State Bank of India which are all India banks.

The bone of contention in the present appeals is whether SARFAESI in its application to the State of Jammu & Kashmir would be held to be within the legislative competence of Parliament.

Decision: Appeals allowed.

Reason:

It is interesting to note that the State of Jammu & Kashmir, though a state within the meaning of Article 1 of the Constitution of India, has been accorded a special status from the very beginning because of certain events that took place at the time that the erstwhile Ruler of Jammu & Kashmir acceded to the Indian Union.

Applying the doctrine of pith and substance to SARFAESI, it is clear that in pith and substance the entire Act is preferable to Entry 45 List I read with Entry 95 List I in that it deals with recovery of debts due to banks and financial institutions, *inter alia* through facilitating securitization and reconstruction of financial assets of banks and financial institutions, and sets up a machinery in order to enforce the provisions of the Act. In pith and substance, SARFAESI does not deal with "transfer of property". In fact, in so far as banks and financial institutions are concerned, it deals with recovery of debts owing to such banks and financial institutions and certain measures which can be taken outside of the court process to enforce such recovery. Under Section 13(4) of SARFAESI Act, apart from recourse to taking possession of secured assets of the borrower and assigning or selling them in order to realise their debts, the banks can also take over the management of the business of the borrower, and/or appoint any person as manager to manage secured assets, the possession of which has been taken over by the secured creditor. Banks as secured creditors may also require at any time by notice in writing, any person who has acquired any of the secured assets from the borrower and from whom money is due or payable to the borrower, to pay the secured creditor so much of the money as is sufficient to pay the secured debt. It is thus clear that the transfer of property, by way of sale or assignment, is only one of several measures of recovery of a secured debt owing to a bank and this being the case, it is clear that SARFAESI Act, as a whole, cannot possibly be said to be in pith and substance, an Act relating to the subject matter "transfer of property".

At this juncture it is necessary to point out that insofar as the State of Jammu & Kashmir is concerned, Sections 17A and 18B of SARFAESI Act, which apply to the State of Jammu & Kashmir, substituted 'District Judge' and the 'High Court' for the 'Debts Recovery Tribunal' and the 'Appellate Tribunal' respectively.

It is thus clear on a reading of these judgments that SARFAESI Act, as a whole would be referable to Entries 45 and 95 of List

I. We must remember the admonition given by this Court in A.S. Krishna & Ors v. State of Madras, 1957 SCR 399, that it is not correct to first dissect an Act into various parts and then refer those parts to different Entries in the legislative Lists. It is clear therefore that the entire Act, including Sections 17A and 18B, would in pith and substance be referable to Entries 45 and 95 of List I, and that therefore the Act as a whole would necessarily operate in the State of Jammu & Kashmir.

The judgment of the High Court is wholly incorrect in referring to Entry 11A of the Concurrent List. First and foremost, as has been noted by us above, the Entry is not extended to the State of Jammu & Kashmir. From this, the counsel for the respondents sought to contend that Parliament would, therefore, have no power under the Concurrent List to legislate on the subject matter "Administration of Justice". Under Section 5 of the Jammu & Kashmir Constitution, we have seen that "Administration of Justice" would come into play only when Entries 45 and 95 of List 1 are not attracted. Even if this were not so, we have seen in the two judgments cited hereinabove, the expression "administration of justice" is general and must give way to the special laws that are enacted under Entry 95 List I when coupled with another Entry in the same List – in this case Entry 45 List I.

It is rather disturbing to note that various parts of the judgment speak of the absolute sovereign power of the State of Jammu & Kashmir. It is necessary to reiterate that Section 3 of the Constitution of Jammu & Kashmir, which was framed by a Constituent Assembly elected on the basis of universal adult franchise, makes a ringing declaration that the State of Jammu & Kashmir is and shall be an integral part of the Union of India.

It is to be noted that the opening paragraph of the Constitution of India, namely "WE THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens..." has been wholly omitted in the Constitution of Jammu & Kashmir. There is no reference to sovereignty. Neither is there any use of the expression "citizen" while referring to its people. The people of Jammu & Kashmir for whom special rights are provided in the Constitution are referred to as "permanent residents" under Part III of the Constitution of Jammu & Kashmir. Above all, the Constitution of Jammu & Kashmir has been made to further define the existing relationship of the State with the Union of India as an integral part thereof.

It is thus clear that the State of Jammu & Kashmir has no vestige of sovereignty outside the Constitution of India and its own Constitution, which is subordinate to the Constitution of India. It is therefore wholly incorrect to describe it as being sovereign in the sense of its residents constituting a separate and distinct class in themselves. The residents of Jammu & Kashmir, we need to remind the High Court, are first and foremost citizens of India.

Again it is wholly incorrect to refer to Entry 11A of List 3 and to state that since it is not extended to the State of Jammu & Kashmir, Parliament would have no legislative competence to enact Sections 17A and 18B of SARFAESI Act. There are at least three errors in this conclusion. First and foremost, it is not possible to dissect the provisions of SARFAESI Act and attach them to different Entries under different Lists. As has been held by us, the whole of SARFAESI Act is referable to Entry 45 and 95 of List I. Secondly, what has been missed by the impugned judgment is that Entry 95 List I is a source of legislative power for Parliament for conferring power and jurisdiction on the District Court and the High Court respectively in respect of matters contained in SARFAESI Act. And third, the subject "Administration of Justice" is only general and can be referred to only if Entry 95 List I read with Entry 45 List

I are not attracted. Most importantly, even if it is found that Section 140 of the Jammu & Kashmir Transfer of Property Act entitles only certain persons to purchase properties in the State of Jammu & Kashmir, yet, as has been held hereinabove, Rule 8(5) proviso which recognizes this provision, has been brushed aside. In any case an attempt has first to be made to harmonise Section 140 of the Jammu & Kashmir Transfer of Property Act with SARFAESI Act, and if such harmonization is impossible, it is clear that by virtue of Article 246 read with Section 5 of the Jammu & Kashmir Constitution, Section 140 of the Jammu & Kashmir Transfer of Property Act has to give way to SARFAESI Act, and not the other way around.

We fail to understand how Article 35A carries the matter any further. This Article only states that the conferring on permanent residents of Jammu & Kashmir special rights and privileges regarding the acquisition of immovable property in the State cannot be challenged on the ground that it is inconsistent with the fundamental rights chapter of the Indian Constitution. The conferring of such rights and privileges as mentioned in Section 140 of the Jammu & Kashmir Transfer of Property Act is not the subject matter of challenge on the ground that it violates any fundamental right of the Constitution of India. Furthermore, in view of Rule 8(5) proviso, such rights are expressly preserved.

We therefore set aside the judgment of the High Court. As a result, notices issued by banks in terms of Section 13 and other coercive methods taken under the said Section are valid and can be proceeded with further. The appeals are accordingly allowed with no order as to costs.



Industrial & Labour Laws

LW 03: 01: 2017

JORSINGH GOVIND VANJARI v. DIVISIONAL CONTROLLER
MAHARASHTRA STATE ROAD TRANSPORT CORPORATION
[SC]

Civil Appeal No. 11807 of 2016 (Arising out of SLP(C) No. 26366 of 2016)

Kurian Joseph & Rohinton Fali Nariman, JJ. [Decided on 06/12/2016]

Industrial Disputes Act, 1947 – dismissal of workman – superannuation before the announcement of the award – labour court awarded all service benefits and 50% of back wages in lieu of reinstatement – High Court modified the award by allowing only 50% of the back wages – whether tenable – Held, No.

Brief facts:

The appellant, aggrieved by the termination from service, raised an industrial dispute leading to the award in Reference IDA No. 42 of 2007 dated 20.06.2013 of the Labour Court, Jalgaon, Maharashtra.

The Labour Court set aside the dismissal order dated 26.08.2002. However, noticing that the appellant had already crossed the date of superannuation, viz., 31.05.2005, it was ordered that from the date of termination to the date of superannuation, the appellant would be entitled to all service benefits except back wages which were limited to 50 per cent.

The respondent challenged the award before the High Court of Bombay, which modified the award by granting only a one-time compensation of an amount equivalent to 50 per cent of the back wages as awarded by the Labour Court. Thus aggrieved, the appellant is before this Court.

Decision: Appeal allowed.

Reason:

Heard Learned Counsel appearing on both sides.

On facts, it is clear that the High Court has gone wrong in holding that the Labour Court did not follow the procedure. It is seen from the award that the management had not sought for an opportunity for leading evidence. And despite granting an opportunity, no evidence was adduced after the Labour Court held that the findings of the inquiry officer were perverse. Therefore, the Labour Court cannot be faulted for answering the Reference in favour of the appellant.

The Labour Court, on the available materials on record, found that the termination was unjustified on the basis of a perverse finding entered by the inquiry officer. There was no attempt on the part of the management before the Labour Court to establish otherwise.

It appears that the High Court itself has granted compensation since the Court felt that the termination was unjustified and since reinstatement was not possible on account of superannuation. In case, the High Court was of the view that termination was justified, it could not have ordered for payment of any compensation.

In order to deny gratuity to an employee, it is not enough that the alleged misconduct of the employee constitutes an offence involving moral turpitude as per the report of the domestic inquiry. There must be termination on account of the alleged misconduct, which constitutes an offence involving moral turpitude.

Thus, viewed from any angle, the judgment of the High Court cannot be sustained. It is hence set aside. The appeal is allowed. The award of the Labour Court is restored. Consequently, the appellant shall be entitled to gratuity in respect of his continuous service from his original appointment till the date of his superannuation.

LW 04: 01: 2017

LANCO ANPARA POWER LTD v. STATE OF UTTAR PRADESH & ORS [SC]

Civil Appeal No. 6223 of 2016 with batch of appeals [(2016) 10 SCC 329]

A.K. Sikri & N.V. Ramana, JJ. [Decided on 18/10/2016]

Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 and Buildings And Other Construction Workers Welfare Cess Act, 1996 read with Factories Act, 1948 – construction of factory building – whether the provisions of BOCW Act are applicable – Held, Yes.

Brief facts:

These appeals are filed by the appellants challenging the orders passed by different High Courts i.e. High Court of Allahabad, High

Court of Orissa, High Court of Madhya Pradesh and High Court of Karnataka. These High Courts, however, are unanimous in their approach and have reached the same conclusion.

In all these cases, appellants were issued show cause notices by the concerned authorities under the provisions of the Building And Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (hereinafter referred to as 'BOCW Act') and Buildings And Other Construction Workers Welfare Cess Act, 1996 (hereinafter referred to as 'Welfare Cess Act'). They had challenged those notices by filing writ petitions in the High Courts on the ground that the provisions of BOCW Act or Welfare Cess Act were not applicable to them because of the reason that they were registered under the Factories Act, 1948.

It may be mentioned that at the relevant time no manufacturing operation had commenced by the appellants. In fact, all these appellants were in the process of construction of civil works/factory buildings etc. wherein they had planned to set up their factories. As the process of construction of civil works was undertaken by the appellants wherein construction workers were engaged, the respondent authorities took the view that the provisions of the aforesaid Acts which were meant for construction workers became applicable and the appellants were supposed to pay the cess for the welfare of the said workers engaged in the construction work.

The appellants had submitted that Section 2(d) of the BOCW Act which defines 'building or other construction work' specifically states that it does not include any building or construction work to which the provision of the Factories Act, 1948 or the Mines Act, 1952 apply. Since the appellants stood registered under the Factories Act, they were not covered by the definition of building or other construction work as contained in Section 2(d) of the Act and, therefore, said Act was not applicable to them by virtue of Section 1(4) thereof.

All the High Courts have negated the aforesaid plea of the appellants on the ground that the appellants would not be covered by the definition of factory defined under Section 2(m) of the Factories Act in the absence of any operations/ manufacturing process and, therefore, mere obtaining a licence under Section 6 of the Factories Act would not suffice and rescue them from their liability to pay cess under the Welfare Cess Act. This is, in nutshell, the subject matter of all these appeals.

Decision: Appeals dismissed.

Reason:

We have bestowed our due and serious consideration to the submissions made of both sides, which these submissions deserve. The central issue is the meaning that is to be assigned to the language of Section 2(d) of the Act, particularly that part which is exclusionary in nature, i.e. which excludes such building and construction work to which the provisions of Factories Act apply.

Keeping in view the objective of the respective Acts, we now deal with the scope and ambit of Section 2(d) of BOCW Act. As noticed above, one of the submissions of the appellants is that literal interpretation needs to be given to the said provision as it categorically excludes those building or construction work to which Factories Act apply. In this very hue, it is argued that as the benefit under the Factories Act are already given to the construction workers who are involved in the construction work, there is no need for covering the construction workers who are engaged in building or construction work of the appellants under BOCW Act or Welfare Cess Act.

On the conjoint reading of the aforesaid provisions [s.2(m) "factory", s.2(k) "manufacturing process" & 2(l) "worker"], it becomes clear that "factory" is that establishment where manufacturing process is carried

on with or without the aid of power. Carrying on this manufacturing process or manufacturing activity is thus a prerequisite. It is equally pertinent to note that it covers only those workers who are engaged in the said manufacturing process. Insofar as these appellants are concerned, construction of building is not their business activity or manufacturing process. In fact, the building is being constructed for carrying out the particular manufacturing process, which, in most of these appeals, is generation, transmission and distribution of power. Obviously, the workers who are engaged in construction of the building also do not fall within the definition of 'worker' under the Factories Act. On these two aspects there is no cleavage and both parties are at *ad idem*. What follows is that these construction workers are not covered by the provisions of the Factories Act.

Having regard to the above, if the contention of the appellants is accepted, the construction workers engaged in the construction of building undertaken by the appellants which is to be used ultimately as factory, would stand excluded from the provisions of BOCW Act and Welfare Cess Act as well. Could this be the intention while providing the definition of 'building and other construction work' in Section 2(d) of BOCW Act? Clear answer to this has to be in the negative.

We now advert to the core issue touching upon the construction of Section 2(d) of the BOCW Act. The argument of the appellants is that language thereof is unambiguous and literal construction is to be accorded to find the legislative intent. To our mind, this submission is of no avail. Section 2(d) of the BOCW Act dealing with the building or construction work is in three parts. In the first part, different activities are mentioned which are to be covered by the said expression, namely, construction, alterations, repairs, maintenance or demolition. Second part of the definition is aimed at those buildings or works in relation to which the aforesaid activities are carried out. The third part of the definition contains exclusion clause by stipulating that it does not include 'any building or other construction work to which the provisions of the Factories Act, 1948 (63 of 1948), or the Mines Act, 1952 (35 of 1952), applies'. Thus, first part of the definition contains the nature of activity; second part contains the subject matter in relation to which the activity is carried out and third part excludes those building or other construction work to which the provisions of Factories Act or Mines Act apply.

It is not in dispute that construction of the projects of the appellants is covered by the definition of "building or other construction work" as it satisfies first two elements of the definition pointed out above. In order to see whether exclusion clause applies, we need to interpret the words 'but does not include any building or other construction work to which the provisions of the Factories Act apply'. The question is as to whether the provisions of the Factories Act apply to the construction of building/project of the appellants. We are of the firm opinion that they do not apply. The provisions of the Factories Act would "apply" only when the manufacturing process starts for which the building/project is being constructed and not to the activity of construction of the project. That is how the exclusion clause is to be interpreted and that would be the plain meaning of the said clause. This meaning to the exclusion clause ascribed by us is in tune with the approach adopted by this Court in *Organo Chemical Industries v. Union of India*, (1979) 4 SCC 573.

The aforesaid meaning attributed to the exclusion clause of the definition is also in consonance with the objective and purpose which is sought to be achieved by the enactment of BOCW Act and Welfare Cess Act. As pointed out above, if the construction of this provision as suggested by the appellants is accepted, the construction workers who are engaged in the construction of buildings/projects will neither get the benefit of the Factories Act nor of BOCW Act/Welfare Cess Act. That could not have been the

intention of the Legislature. BOCW Act and Welfare Cess Act are pieces of social security legislation to provide for certain benefits to the construction workers.

Purposive interpretation in a social amelioration legislation is an imperative, irrespective of anything else. How labour legislations are to be interpreted has been stated and restated by this Court time and again. Welfare statutes must, of necessity, receive a broad interpretation. Where legislation is designed to give relief against certain kinds of mischief, the Court is not to make inroads by making etymological excursions.

In taking the aforesaid view, we also agree with the learned counsel for the respondents that 'superior purpose' contained in BOCW Act and Welfare Cess Act has to be kept in mind when two enactments – the Factories Act on the one hand and BOCW Act/Welfare Cess Act on the other hand, are involved, both of which are welfare legislations. Here the concept of 'felt necessity' would get triggered and as per the Statement of Objects and Reasons contained in BOCW Act, since the purpose of this Act is to take care of a particular necessity i.e. welfare of unorganised labour class involved in construction activity, that needs to be achieved and not to be discarded.



LW 05: 01: 2017

RAKESH SANGHI v. BENNETT, COLEMAN & COMPANY LTD & ANR [CC]

Case No. 89 of 2016

Devender Kumar Sikri, S. L. Bunker, Sudhir Mital, Augustine Peter, U. C. Nahta, Justice G. P. Mittal. [Decided on 05/12/2016]

Competition Act, 2002 – publication of legal notices in newspapers – OP charging higher fees than other newspapers – whether abuse of dominance – Held, No

Brief facts:

As per the information, the Informant is a lawyer practicing in the city of Hyderabad. It is stated that the Informant is required to publish notices on behalf of his clients for certain purposes such as transactions of land/ real estate, cautioning prospective purchasers against buying disputed properties etc.

It is averred that the Informant wanted to publish a caution notice in the Hyderabad edition of the newspapers published by the OPS. The rates charged by the OPs was around Rs.1,00,000/-. The Informant has averred that the rate quoted by the OPs for the said advertisement is much higher than the rates for similar advertisement in other newspapers circulated in Hyderabad and Secunderabad.

As per the information, OP 1 is charging two different rates for commercial and non-commercial advertisements in its newspaper. It is stated that for commercial advertisements, it is charging more as compared to non-commercial advertisements. The Informant has averred that OP 1 has converted his legal notice, which falls under non-commercial advertisement, into a commercial advertisement as merely the name of a Private Limited Company has been mentioned in the said legal notice.

Decision: Complaint dismissed.

Reason:

The Commission has perused the information and the materials available on record. It is observed that the Informant is aggrieved by the conduct of OPs of quoting exorbitant rates for advertising legal/public notices in their newspapers in the twin cities of Hyderabad and Secunderabad in the State of Telangana.

The Commission notes that the Informant is an Advocate practicing in the Courts of Hyderabad and on instruction of his clients, he publishes public/legal notices in the newspapers of the OPs in order to give them wide publicity. Thus, the provision of services relating to publication of advertisements including public/legal notices etc. in newspapers may be considered as the relevant product market in this case. With regard to the relevant geographic market, the Commission observes that the geographic area of Hyderabad and Secunderabad may be considered as the relevant geographic market in this case. It is so because the Informant had proposed to publish the said notice in the newspapers in the geographical area of Hyderabad and Secunderabad. Accordingly, 'the provision of services related to publication of advertisements including public/legal notices etc. in the newspapers in Hyderabad and Secunderabad' may be considered as the relevant market in this case.

With regard to dominance, the Commission observes that in the twin cities of Hyderabad and Secunderabad, the major Telugu daily newspapers such as Eenadu, Sakshi, Vaartha, Andhrajyothi, Surya, Prajasakti, Andhrabhoomi, Andhra Prabha and Namaste Telangana; the major English daily newspapers such as The Times of India, The Hindu, The Deccan Chronicle, Business Standard and The Economic Times; the major Urdu daily newspapers such as The Siasat Daily, The Munsif Daily, The Etemaad and Rahnuma-i Decca; and the Hindi daily The Daily Milap are in circulation. Besides, there are a number of local newspapers also in circulation in the aforesaid relevant geographical market. Therefore, the presence of a large number of other English newspapers and regional dailies in Hyderabad and Secunderabad prevents the OPs from exercising any kind of market power independent of market forces and the presence of such large number of other newspapers in the aforesaid market also provides more choices to the Informant which are substitutable in nature. Therefore, the Commission is of the view that neither OP 1 nor OP 2 possess the market power to act independently of competitive forces in the relevant market as defined supra or to affect its competitors or consumers or the relevant market in its favour. Therefore, neither OP 1 nor OP 2 is found to be dominant in the relevant market. In the absence of dominance of OP 1 or OP 2 in the relevant market, the question of abuse of dominance by them in terms of Section 4 of the Act does not arise.

In the light of the above analysis, the Commission finds that no case of contravention of the provisions of Section 4 of the Act is made out against any of the OPs in the instant matter. Accordingly, the matter is closed under the provisions of Section 26(2) of the Act.

LW 06: 01: 2017

VEER PRATAP NAIK v. AVEVA INFORMATION TECHNOLOGY INDIA PVT LTD [CCI]

Case No. 67 of 2016

Devendra Kumar Sikri, Sudhir Mital, Augustine Peter, U. C. Nahta. [Decided on 05/12/2016]

Competition Act, 2002 – software licence contracts – restrictive clauses – whether constitutes anti-competition practice and abuse of dominance – Held, No

Brief facts:

As per the information, the Informant is engaged in the business of providing engineering support in the form of 3D modeling and preparation of structural steel fabrication drawings to engineering, procurement and construction (EPC) companies in India as well as globally.

It is stated that the Informant entered into an agreement with BOCAD Services International S.A. Belgium on 26th August, 2010 to purchase 30 'BOCAD licenses' over a period of the next 3 years for a total consideration of 10,000 Euros each. It is averred that 20 of these licenses were purchased before BOCAD got acquired by AVEVA i.e. before May, 2012.

It is averred that, after the merger, AVEVA's representatives had contacted the Informant and insisted that the Informant buy the balance 10 licenses of BOCAD as per their earlier agreement. Thereafter, OP also offered 6 licenses of the 'Plant Design Management System (PDMS) Software' along with the balance 10 BOCAD licenses. In this regard, the Informant entered into an agreement with the OP vide Licenses Agreement CA-AP1102 dated 1st January, 2014.

It is stated that the OP had concealed the information that the licenses of its products were also available on a monthly rental basis, and it had collected the first year Annual Maintenance Contract (AMC) fee of Rs 10,710,000/- on a yearly basis from the Informant. It is further alleged that there were fundamental differences between the terms of agreement entered with BOCAD *vis-a-vis* the agreement entered with the OP and that OP had abused its dominance and stipulated restrictive conditions in the licenses.

Decision: Complaint dismissed.

Reason:

The dispute between the Informant and the OP in the present case emanates from an agreement entered into between BOCAD and the Informant for supply of 30 BOCAD 3D licenses. It is observed that after BOCAD was acquired by AVEVA, the Informant had entered into a new agreement with the OP for supply of 3D software. From the information available in the public domain, it is observed that 3D modelling engineering software is used in industries like 3D architecture, interior design, printing, animation etc. These software tools allow for building and customising structural models from scratch. Based on the above, the Commission notes that the relevant product market in this case may be defined as the market for '3D modelling software'. With regard to the relevant geographic market, it is noted that since the market for 3D modelling software exhibits distinctly homogenous market conditions in the territory of India, the relevant geographic market in this case may be considered as the 'territory of India'. As such, the relevant market in this case may be defined as the market for '3D modelling software in India'.

With regard to dominance of OP in the relevant market defined supra, from the information available in the public domain, it is observed that there are other 3D software companies which are making and selling 3D software products which are substitutable with the software being manufactured by OP.

During the course of the hearing, OP has submitted that even in the markets for Engineering Design Tools (EDT), EDT Plant Design or EDT AEC, it does not have any market power. OP has further submitted a report of ARC Advisory Group (report) on "Engineering Design Tools for Plant and Infrastructure" which reveals that in 2014, it had a market share of 9.5% in the market for EDT, 16.7%, in the market for EDT Plant Design and 1% in the market for EDT AEC, on a worldwide basis. Further, according to the said report, AVEVA faces stiff competition from players such as Autodesk (having a market share of 36% in EDT and 53.4% in EDT - AEC), Intergraph (having a market share of 30.4% in EDT - Plant Design and 16.5% in EDT) and Bentley (having a market share of 18.7% in EDT and 24.3% in EDT AEC).

Based on the above, the Commission observes that the OP does not enjoy a position of strength which would enable it to operate independent of market forces in the relevant market. Therefore, OP cannot be considered as a dominant player in the relevant market. The Commission notes that in the absence of dominance of OP in the relevant market, the question of abuse of dominant position by the OP does not arise. Thus, no case of contravention of any of the provisions of Section 4 of the Act is made out against OP in the instant case.

With regard to the contravention of Section 3 of the Act in the matter, the Commission notes that the allegation of the Informant does not hold any ground as the information does not disclose any kind of agreement which can be termed as anti-competitive in terms of any of the provisions of Section 3 of the Act.

In the light of the above analysis, the Commission finds that no case of contravention of any of the provisions of either Section 3 or 4 of the Act is made out against the OP in the instant matter. Accordingly, the matter is closed under the provisions of Section 26(2) of the Act.

from capital gains tax should be allowed – Held, No.

Brief facts:

The issue that arises in the present Writ Petition is whether the benefit of exemption from Capital Gains Tax can be denied to an undertaking sought to be revived by BIFR, by giving unwarranted importance and weightage to the fact that the Petitioner's net worth has turned positive without considering that the Company's carried-over losses as on 31.03.2015 amounts to Rs.887.23 lakhs and the fact that it has to create Capital Redemption Reserve of Rs.850 lakhs out of profits for redemption of 6% cumulative redeemable preference shares due by year 2018-19, i.e. in the three years following 2014-15.

Decision: Petition allowed.

Reason:

Section 32 of the Act confers primacy upon the orders of BIFR. In the present case, the BIFR directed income authorities to consider granting relief on two aspects - carry forward business losses and their absorption having regard to projected profits in terms of the modified rehabilitation scheme. That relief has concededly been granted; it is a substantial one to the extent of Rs.14.09 crores. The question, therefore, is whether the income tax authority's refusal to grant relief on the basis of the actual figures of profitability in the circumstances of the case is warranted.

This Court notices that though the modified scheme was issued in 2009, the consideration and grant of relief took place on 29.12.2012 by the income tax authorities when they actually took note of the projections. It is a matter of record that the company achieved net worth and had in fact moved out of the rehabilitation phase in 2011. That was the rationale for this Court's decision on 15.02.2016 that those actual figures should be taken note of. It is here that the company's functioning became material. The income tax authorities now feel that whilst the decision of carry forward was justified, the figures now based upon the functioning after rehabilitation reveal a different story, i.e. that the company has funds and that there was less than half the projected profits for a certain period having regard to the modified scheme. Now, as far as the later aspect is concerned, the income tax authority's view cannot be faulted. It is based upon objective assessment of materials on record.

As to the other aspect, i.e. that the company is in possession of funds and as of late, shown profitability, the Court has in the previous part of its judgment noted that profitability has indeed been on the increase. In these circumstances, the question is whether rejection of request for exemption from payment of central government taxes (of Rs.3.31 crores), is justified or an arbitrary one. There is no denial of the fact that the company has shown profitability. Its liability to redeem the preference shares is in the future. In the circumstances, the possibility of its incurring losses in the event of payment of capital gains tax cannot be ruled out. That such losses might arise could also be within the normal course of any normal business enterprise's functioning. In the circumstances, the view of the respondents that exemption from payment of capital gains tax is not warranted cannot be held illegal. The Court is aware, at the same time that in the assessments completed till date, the petitioner's liability had not in one sense been crystallized. The remand to the income tax authorities on three occasions led to fresh orders based upon fresh assessment of the facts and circumstances on each occasion. Having regard to these peculiar facts, a direction is issued to the respondents not to charge interest or penalty on the capital gains tax amounts in the circumstances of the case for the duration that the matter remained pending in these proceedings and all prior proceedings.



Tax Laws

LW 07: 01: 2017

LAXMI AUTOMATIC LOOM WORKS LTD v. DEPUTY COMMISSIONER OF INCOME TAX (RECOVERY) & ANR [DEL-DB]

W.P. (C) 5036/2016

S. Ravindra Bhat & Deepa Sharma, JJ. [Decided on 05/12/2016]

SICA read with Income Tax Act – BIFR sanctions rehabilitation scheme – scheme provided for the consideration of granting exemption from capital gains tax-company selling its assets – company becoming profitable – whether exemption

The writ petition is allowed in terms of the directions in the preceding paragraph even while upholding the liability to pay capital gains tax. No costs.



General Laws

LW 08: 01: 2017

BHUPINDER SINGH BAWA v. ASHA DEVI [SC]

Civil Appeal No. 9941 of 2014 [(2016) 10 SCC 209]

Shiva Kirti Singh & R. Banumathi, JJ. [Decided on 08/11/2016]
Delhi Rent Control Act, 1954 – eviction of tenant – bonafide requirement of the landlord – landlord has several other properties – whether eviction could be denied on this ground – Held, No.

Brief facts:

The suit scheduled premises comprises of two big rooms and one small room. Appellant/tenant was inducted as tenant in the suit scheduled premises by the erstwhile owner of the premises. Subsequently, the respondent/landlady acquired the premises under a registered sale deed. The respondent sought eviction of the appellant from the suit premises on the ground of *bona fide* requirement that her son required the premises for running his separate business of sanitary and hardware products as the suit premises has a prime location for the said business.

The appellant controverted the claim of *bona fide* requirement set up by the respondent on various grounds including that there are several other properties available for the respondent landlord to give to her son for his business.

On a proper appreciation of facts and evidences available on record, the Additional Rent Controller passed an eviction order in favour of the respondent which was upheld by the High Court. Hence the present appeal by the appellant tenant.

Decision: Appeal dismissed.

Reason:

Both the courts below have allowed the eviction petition filed by the respondent against the appellant on the ground of *bona fide* requirement under Section 14(1) (e) of Delhi Rent Control Act, 1954 by recording concurrent findings. First and foremost, the landlord-tenant relationship between the parties is not in dispute. The only dispute relates to *bona fide* requirement of the respondent for business of her son and availability/non-availability of alternative suitable accommodation.

The concurrent findings recorded by the courts below are as follows: Firstly, It was held that the fact that respondent's son is engaged as Director in the family company M/s. Jaishree Granites Pvt. Ltd. and earns a salary of Rs.50,000/- cannot be an impediment to his running a separate business of sanitary and hardware. The courts held that the

law does not provide that if a landlord/landlady requires the premises for running business of his/her young son who is an MBA, and is already engaged in some other business, he is acting malafidely and thus, no relief should be granted to him/her. Secondly, the courts below considered the suitability of every alternative accommodation suggested by the appellant which can preferably be occupied by the respondent's son for running his business.

The appellant had suggested alternative premises. The courts found that the properties in the name of family company, M/s. Jaishree Granites Pvt. Ltd. viz. Property nos. 43, 44, 45 and 46 situated at Block-A-1, W.H.S. Kirti Nagar, New Delhi and Property No. D- 12, Rajouri Garden, Ring Road, New Delhi were not located in a market area and thus, they were unsuitable for occupation especially when other suitable premises was available in the market area.

The property No. 285-B which was owned by the husband of the respondent was found already in occupation as a retail outlet for marble and granite run by the husband of the respondent. The courts considered the allegation of the appellant that property No. 285-B is owned by the respondent and not by her husband. The appellant had produced a copy of Income Tax Returns of the respondent for establishing his claim. However, the High Court rejected the said claim on finding that the alphabet 'B' appearing after number 285 under the head of rental incomes was wrongly written in the Income Tax Return of the respondent. Moreover, the High Court found that the appellant had himself stated in his pleadings that property no. 285-B belonged to the husband of the respondent and not to the respondent. Also, with regard to property No. A-2/53 at Kirti Nagar which is also owned by the husband of the respondent, the courts found that it is being used by M/s. Jaishree Granites Pvt. Ltd. as godown for the stock of the marble and granite.

So far as property bearing No. D-201, Mansarovar Garden, New Delhi is concerned, the appellant made a case that the entire property including the ground floor of property No. D-201 was available to the respondent which could have been suitably used for running her son's business as it was located on the main road and in a market area also. The courts noted that the appellant has admitted in his cross-examination that the first floor and second floor of the property No. D-201 is in occupation of brother-in-law (Devar) of the respondent who is carrying on his business in the said premises. The court also noted that in his cross examination, the appellant has suggested that if not on the first or second floor, respondent's son can occupy the basement of property No. D-201. Having so noted, the High Court has observed that the appellant impliedly admitting that the husband of the respondent is not the owner of the ground floor of property No. D-201. The courts also noted that the appellant has not specifically pleaded in his written submissions that the ground floor of property No. D-201 is owned by the husband of the respondent. In such facts and circumstances, the courts recorded concurrent finding of fact that ground floor of property No. D-201 does not belong to husband of the respondent and thus the question of its suitability as an alternate accommodation does not arise in the present case.

In light of the above, Additional Rent Controller and the High Court rightly concluded that no alternative premise was lying vacant for running business of respondent's son. The High Court rightly relied on the ratio of Anil Bajaj & Anr v. Vinod Ahuja 2014 (6) SCALE 572 to hold that it is perfectly open to the landlord to choose a more suitable premises for carrying on the business by her son and that the respondent cannot be dictated by the appellant as to from which shop her son should start the business from.

The concurrent findings recorded by the courts below are based on evidence and materials on record, we do not find any infirmity warranting interference with the impugned judgment.

4

FROM THE GOVERNMENT



- NATIONAL COMPANY LAW TRIBUNAL (AMENDMENT) RULES, 2016
- DELEGATION OF POWERS TO RDs
- NATIONAL COMPANY LAW TRIBUNAL (PROCEDURE FOR REDUCTION OF SHARE CAPITAL OF COMPANY) RULES, 2016.
- COMPANIES (COMPROMISES, ARRANGEMENTS AND AMALGAMATIONS) RULES, 2016.
- CORRIGENDUM
- DATE OF COMING INTO FORCE CERTAIN SECTIONS OF THE COMPANIES ACT, 2013.
- COMPANIES (REMOVAL OF DIFFICULTIES) FOURTH ORDER, 2016
- COMPANIES (TRANSFER OF PENDING PROCEEDINGS) RULES, 2016.
- CLARIFICATION REGARDING DUE DATE OF TRANSFER OF SHARES TO IEPF AUTHORITY.
- RELAXATION OF ADDITIONAL FEES AND EXTENSION OF LAST DATE IN FILING OF FORMS MGT-7 (ANNUAL RETURN) AND AOC-4 (FINANCIAL STATEMENT) UNDER THE COMPANIES ACT, 2013- STATE OF JAMMU AND KASHMIR- REG.
- COMPANIES (REGISTRATION OFFICES AND FEES) SECOND AMENDMENT RULES, 2016.

Insider trading compliance made easy

Vigilanté is a web based application which helps the Compliance Officer to centrally manage, track and follow up on all compliances pertaining to Insider Trading and reporting at a single click.

The Vigilanté edge:

- Automate and set up one time pre-clearance rules / trading policy
- Give easy access to Company and Insiders
- Capture data from Share Registrar for cross verification of data
- Get pre-clearances / disclosures by employee
- Generate Compliance reports

Engagement models:

- On-Premise license
- Software as a Service (SaaS)



About us: Vigilanté is a service offering from ESOP Direct, India's one of the leading end-to-end solutions provider in Equity based compensation. We are a part of five-decade-old well-known Accounting firm.

Contact us: info@insider-trade.com www.insider-trade.com 77740 21584 / 85 / 75070 35588 -Pune/Mumbai/Gurgaon/Bangalore

Are you on Dissemination Board of Stock Exchange?

We offer comprehensive advisory services for the companies transferred to dissemination board



Contact at: 022-66481818
or

Email at: disseminationboard@smccapitals.com

ICSI bi-annual Convocation

During the months of November-December, 2016, the Institute organised its bi-annual eastern, southern and western region Convocations at Kolkata, Chennai and Mumbai for awarding certificate of membership to the Associate members admitted during the period 1st April, 2016 to 30th September, 2016; and also to award prizes/medals to meritorious students (National) and winners of National level student competitions.

Particulars	EIRO	SIRO	WIRO
Date	26th November, 2016	10th December, 2016	17th December, 2016 (in two sessions)
Venue	Vidya Mandir Auditorium, Birla High School (Junior Section), 1, Moira Street, Kolkata	BKR Convention Centre, No.32 Venkatesan Street, T Nagar, Chennai	Birla Mathushri Sabhagar (Bombay Hospital Trust), 19, Marine Lines, Mumbai
Number of members who were awarded Associate membership certificates on the occasion	220	167	591
Chief Guest	Shri Gyanesh Chaudhary MD & CEO, Vikram Solar Pvt. Ltd., Kolkata, West Bengal	Ms. Pooja Kulkarni, IAS, State Project Director, Sarvashikshya Abhayam, Chennai	Session 1 Shri B.R. Jaju Chief Financial Officer, DB Power Group Session 2 Shri Kailashnath Adhikari Managing Director, Governance Now



Corporate Laws

01

National Company Law Tribunal (Amendment) Rules, 2016

[Issued by the Ministry of Corporate Affairs vide [(F. No. 1/30/2013-CL-V) dated 20.12.2016. Published in Gazette of India, Extraordinary, Part-II, Section(3) Sub-section(i) vide Notification No. GSR 1159(E) dated 20.12.2016]

In exercise of the powers conferred by 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 National Company Law Tribunal Rules, 2016, namely:-

1. (1) These rules may be called the National Company Law Tribunal (Amendment) Rules, 2016.
(2) They shall come into force on the date of their publication in the Official Gazette.
2. In the National Company Law Tribunal Rules, 2016, (hereinafter referred to as the principal rules), in "Part-I", for the heading, "Definitions, forms and etc.", the heading "Definitions and forms etc." shall be substituted;
3. In the principal rules, in rule 2,-
(a) in clause (5), the words "interlocutory application" shall be omitted;
(b) in clause (9), in sub-clause (d), for the words "or a chartered accountant or a cost accountant or a company secretary", the words "or a chartered accountant in practice or a cost accountant in practice or a company secretary in practice" shall be substituted.
4. In the principal rules, after rule 23, the following rule shall be inserted, namely:-
"23A. Presentation of joint petition. - (1) The Bench may permit more than one person to join together and present a single petition if it is satisfied, having regard to the cause of action and the nature of relief prayed for, that they have a common interest in the matter.
(2) Such permission shall be granted where the joining of the petitioners by a single petition is specifically permitted by the Act."
5. In the principal rules, in rule 25, for the words "in the form prescribed", the words "in the Form No. NCLT 3C" shall be substituted.
6. In the principal rules, in rule 27, in sub-rule (1), for the words, "or by any other advocate or authorised representative whether engaged in the case or not or if the advocate or authorised representative engaged in

the case authenticates such certificate or prepared by a translator approved for the purpose by the Registrar on payment of such charges as he may order", the words "or if the authorised representative engaged in the case authenticates such certificate or prepared by a translator approved for the purpose by the Registrar on payment of such charges as he may order" shall be substituted.

7. In the principal rules, in rule 38,-
(i) in sub-rule (1), after the words "by post", the words "or by courier" shall be inserted;
(ii) in sub-rule (2), in clause (b), after the words, "acknowledgement due" the words, "or by courier" shall be inserted;
(iii) after sub-rule (2), the following Explanation shall be inserted, namely :-
Explanation.—For the purposes of sub-rules (1) and (2), the term "courier" means a person or agency which delivers the document and provides proof of its delivery.
8. In the principal rules, after rule 38, the following Rule shall be inserted, namely :-
"38A. Multiple remedies - A petition shall be based upon a single cause of action and may seek one or more reliefs provided that the reliefs are consequential to one another."
9. In the principal rules, after rule 68, the following rule shall be inserted, namely:-
"68A. Application to cancel variation of rights under sub-section (2) of section 48.- (1) Where an application to cancel a variation of the rights attached to the shares of any class is made on behalf of the shareholders of that class entitled to apply for cancellation under sub-section (2) of section 48 by the letter of authority signed by the shareholders so entitled, authorising the applicant or applicants to present the application on their behalf, such letter of authority shall be annexed to the application, and the names and addresses of all the shareholders, the number of shares held by each of them, aggregate number of such shares held and percentage of the issued shares of that class shall be set out in the Schedule to the application.
(2) The application in **Form No. NCLT. 1** shall be accompanied by documents required for the purposes of the case and shall set out -
(a) the particulars of registration;
(b) the capital structure, the different classes of shares into which the share capital of the company is divided and the rights attached to each class of shares;
(c) the provisions of the memorandum or articles authorising the variation of the rights attached to the various classes of shares;
(d) the total number of shares of the class whose rights have been varied;
(e) the nature of the variation made, and so far as may have been ascertained by the applicants, the number of shareholders of the class who gave their consent to the variation or voted in favour of the resolution for variation and the number of shares held by them;
(f) the number of shareholders who did not consent to the variation or who voted against the resolution, and the number of shares held by them;
(g) the date on which the consent was given or the resolution was passed; and
(h) the reasons for opposing the variation.
(3) The applicant shall at least fourteen days before the

date of the filing of the petition advertise the application in accordance with rule 35.

(4) Where any objection of any person whose interest is likely to be affected by the proposed application is received by the applicant, a copy thereof shall be served to the Registrar of Companies and Regional Director on or before the date of hearing.

(5) On any application, the Tribunal, after hearing the applicant and any other person, as appears to it, to be interested in the application, may, if it is satisfied, having regard to all the circumstances of the case that the variation would unfairly prejudice to the shareholders of the class represented by the applicant, cancel the variation and shall, if not so satisfied, confirm the variation for reasons to be recorded:

Provided that the Tribunal may, at its discretion, make such orders as to cost as it thinks fit.”

10. In the principal rules, in rule 69, sub-rule (3), shall be omitted.

11. In the principal rules, in rule 70, sub-rule (6), shall be omitted.

12. In the principal rules, after rule 76, the following rule shall be inserted, namely:-

“76A. Application under section 130.- The Central Government, the Income-tax authorities, the Securities and Exchange Board of India, any other statutory regulatory body or authority or any person concerned may file an application in **Form No. NCLT. 9** for re-opening of books of accounts and for re-casting of financial statement of a company under section 130 of the Act and such application shall be accompanied by such documents as mentioned in Annexure-B.”

13. In the principal rules, after rule 83, the following rule shall be inserted, namely:-

“83A. Application under sub-section (1) of section 244.- An application in **Form No. NCLT. 9** may be filed before the Tribunal for waiver of requirement of clause (a) or (b) of Section 244 of the Act which shall be accompanied by such documents as mentioned in Annexure-B.”

14. In the principal rules, in rule 112, in sub-rule (3), after the words, “shall be paid by means of”, the words, “an Indian Postal Order or by” shall be inserted.

15. In the principal rules, in the Schedule of Fees, in serial number 10, under the heading ‘Nature of application/ petition’, for the word, “deposition” the word, “depositor” shall be substituted.

16. In the principal rules, in Annexure ‘A’,-
(a) for Form No. NCLT. 3, the following Form No. NCLT. 3 shall be substituted, namely:-

FORM NO. NCLT. 3
[See rule 34]

Before the National Company Law Tribunal

_____ Bench

I.A. No. _____/20__

in

C.P./C.A. No. _____ 20__

In the matter of Companies Act, 2013

ABApplicant/Petitioner

Vs.

CDRespondent

NOTICE OF MOTION

Date: _____
From: _____ (Insert name of party filing the Motion)

To : The National Company Law Tribunal

Concerning:

(Name and file number of matter being considered by the National Company Law Tribunal)

Name: _____

File No: _____

The Party named above requests that the Tribunal grant the following relief:

In terms of _____
(Insert the section of the Act, or the Rules/Regulation, that provides for the order or relief sought)

For the following reasons:

(Insert a concise statement of the circumstances, and the particulars of the request)

In support of this Application, the applicant has attached an affidavit setting out the facts on which the Applicant relies.

Name and Title of person signing on behalf of Applicant:

Authorised Signatory and Address:

Tel No.
Fax No.
e-mail:

This form is prescribed under Rule 4 under NCLT Rules, 2016.

For rehabilitation	:	Rehab. Petition No.
For Transferred	:	Transfer Petition
(CLB/BIFR/AAIFR/HC) No.	}	
Matters from the		:
CLB/BIFR/AAIFR/HC		
For Other matters	:	Company Petition No.

(b) after Form No. NCLT 3B, the following Form shall be inserted, namely:-

“FORM No. NCLT 3-C
[see rule 25]
Before the National Company Law Tribunal
(Caveat No. ____ of 20)
Heading as in FORM No. NCLT 4.
Memorandum of Caveat

- Set out details of the order against which appeal or application or petition is expected.
- (a) Address for service on the caveator
(b) Address for service on the Counsel for the caveator
- Specify the authority who passed the order with reference number and date (enclose copy of order appealed against).
- Set out the details of expected Appellant (s)/Petitioner (s)/ Applicant(s)/ With address
 - _____
 - _____
 - _____

5. Prayer : Let no orders be passed in the appeal expected to be filed or in any petition or application or interlocutory application that may be preferred by the expected Appellant/Petitioner/Applicant without service of notice on the caveator.

The caveator undertakes to accept service of appeal or petition or application and appear before this Tribunal on the date and time at which the appeal/petition/ application is moved by expected appellant/petitioner/ Applicant.

Dated at _____ Day _____ of (Month)

Counsel for Caveator

Caveator

Verification

The caveator above named state and verify that the contents of this caveat lodged are true and correct.

Verified at New Delhi on This _____ day of _____ 20 .

Caveator"

17. In the principal rules, in the Annexure B,-

- (a) in serial number 7, under the heading 'Nature of Petition', for the word "deposition" the word "depositor" shall be substituted;
- (b) in serial number 8, under the heading 'Enclosures to the Petition', in para 2, the word "small" shall be omitted;
- (c) after serial number 12, following serial number and entries relating thereto shall be inserted, namely:-

S. No.	Section of the Act	Nature of Petition	Enclosures to the Petition
13	-	Wherever no document is prescribed to be attached with the application or petition, documents as mentioned in next column may be attached, as applicable.	<ol style="list-style-type: none"> 1. Document and / or other evidence in support of the statement made in the application or appeal or petition, as are reasonably open to the petitioner(s); 2. Documentary evidence in proof of the eligibility and status of the petitioner(s) with the voting power held by each of them, wherever applicable; 3. Where the petition is presented on behalf of members, the letter of consent given by them, if applicable; 4. Statement of particulars showing names, address, number of shares held, and whether all calls and other monies due on shares have been paid in respect of members who have given consent to the petition being presented on their behalf; 5. Where the petition is presented by a member or members authorised by the Central Government, the order of the Central Government authorising the officer(s) or member or members to present the petition shall be similarly annexed to the petition; 6. Affidavit verifying the petition; 7. Evidence regarding payment of fee; 8. Memorandum of appearance with copy of the Board resolution or the vakalatnama, as the case may be; 9. Three copies of the petition; and 10. Any other documents in support of the case.

AMARDEEP SINGH BHATIA
Joint Secretary

02 Delegation of Powers to RDs

[Issued by the Ministry of Corporate Affairs vide [(F. No. 2/31/CAA/2013-CL-V) dated 19.12.2016. Published in Gazette of India, Extraordinary, Part-II, Section(3) Sub-section(ii) vide Notification No. S.O. 4090(E) dated 19.12.2016]

1. In exercise of the powers conferred by Section 458 of the Companies Act, 2013 (18 of 2013), and in supersession of the notification of the Government of India, in the Ministry of Corporate Affairs, dated the 10th July, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (ii) vide number S.O. 1539(E), dated the 10th July, 2012, and also in supersession of the notification of the Government of India, in the Ministry of Corporate Affairs, dated the 21st May, 2014, published in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (ii) vide number S.O. 1352(E), dated the 22nd May, 2014, except as respects things done or omitted to be done before such supersession, the Central Government hereby delegates to the Regional Directors at Mumbai, Kolkata, Chennai, New Delhi, Ahmedabad, Hyderabad and Shillong, the powers and functions vested in it under the following sections of the said Act, subject to the condition that the Central Government may revoke such delegation of powers or may itself exercise the powers under the said sections, if in its opinion such a course of action is necessary in the public interest, namely :—
 - (a) clause (i) of sub-section (4) of section 8 (for alteration of memorandum in case of conversion into another kind of company);
 - (b) sub-section (6) of section 8;
 - (c) sub-sections (4) and (5) of section 13;
 - (d) section 16;
 - (e) section 87;
 - (f) sub-section (3) of section 111;
 - (g) sub-section (1) of section 140;
 - (h) sub-section (5) of section 230;
 - (i) sub-sections (2), (3), (4), (5) and (6) of section 233;
 - (j) first and second proviso of sub-section (3) of section 272;
 - (k) sub-section (1) of section 348;
 - (l) sections 361, 362, 364 and 365
 - (m) clause (i) of the proviso to sub-section (1) of section 399 and
 - (n) section 442.
2. This notification shall come into force with effect from the date of its publication in the Official Gazette.

AMARDEEP SINGH BHATIA
Joint Secretary

03 National Company Law Tribunal (Procedure for reduction of share capital of Company) Rules, 2016.

[Issued by the Ministry of Corporate Affairs vide [(F. No. 1/30/2013/CL. V) dated 15.12.2016. Published in Gazette of India, Extraordinary, Part-II, Section(3) Sub-section(i) vide Notification No. GSR 1147(E) dated 16.12.2016]

In exercise of the powers conferred by sub-section (1) and (2) of section 469 read with section 66 of the Companies Act, 2013 (18 of 2013) the Central Government hereby makes the following rules namely:-

1. **Short title and Commencement.**—(1) These rules may be called the National Company Law Tribunal (Procedure for reduction of share capital of Company) Rules, 2016.
(2) They shall come into force on the date of their publication in the Official Gazette.
(3) The words and expressions used in these rules but not defined and defined in the Companies Act, 2013 (hereinafter referred to as the Act) or in the Companies (Specification of Definitions Details) Rules, 2014 or the National Company Law Tribunal Rules, 2016 shall have the meanings respectively assigned to them in the Act or the said rules.
2. **Form of application or petition for Reduction of share capital under section 66.**—(1) An application to the Tribunal to confirm a reduction of share capital of a company shall be in **Form No. RSC-1** and fee shall be, as prescribed in the Schedule of fee to these rules.
(2) An application to confirm a reduction of share capital of a company shall be accompanied with-
 - (a) the list of creditors duly certified by the Managing Director, or in his absence, by two directors, as true and correct, which is made as on a date not earlier than fifteen days prior to the date of filing of an application showing the details of the creditors of the company, class-wise, indicating their names, addresses and amounts owed to them;
 - (b) a certificate from the auditor of the company to the effect that the list of creditors referred to in clause (a) is correct as per the records of the company verified by the auditor;
 - (c) a certificate by the auditor and declaration by a director of the company that the company is not, as on the date of filing of the application, in arrears in the repayment of the deposits or the interest thereon; and
 - (d) a certificate by the company's auditor to the effect that the accounting treatment proposed by the company for the reduction of share capital is in conformity with the accounting standards specified in section 133 or any other provisions of Act.
 (3) Copies of the list of creditors shall be kept at the registered office of the company and any person desirous of inspecting the same may, at any time during the ordinary hours of business, inspect and take extracts from the same on payment of the sum of rupees fifty for inspection and for taking extracts on payment of the sum of rupees ten per page to the company.
3. **Issue of notice and directions by the National Company Law Tribunal.**—(1) The Tribunal shall, within fifteen days of submission of the application under rule 2, give notice, or direct that notice be given to -
 - (i) the Central Government, Registrar of Companies, in all cases, in **Form No. RSC-2**;
 - (ii) the Securities and Exchange Board of India, in the case of listed companies in **Form No. RSC-2**;
 - (iii) the creditors of the company, in all cases in **Form No. RSC-3**;
seeking their representations and objections, if any.

(2) The notice under clause (iii) of sub-rule (1) shall be sent, within seven days of the direction given under that sub-rule or such other period as may be directed by the Tribunal, to each creditor whose name is entered in the list of creditors submitted by the company about the presentation of the application and of the said list, stating the amount of the proposed reduction of share capital and the amount or estimated value of the debt or the contingent debt or claim or both for which such creditor's name is entered in the said list, and the time within which the creditor may send his representations and objections.

(3) The Tribunal shall along with directions under sub-rule (1) give directions for the notice to be published, in **Form No. RSC-4** within seven days from the date on which the directions are given, in English language in a leading English newspaper and in a leading vernacular language newspaper, both having wide circulation in the State in which the registered office of the company is situated, or such newspapers as may be directed by the Tribunal and for uploading on the website of the company (if any) seeking objections from the creditors and intimating about the date of hearing.

(4) The notice under sub-rule (3) shall state the amount of the proposed reduction of share capital, and the places, where the aforesaid list of creditors may be inspected, and the time as fixed by the Tribunal within which creditors of the company may send their objections:

Provided that the objections, if any, shall be filed in the Tribunal within three months from the date of publication of the notice with a copy served on the company.

(5) The company or the person who was directed to issue notices and the publication in the newspaper under this rule shall, as soon as may be, but not later than seven days from the date of issue of such notices, file an affidavit in **Form No. RSC-5** confirming the despatch and publication of the notice.

(6) Where the Tribunal is satisfied that the debt or claim of every creditor has been discharged or determined or has been secured or his consent is obtained, it may dispense with the requirement of giving of notice to creditors or publication of notice under this rule or both.

4. **Representation by Central Government, Registrar etc. under sub-section (2) of section 66.**—If the authorities or the creditors of the company referred to in clause (i), clause (ii) and clause (iii) of sub-rule (1) of rule 3 desire to make any representation under sub-section (2) of section 66, the same shall be sent to the Tribunal within a period of three months from the date of receipt of notice and copy of such representation shall simultaneously be sent to the company and in case no representation has been received within the said period by the Tribunal it shall be presumed that they have no objection to the reduction.

5. **Procedure with regard to representations and objections received.**—(1) The company shall submit to the Tribunal, within seven days of expiry of period upto which representations or objections were sought, the representations or objections so received along with the responses of the company thereto.

(2) The Tribunal may give such directions as it may think fit with respect to holding of any enquiry or adjudication of

claims or for hearing the objection or otherwise.

(3) At the hearing of the application, the Tribunal may, if it thinks fit, give such directions as may deem proper with reference to securing the debts or claims of creditors who do not consent to the proposed reduction, and the further hearing of the petition may be adjourned to enable the company to comply with such directions.

6. Order on application and Minute thereof.—(1) Where the Tribunal makes an order confirming a reduction, the order confirming the reduction and approving the minute may include such directions or terms and conditions as the Tribunal deems fit .

(2) The order confirming the reduction of share capital and approving the minute shall be in **Form No. RSC - 6** on such terms and conditions as may be deemed fit.

(3) The Certificate issued by the Registrar under sub-section no. (5) of section 66 shall be in **Form No. RSC -7**.

SCHEDULE OF FEES			
S. No.	Section of the Companies Act, 2013	Nature of application / petition	Fees in Rs.
1.	Sub-section (1) of section 66	Application for reduction of share capital.	5,000/-

FORM NO. RSC-1
[Pursuant to rule 2(1)]
Company Application No of..... 2.....
..... Ltd

Application under section 66 for confirming the reduction of share capital

The petitioner herein submits:-

- The above named company, the applicant herein (hereinafter called 'the company') was registered on the day of _____, under the provisions of the [Companies Act, _____] as a company limited by shares/limited by guarantee with a share capital.
- The registered office of the company is situate at..... .
- The main objects of the company are [_____].
- The capital of the company is Rs divided into shares of Rs each, of which shares have been issued and have been fully paid-up or credited as fully paid (or have been paid up to the extent of Rs ... per share).
[Note: Where there is more than one class of shares, the petition should set out the classes of shares and state specifically whether there is or there is not any priority as to capital]
- By article(s) of the articles of association of the company, it is provided that the company may, from time to time, by special resolution, reduce its capital in any manner permitted by law.
- Brief information in respect of financial position of the company; qualification, reservation or adverse remark or disclaimer made by the auditor in his report, if any, details of any pending inspection, inquiry or investigation against the company under the Companies Act, 2013.
- [Set out reasons for reduction.]
- By a special resolution of the company, duly passed in accordance with section 66(1) of the Companies Act, 2013, at a general meeting thereof held after due notice as provided in the Act on the day of... 20 it was resolved [Here set out the resolution]
- Details about
 - the number of members present and voting at such meeting and number of shares or voting power held by them;
 - the number of members who voted in favour of the resolution for reduction of share capital and the number of shares or voting power held by them;
 - the number of members who voted against the resolution and the number of shares or voting power held by them;
- [Here set out whether the reduction of share capital involves extinction or reduction

of any liability in respect of unpaid share capital or cancellation of an paid-up share capital which is lost or is unrepresented by available assets or the payment to any shareholder of any paid-up share capital]

- The form of the minute proposed to be registered under section 66(5) is as follows:
[Here set out the proposed minute]
- The applicant therefore prays :
 - That the reduction of capital resolved on by the special resolution set out in paragraph ___above be confirmed;
 - That to this end all directions necessary and proper be made and given;
 - That the proposed minute be approved; and
 - That such further or other orders be made in the premises as to the Tribunal shall seem fit.

Dated

Applicant or his authorised representative

Attachments:-

- List of creditors
- Certificate by the auditor w.r.t. creditors' list
- Certificate and declaration w.r.t. company not being in arrears in repayment of deposits
- certificate by auditor with regard to confirming with accounting standards
- Any other attachment.

FORM NO. RSC-2
[Pursuant to rule 3(1)(i) and (ii)]
Notice to Central Government, Registrar etc in respect of application for reduction of share capital of M/s _____
(Company)

To
The Central Government/
The Registrar of Companies/
[in all cases]
The Securities and Exchange Board of India/
[as may be applicable]

You are requested to take notice that an application has been presented to the Tribunal at (Bench), on the day of 20..... for confirming the reduction of the share capital of the above company from ` to ` A copy of the application along with its attachments is enclosed. You are hereby informed that representations, if any, in connection with the application may be made to the Tribunal within three months from the date of receipt of this notice. Copy of the representation may simultaneously be sent to the concerned company.

In case no representation is received within the stated period of three months, it shall be presumed that you have no representation or objection to make on the application.

Dated this day of20... Authorized Signatory

Place
Enclosures :Copy of application along with all attachments

FORM NO. RSC - 3
[Pursuant to Rule 3(1)(iii)]
Before the National Company Law Tribunal Bench at _____
Company Application No..... of 20.....
..... Ltd.—Applicant

Notice to Creditors

To
.....
.....

You are requested to take notice that a petition was presented to the Tribunal at , on the day of 20..... for confirming the reduction of the share capital of the above company from ` to ` and. In the list of creditors given by the company to have been prepared on the..... day of 20....., your name is entered as a creditor for ` (the nature of the debt or claim to be stated). If you have any objection to the application or above stated details, the same may be sent (alongwith supporting documents) along with details about your name and address and the name and address of your Authorised Representative , if any, to the undersigned at within three months of date of this notice.

In case no objections are received as indicated above, the above entry in the list of creditors will, in all the proceedings under the above petition to reduce the share capital of the company, be treated as correct.

Dated

Authorised Representative for the Company

FORM NO. RSC – 4

[Pursuant to Rule 3(3)]

Before the National Company Law Tribunal Bench at _____
Company Application No..... of 20.....
..... Ltd. ----- Applicant

Publication of Notice

Notice may be taken that an application was presented to the Tribunal at (Bench), on the day of 20..... for confirming the reduction of the share capital of the above company from ₹ to ₹

The notices to individual creditors have been issued. The list of creditors prepared on the day of 20..... by the company is available at the registered office of

the company and at ----- for inspection on all working days during 11 AM to 4 PM between ----- (days when the inspection would be available).

If any creditor of the company has any objection to the application or the details in the list of creditors, the same may be sent (alongwith supporting documents) and details about his name and address and the name and address of his Authorised Representative, if any, to the undersigned at within three months of date of this notice.

If no objection is received within the time stated above, entries in the list of creditors will, in all the proceedings under the above petition to reduce the share capital of the company, be treated as correct.

It may also be noted that a hearing has been fixed for ____ (day) ____ (date) on which the Tribunal shall hear the application. In case any creditor intends to attend the hearing he should make a request along with his objections, if any.

Authorised Representative for the company

FORM NO. RSC - 5

[See Rule 3(5)]

Before the National Company Law Tribunal Bench at _____

Affidavit on dispatch and publication of notice

I..... (name, etc.), do solemnly affirm and say as follows :-

- I did on the day of 20..... despatched a copy of the notice now produced and shown to me and marked 'B' upon each of the respective persons whose names, addresses and descriptions appear in the list of creditors filed on the day of 20..... by sending such copies by registered or Speed post to their respective addresses appearing in the said list, and the postal receipts and the acknowledgments [including (if any) the covers returned as undelivered] now produced and shown to me and marked 'C' to 'Cn' are the receipts and acknowledgments received from the post office in respect of the said registered letters.
- A true copy of the notice marked 'D' has been published in the issue(s) of..... (state the newspapers) dated the 20.....

Solemnly affirmed

(Sd.).....

FORM NO. RSC - 6

[See Rule 6(2)]

Before the National Company Law Tribunal Bench at _____

Company Application No..... of 20.....

..... Ltd. -Petitioner

Before the Hon'ble Member (s).....

Order confirming Reduction of Share Capital and Approving Minute

Upon the application ofLtd. presented on the day of..... 20..... [upon hearing Shri..... Authorised Representative for the applicant, and upon reading the said application and upon perusing (here set out the newspapers) containing the notice of the date of hearing of this petition, and upon hearing Shri Authorised Representative for the creditor(s) [or, (where there is no appearance) none of the creditors appearing in person or by the Authorised Representative], and the Tribunal being satisfied with respect to every creditor that either his consent to the reduction has been obtained or his debt or claim has been discharged or has determined or has been secured, THIS TRIBUNAL DO ORDER:

(1) That the reduction of the share capital of the above company resolved on and effected by the special resolution passed at a general meeting of the said company held

on the day of 20....., which resolution was in the words and figures following, viz..

[Here set out the resolution]

be and the same is hereby confirmed.

(2) [Terms and conditions, if any] Where the Tribunal confirms the reduction subject to any terms and conditions, such terms and conditions should be set out, as well as any directions that the Tribunal may think fit to give regarding the use of the words 'and reduced' or the publication of the reasons for reduction, the order being suitably cast in such cases.

(3) That the minute set forth in the schedule hereto be and is hereby approved.

(4) That a certified copy of this order including the minute as approved be delivered to the Registrar of Companies within thirty days of receipt of the order.

*Dated this day of..... 20.....

SCHEDULE

(Here set out the minute)

Form of Minute

The capital of _____ Ltd., is henceforth Rs. divided into..... shares of ` each, reduced from ` divided into shares of ` each. At the date of the registration of this minute shares numbered etc., have been issued and are deemed to be fully paid (and the remaining shares are unissued).

[Note:--1. The words 'and reduced' are to be added only where the order so directs.]

2. If all the shares of a class are not issued, the minute should state the serial numbers of the issued shares. Partly paid shares should also be distinguished by their serial numbers and the amounts paid thereon should be stated. The serial numbers of shares with calls in arrears and of forfeited shares should also be stated.]

(By the Tribunal)

Registrar.

*Date of the order to be the date of the approval of the minute.

FORM NO. RSC - 7

[See Rule 6(3)]

Before the National Company Law Tribunal Bench at _____

Company Petition No..... of 20.....

.....Ltd.

-Petitioner

Certificate of Registration of Order and Minute

It is certified that that the order of the Tribunal at dated the 20..... confirming the reduction of the share capital of the above named company from ` divided into shares of ` each, to ` divided into shares of ` each, and the minute approved by the Tribunal showing, with respect to the share capital of the above company as altered, the several particulars required by the above Act were registered by the Registrar of Companies on the day of20.....

Dated

(Sd.).....

Registrar

AMARDEEP SINGH BHATIA

Joint Secretary

04

Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.

[Issued by the Ministry of Corporate Affairs vide [F. No. 2/31/CAA/2013-CL-V] dated 14.12.2016. Published in Gazette of India, Extraordinary, Part-II, Section(3) Sub-section(i) vide Notification No. 1134(E) dated 14.12.2016]

In exercise of the powers conferred by sub-sections (1) and (2) of section 469 read with sections 230 to 233 and sections 235 to 240 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules, namely:-

1. **Short Title and Commencement.**— (1) These rules may be called the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016.
(2) They shall come into force with effect from 15th December, 2016.
2. **Definitions.**— (1) In these rules, unless the context otherwise requires.—
(a) “Act” means the Companies Act, 2013 (18 of 2013);
(b) “Annexure” means the annexure to these rules;
(c) “Form” means a form set forth in annexure “A” to these rules which shall be used for the matter to which it relates, and includes an electronic version thereof;
(d) “Liquidator” means the Liquidator appointed under the Act or under the Insolvency and Bankruptcy Code, 2016 (31 of 2016);
(2) All other words and expressions used in these rules but not defined herein, and defined in the Act or in the Companies (Specification of Definitions Details) Rules, 2014 or in the National Company Law Tribunal Rules, 2016, shall have the same meanings respectively assigned to them in the Act or in the said rules.
3. **Application for order of a meeting.**—(1) An application under sub-section (1) of section 230 of the Act may be submitted in Form no. NCLT-1 (appended in the National Company Law Tribunal Rules, 2016) along with:-
(i) a notice of admission in Form No. NCLT-2 (appended in the National Company Law Tribunal Rules, 2016);
(ii) an affidavit in Form No. NCLT-6 (appended in the National Company Law Tribunal Rules, 2016);
(iii) a copy of scheme of compromise or arrangement, which should include disclosures as per sub-section (2) of section 230 of the Act; and
(iv) fee as prescribed in the Schedule of Fees.
(2) Where more than one company is involved in a scheme in relation to which an application under sub-rule (1) is being filed, such application may, at the discretion of such companies, be filed as a joint-application.
(3) Where the company is not the applicant, a copy of the notice of admission and of the affidavit shall be served on the company, or, where the company is being wound up, on its liquidator, not less than fourteen days before the date fixed for the hearing of the notice of admission.
(4) The applicant shall also disclose to the Tribunal in the application under sub-rule (1), the basis on which each class of members or creditors has been identified for the purposes of approval of the scheme.
4. **Disclosures in application made to the Tribunal for compromise or arrangement.—Creditors Responsibility Statement.** - For the purposes of sub-clause (i) of clause (c) of sub-section (2) of section 230 of the Act, the creditor’s responsibility statement in **Form No. CAA. 1** shall be included in the scheme of corporate debt restructuring.
Explanation:- For the purpose of this rule, it is clarified that a scheme of corporate debt restructuring as referred to in clause (c) of sub-section (2) of section 230 of the Act shall mean a scheme that restructures or varies the debt obligations of a company towards its creditors.
5. **Directions at hearing of the application.**— Upon hearing the application under sub-section (1) of section 230 of the Act, the Tribunal shall, unless it thinks fit for any reason to dismiss the application, give such directions as it may think necessary in respect of the following matters:-
(a) determining the class or classes of creditors or of members whose meeting or meetings have to be held for considering the proposed compromise or arrangement; or dispensing with the meeting or meetings for any class or classes of creditors in terms of sub-section (9) of section 230;
(b) fixing the time and place of the meeting or meetings;
(c) appointing a Chairperson and scrutinizer for the meeting or meetings to be held, as the case may be and fixing the terms of his appointment including remuneration;
(d) fixing the quorum and the procedure to be followed at the meeting or meetings, including voting in person or by proxy or by postal ballot or by voting through electronic means;
Explanation.— For the purposes of these rules, “voting through electronic means” shall take place, *mutatis mutandis*, in accordance with the procedure as specified in rule 20 of Companies (Management and Administration) Rules, 2014.
(e) determining the values of the creditors or the members, or the creditors or members of any class, as the case may be, whose meetings have to be held;
(f) notice to be given of the meeting or meetings and the advertisement of such notice;
(g) notice to be given to sectoral regulators or authorities as required under sub-section (5) of section 230;
(h) the time within which the chairperson of the meeting is required to report the result of the meeting to the Tribunal; and
(i) such other matters as the Tribunal may deem necessary.
6. **Notice of meeting.**— (1) Where a meeting of any class or classes of creditors or members has been directed to be convened, the notice of the meeting pursuant to the order of the Tribunal to be given in the manner provided in subsection (3) of section 230 of the Act shall be in **Form No. CAA.2** and shall be sent individually to each of the creditors or members.
(2) The notice shall be sent by the Chairperson appointed for the meeting, or, if the Tribunal so directs, by the company (or its liquidator), or any other person as the Tribunal may direct, by registered post or speed post or by courier or by email or by hand delivery or any other mode as directed by the Tribunal to their last known address at least one month before the date fixed for the meeting.
Explanation: - It is hereby clarified that the service of notice of meeting shall be deemed to have been effected in case of delivery by post, at the expiration of forty eight hours after the letter containing the same is posted.
(3) The notice of the meeting to the creditors and members shall be accompanied by a copy of the scheme of compromise or arrangement and a statement disclosing the following details of the compromise or arrangement, if such details are not already included in the said scheme:-
(i) details of the order of the Tribunal directing the calling, convening and conducting of the meeting:-
(a) date of the Order;
(b) date, time and venue of the meeting.

- (ii) details of the company including:
 - (a) Corporate Identification Number (CIN) or Global Location Number (GLN) of the company;
 - (b) Permanent Account Number (PAN);
 - (c) name of the company;
 - (d) date of incorporation;
 - (e) type of the company (whether public or private or one-person company);
 - (f) registered office address and e-mail address;
 - (g) summary of main object as per the memorandum of association; and main business carried on by the company;
 - (h) details of change of name, registered office and objects of the company during the last five years;
 - (i) name of the stock exchange (s) where securities of the company are listed, if applicable;
 - (j) details of the capital structure of the company including authorised, issued, subscribed and paid up share capital; and
 - (k) names of the promoters and directors along with their addresses.
- (iii) if the scheme of compromise or arrangement relates to more than one company, the fact and details of any relationship subsisting between such companies who are parties to such scheme of compromise or arrangement, including holding, subsidiary or of associate companies;
- (iv) the date of the board meeting at which the scheme was approved by the board of directors including the name of the directors who voted in favour of the resolution, who voted against the resolution and who did not vote or participate on such resolution;
- (v) explanatory statement disclosing details of the scheme of compromise or arrangement including:-
 - (a) parties involved in such compromise or arrangement;
 - (b) in case of amalgamation or merger, appointed date, effective date, share exchange ratio (if applicable) and other considerations, if any;
 - (c) summary of valuation report (if applicable) including basis of valuation and fairness opinion of the registered valuer, if any, and the declaration that the valuation report is available for inspection at the registered office of the company;
 - (d) details of capital or debt restructuring, if any;
 - (e) rationale for the compromise or arrangement;
 - (f) benefits of the compromise or arrangement as perceived by the Board of directors to the company, members, creditors and others (as applicable);
 - (g) amount due to unsecured creditors.
- (vi) disclosure about the effect of the compromise or arrangement on:
 - (a) key managerial personnel;
 - (b) directors;
 - (c) promoters;
 - (d) non-promoter members;
 - (e) depositors;
 - (f) creditors;
 - (g) debenture holders;
 - (h) deposit trustee and debenture trustee;
 - (i) employees of the company;
- (vii) Disclosure about effect of compromise or arrangement on material interests of directors, Key Managerial Personnel (KMP) and debenture trustee.

Explanation – For the purposes of these rules it is clarified that-

- (a) the term 'interest' extends beyond an interest in the shares of the company, and is with reference to the proposed scheme of compromise or arrangement.
- (b) the valuation report shall be made by a registered valuer, and till the registration of persons as valuers is prescribed under section 247 of the Act, the valuation report shall be made by an independent merchant banker who is registered with the Securities and Exchange Board or an independent chartered accountant in practice having a minimum experience of ten years.
- (viii) investigation or proceedings, if any, pending against the company under the Act.
- (ix) details of the availability of the following documents for obtaining extract from or for making or obtaining copies of or for inspection by the members and creditors, namely:
 - (a) latest audited financial statements of the company including consolidated financial statements;
 - (b) copy of the order of Tribunal in pursuance of which the meeting is to be convened or has been dispensed with;
 - (c) copy of scheme of compromise or arrangement;
 - (d) contracts or agreements material to the compromise or arrangement;
 - (e) the certificate issued by Auditor of the company to the effect that the accounting treatment, if any, proposed in the scheme of compromise or arrangement is in conformity with the Accounting Standards prescribed under Section 133 of the Companies Act, 2013; and
 - (f) such other information or documents as the Board or Management believes necessary and relevant for making decision for or against the scheme;
- (x) details of approvals, sanctions or no-objection(s), if any, from regulatory or any other governmental authorities required, received or pending for the proposed scheme of compromise or arrangement.
- (xi) a statement to the effect that the persons to whom the notice is sent may vote in the meeting either in person or by proxies, or where applicable, by voting through electronic means.

Explanation- For the purposes of this rule, disclosure required to be made by a company shall be made in respect of all the companies, which are part of the compromise or arrangement.

- 7. Advertisement of the notice of the meeting.**—The notice of the meeting under sub-section (3) of Section 230 of the Act shall be advertised in **Form No. CAA.2** in at least one English newspaper and in at least one vernacular newspaper having wide circulation in the State in which the registered office of the company is situated, or such newspapers as may be directed by the Tribunal and shall also be placed, not less than thirty days before the date fixed for the meeting, on the website of the company (if any) and in case of listed companies also on the website of the SEBI and the recognized stock exchange where the securities of the company are listed:

Provided that where separate meetings of classes of creditors or members are to be held, a joint advertisement

for such meetings may be given.

8. Notice to statutory authorities.— (1) For the purposes of sub-section (5) of section 230 of the Act, the notice shall be in **Form No. CAA.3**, and shall be accompanied with a copy of the scheme of compromise or arrangement, the explanatory statement and the disclosures mentioned under rule 6, and shall be sent to:-

- (i) the Central Government, the Registrar of Companies, the Income-tax authorities, in all cases;
- (ii) the Reserve Bank of India, the Securities and Exchange Board of India, the Competition Commission of India, and the stock exchanges, as may be applicable ;
- (iii) other sectoral regulators or authorities, as required by Tribunal.

(2) The notice to the authorities mentioned in sub-rule (1) shall be sent forthwith, after the notice is sent to the members or creditors of the company, by registered post or by speed post or by courier or by hand delivery at the office of the authority.

(3) If the authorities referred to under sub-rule (1) desire to make any representation under sub-section (5) of section 230, the same shall be sent to the Tribunal within a period of thirty days from the date of receipt of such notice and copy of such representation shall simultaneously be sent to the concerned companies and in case no representation is received within the stated period of thirty days by the Tribunal, it shall be presumed that the authorities have no representation to make on the proposed scheme of compromise or arrangement.

9. Voting.—The person who receives the notice may within one month from the date of receipt of the notice vote in the meeting either in person or through proxy or through postal ballot or through electronic means to the adoption of the scheme of compromise and arrangement.

Explanation. For the purposes of voting by persons who receive the notice as shareholder or creditor under this rule—
(a) “shareholding” shall mean the shareholding of the members of the class who are entitled to vote on the proposal; and

(b) “outstanding debt” shall mean all debt owed by the company to the respective class or classes of creditors that remains outstanding as per the latest audited financial statement, or if such statement is more than six months old, as per provisional financial statement not preceding the date of application by more than six months.

10. Proxies.— (1) Voting by proxy shall be permitted, provided a proxy in the prescribed form duly signed by the person entitled to attend and vote at the meeting is filed with the company at its registered office not later than 48 hours before the meeting.

(2) Where a body corporate which is a member or creditor (including holder of debentures) of a company authorises any person to act as its representative at the meeting, of the members or creditors of the company, or of any class of them, as the case may be, a copy of the resolution of the Board of Directors or other governing body of such body corporate authorising such person to act as its representative at the meeting, and certified to be a true

copy by a director, the manager, the secretary, or other authorised officer of such body corporate shall be lodged with the company at its registered office not later than 48 hours before the meeting.

(3) No person shall be appointed as a proxy who is a minor.

(4) The proxy of a member or creditor blind or incapable of writing may be accepted if such member or creditor has attached his signature or mark thereto in the presence of a witness who shall add to his signature his description and address : provided that all insertions in the proxy are in the handwriting of the witness and such witness shall have certified at the foot of the proxy that all such insertions have been made by him at the request and in the presence of the member or creditor before he attached his signature or mark.

(5) The proxy of a member or creditor who does not know English may be accepted if it is executed in the manner prescribed in the preceding sub-rule and the witness certifies that it was explained to the member or creditor in the language known to him, and gives the member's or creditor's name in English below the signature.

11. Copy of compromise or arrangement to be furnished by the company.— Every creditor or member entitled to attend the meeting shall be furnished by the company, free of charge, within one day on a requisition being made for the same, with a copy of the scheme of the proposed compromise or arrangement together with a copy of the statement required to be furnished under section 230 of Act.

12. Affidavit of service.— (1) The Chairperson appointed for the meeting of the company or other person directed to issue the advertisement and the notices of the meeting shall file an affidavit before the Tribunal not less than seven days before the date fixed for the meeting or the date of the first of the meetings, as the case may be, stating that the directions regarding the issue of notices and the advertisement have been duly complied with.

(2) In case of default under sub-rule (1), the application along with copy of the last order issued shall be posted before the Tribunal for such orders as it may think fit to make.

13. Result of the meeting to be decided by voting.— (1) The voting at the meeting or meetings held in pursuance of the directions of the Tribunal under Rule 5 on all resolutions shall take place by poll or by voting through electronic means.

(2) The report of the result of the meeting under sub - rule (1) shall be in **Form No. CAA. 4** and shall state accurately the number of creditors or class of creditors or the number of members or class of members, as the case may be, who were present and who voted at the meeting either in person or by proxy, and where applicable, who voted through electronic means, their individual values and the way they voted.

14. Report of the result of the meeting by Chairperson.— The Chairperson of the meeting (or where there are separate meetings, the Chairperson of each meeting) shall, within the time fixed by the Tribunal, or where no time has been fixed, within three days after the conclusion of the meeting, submit a report to the Tribunal on the result of the meeting in **Form No. CAA.4**.

- 15. Petition for confirming compromise or arrangement.**— (1) Where the proposed compromise or arrangement is agreed to by the members or creditors or both as the case may be, with or without modification, the company (or its liquidator), shall, within seven days of the filing of the report by the Chairperson, present a petition to the Tribunal in Form No. CAA.5 for sanction of the scheme of compromise or arrangement.
- (2) Where a compromise or arrangement is proposed for the purposes of or in connection with scheme for the reconstruction of any company or companies, or for the amalgamation of any two or more companies, the petition shall pray for appropriate orders and directions under section 230 read with section 232 of the Act.
- (3) Where the company fails to present the petition for confirmation of the compromise or arrangement as aforesaid, it shall be open to any creditor or member as the case may be, with the leave of the Tribunal, to present the petition and the company shall be liable for the cost thereof.
- 16. Date and notice of hearing.**— (1) The Tribunal shall fix a date for the hearing of the petition, and notice of the hearing shall be advertised in the same newspaper in which the notice of the meeting was advertised, or in such other newspaper as the Tribunal may direct, not less than ten days before the date fixed for the hearing.
- (2) The notice of the hearing of the petition shall also be served by the Tribunal to the objectors or to their representatives under sub-section (4) of section 230 of the Act and to the Central Government and other authorities who have made representation under rule 8 and have desired to be heard in their representation.
- 17. Order on petition.**— (1) Where the Tribunal sanctions the compromise or arrangement, the order shall include such directions in regard to any matter or such modifications in the compromise or arrangement as the Tribunal may think fit to make for the proper working of the compromise or arrangement.
- (2) The order shall direct that a certified copy of the same shall be filed with the Registrar of Companies within thirty days from the date of the receipt of copy of the order, or such other time as may be fixed by the Tribunal.
- (3) The order shall be in **Form No. CAA. 6**, with such variations as may be necessary.
- 18. Application for directions under section 232 of the Act.**— (1) Where the compromise or arrangement has been proposed for the purposes of or in connection with a scheme for the reconstruction of any company or companies or the amalgamation of any two or more companies, and the matters involved cannot be dealt with or dealt with adequately on the petition for sanction of the compromise or arrangement, an application shall be made to the Tribunal under section 232 of the Act, by a notice of admission supported by an affidavit for directions of the Tribunal as to the proceedings to be taken.
- (2) Notice of admission in such cases shall be given in such manner and to such persons as the Tribunal may direct.
- 19. Directions at hearing of application.**— Upon the hearing of the notice of admission given under rule 18 or upon any adjourned hearing thereof, the Tribunal may make such order or give such directions as it may think fit, as to the proceedings to be taken for the purpose of reconstruction or amalgamation, as the case may be, including, where necessary, an inquiry as to the creditors of the transferor company and the securing of the debts and claims of any of the dissenting creditors in such manner as the Tribunal may think just and appropriate.
- 20. Order under section 232 of the Act.**— An order made under section 232 read with section 230 of the Act shall be in **Form No. CAA.7** with such variation as the circumstances may require.
- 21. Statement of compliance in mergers and amalgamations.**— For the purpose of sub-section (7) of section 232 of the Act, every company in relation to which an order is made under sub-section (3) of section 232 of the Act shall until the scheme is fully implemented, file with the Registrar of Companies, the statement in Form No. CAA.8 along with such fee as specified in the Companies (Registration Offices and Fees) Rules, 2014 within two hundred and ten days from the end of each financial year.
- 22. Report on working of compromise or arrangement.**— At any time after issuing an order sanctioning the compromise or arrangement, the Tribunal may, either on its own motion or on the application of any interested person, make an order directing the company or where the company is being wound-up, its liquidator, to submit to the Tribunal within such time as the Tribunal may fix, a report on the working of the said compromise or arrangement and on consideration of the report, the Tribunal may pass such orders or give such directions as it may think fit.
- 23. Liberty to apply.**— (1) The company, or any creditor or member thereof, or in case of a company which is being wound-up, its liquidator, may, at any time after the passing of the order sanctioning the compromise or arrangement, apply to the Tribunal for the determination of any question relating to the working of the compromise or arrangement.
- (2) The application shall in the first instance be posted before the Tribunal for directions as to the notices and the advertisement, if any, to be issued, as the Tribunal may direct.
- (3) The Tribunal may, on such application, pass such orders and give such directions as it may think fit in regard to the matter, and may make such modifications in the compromise or arrangement as it may consider necessary for the proper working thereof, or pass such orders as it may think fit in the circumstances of the case.
- 24. Liberty of the Tribunal.**— (1) At any time during the proceedings, if the Tribunal hearing a petition or application under these Rules is of the opinion that the petition or application or evidence or information or statement is required to be filed in the form of affidavit, the same may be ordered by the Tribunal in the manner as the Tribunal may think fit.
- (2) The Tribunal may pass any direction(s) or order or dispense with any procedure prescribed by these rules in pursuance of the object of the provisions for implementation

of the scheme of arrangement or compromise or restructuring or otherwise practicable except on those matters specifically provided in the Act.

25. Merger or Amalgamation of certain companies.— (1) The notice of the proposed scheme, under clause (a) of subsection (1) of section 233 of the Act, to invite objections or suggestions from the Registrar and Official Liquidator or persons affected by the scheme shall be in **Form No. CAA.9.**

(2) For the purposes of clause (c) of sub-section (1) of section 233 of the Act the declaration of solvency shall be filed by each of the companies involved in the scheme of merger or amalgamation in **Form No. CAA.10** along with the fee as provided in the Companies (Registration Offices and Fees) Rules, 2014, before convening the meeting of members and creditors for approval of the scheme.

(3) For the purposes of clause (b) and (d) of sub-section (1) of section 233 of the Act, the notice of the meeting to the members and creditors shall be accompanied by -

- (a) a statement, as far as applicable, referred to in sub-section (3) of section 230 of the Act read with sub-rule (3) of rule 6 hereof;
- (b) the declaration of solvency made in pursuance of clause (c) of sub-section (1) of section 233 of the Act in **Form No. CAA.10**;
- (c) a copy of the scheme.

(4)(a) For the purposes of sub-section (2) of section 233 of the Act, the transferee company shall, within seven days after the conclusion of the meeting of members or class of members or creditors or class of creditors, file a copy of the scheme as agreed to by the members and creditors, along with a report of the result of each of the meetings in **Form No. CAA.11** with the Central Government, along with the fees as provided under the Companies (Registration Offices and Fees) Rules, 2014.

(b) Copy of the scheme shall also be filed, along with **Form No. CAA. 11** with -

- (i) the Registrar of Companies in **Form No. GNL-1** along with fees provided under the Companies (Registration Offices and Fees) Rules, 2014; and
- (ii) the Official Liquidator through hand delivery or by registered post or speed post.

(5) Where no objection or suggestion is received to the scheme from the Registrar of Companies and Official Liquidator or where the objection or suggestion of Registrar and Official Liquidator is deemed to be not sustainable and the Central Government is of the opinion that the scheme is in the public interest or in the interest of creditors, the Central Government shall issue a confirmation order of such scheme of merger or amalgamation in **Form No. CAA.12.**

(6) Where objections or suggestions are received from the Registrar of Companies or Official Liquidator and the Central Government is of the opinion, whether on the basis of such objections or otherwise, that the scheme is not in the public interest or in the interest of creditors, it may file an application before the Tribunal in **Form No. CAA.13** within sixty days of the receipt of the scheme stating its objections or opinion and requesting that Tribunal may consider the scheme under section 232 of the Act.

(7) The confirmation order of the scheme issued by the Central Government or Tribunal under sub-section (7) of

section 233 of the Act, shall be filed, within thirty days of the receipt of the order of confirmation, in **Form INC-28** along with the fees as provided under Companies (Registration Offices and Fees) Rules, 2014 with the Registrar of Companies having jurisdiction over the transferee and transferor companies respectively.

(8) For the purpose of this rule, it is clarified that with respect to schemes of arrangement or compromise falling within the purview of section 233 of the Act, the concerned companies may, at their discretion, opt to undertake such schemes under sections 230 to 232 of the Act, including where the condition prescribed in clause (d) of sub-section (1) of section 233 of the Act has not been met.

26. Notice to dissenting shareholders for acquiring the shares.— For the purposes of sub-section (1) of section 235 of the Act, the transferee company shall send a notice to the dissenting shareholder(s) of the transferor company, in **Form No. CAA.14** at the last intimated address of such shareholder, for acquiring the shares of such dissenting shareholders.

27. Determination of price for purchase of minority shareholding.— For the purposes of sub-section (2) of section 236 of the Act, the registered valuer shall determine the price (hereinafter called as offer price) to be paid by the acquirer, person or group of persons referred to in sub-section (1) of section 236 of the Act for purchase of equity shares of the minority shareholders of the company, in accordance with the following rules:-

- (1) In the case of a listed company,-
 - (i) the offer price shall be determined in the manner as may be specified by the Securities and Exchange Board of India under the relevant regulations framed by it, as may be applicable; and
 - (ii) the registered valuer shall also provide a valuation report on the basis of valuation addressed to the Board of directors of the company giving justification for such valuation.
- (2) In the case of an unlisted company and a private company,
 - (i) the offer price shall be determined after taking into account the following factors:-
 - (a) the highest price paid by the acquirer, person or group of persons for acquisition during last twelve months;
 - (b) the fair price of shares of the company to be determined by the registered valuer after taking into account valuation parameters including return on net worth, book value of shares, earning per share, price earning multiple vis-à-vis the industry average, and such other parameters as are customary for valuation of shares of such companies; and
 - (ii) the registered valuer shall also provide a valuation report on the basis of valuation addressed to the board of directors of the company giving justification for such valuation.

28. Circular containing scheme of amalgamation or merger.— (1) For the purposes of clause (a) of sub-section (1) of section 238 of the Act, every circular containing the offer of scheme or contract involving transfer of shares or

any class of shares and recommendation to the members of the transferor company by its directors to accept such offer, shall be accompanied by such information as set out in **Form No. CAA.15**.

(2) The circular shall be presented to the Registrar for registration.

- 29. Appeal under sub-section (2) of section 238 of the Act.—** Any aggrieved party may file an appeal against the order of the Registrar of Companies refusing to register any circular under sub-section (2) of section 238 of the Act and the said appeal shall be in the **Form No. NCLT.9** (appended in the National Company Law Tribunal Rules, 2016) supported with an affidavit in the **Form No. NCLT.6** (appended in the National Company Law Tribunal Rules, 2016).

SCHEDULE OF FEES				
S. No.	Sections of the Companies Act, 2013	Rule Number	Nature of application or petition	Fees
1.	Sub-section (1) of section 230	3 (1)	Application for compromise arrangement and amalgamation.	Rs. 5,000/-
2.	Sub-section (2) of section 235		Application by dissenting shareholders.	Rs. 1,000/-
3.	Sub-section (2) of section 238	29	Appeal against order of Registrar refusing to register any circular.	Rs. 2,000/-

Annexure A - Forms No. CAA 1 to CAA 15 not reproduced here for want of space. Readers may log on to www.mca.gov.in for the Annexure.

AMARDEEP SINGH BHATIA
Joint Secretary

05 Corrigendum

[Issued by the Ministry of Corporate Affairs vide [(F. No. 17/60/2012-CL-V) dated 09.12.2016. To be published in Gazette of India, Extraordinary, Part-II, Section(3) Sub-section(i)]

In the notification of the Government of India in the Ministry of Corporate Affairs number G.S.R. 1075(E), dated the 17th November, 2016 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) dated the 17th November, 2016 at page 2, in line 13, for "2006." read "2006".

AMARDEEP SINGH BHATIA
Joint Secretary

06 Date of coming into force certain Sections of the Companies Act, 2013.

[Issued by the Ministry of Corporate Affairs [vide (F. No. 2/31/CAA/2013-CL-V-pt) dated 07.12.2016. Published in Gazette of India, Extraordinary, Part II—Section 3—Sub-section (ii) vide notification No. 3677E dated 07.12.2016]

In exercise of the powers conferred by sub-section (3) of section 1 of the Companies Act, 2013 (18 of 2013), the Central Government hereby appoints the 15th day of December, 2016 as the date on which the following provisions of the said Act shall come into force, namely :-

SL. No.	Section
1.	Clause (23) of section 2
2.	Clause (c) and (d) of sub-section (7) of section 7
3.	Sub-section (9) of section 8
4.	Section 48
5.	Section 66
6.	Sub-section (2) of section 224
7.	Section 226
8.	Section 230 [except sub-section (11) and (12)], and Sections 231 to 233
9.	Sections 235 to 240
10.	Sections 270 to 288
11.	Sections 290 to 303
12.	Section 324
13.	Sections 326 to 365
14.	Proviso to section 370
15.	Sections 372 to 373
16.	Sections 375 to 378
17.	Sub-section (2) of section 391
18.	Clause (c) of sub-section (1) of section 434

AMARDEEP SINGH BHATIA
Joint Secretary

07 Companies (Removal of Difficulties) Fourth Order, 2016

[Issued by the Ministry of Corporate Affairs vide [F. No. 16/61/2016-Legal) dated 07.12.2016. Published in Gazette of India, Extraordinary, Part II—Section 3—Sub-section (ii) vide notification No. 3676 (E) dated 07.12.2016]

Whereas clause (c) of sub-section (1) of section 434 of the Companies Act, 2013 (hereinafter referred to as the 2013 Act) provides that on a date which may be notified by the Central Government for the purpose of transfer of pending proceedings, all proceedings under the Companies Act, 1956 (hereinafter referred to as the 1956 Act) including proceedings relating to arbitration, compromise, arrangements and reconstruction and winding up of companies, pending immediately before such date before any District Court or High Court, shall stand transferred to the Tribunal and the Tribunal may proceed to deal with such proceedings from the stage before their transfer;

And, whereas, the proviso thereof further provides that only such proceedings relating to the winding up of companies shall be transferred to the Tribunal that are at a stage as may be prescribed by the Central Government;

And, whereas, clause (c) of sub-section (1) of section 434 of the 2013 Act shall come into force from the 15th December, 2016; And, whereas, provisions of sections 6 to 32, 60 to 67 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the Code) have been brought into force on 1st December, 2016 and sections 33 to 54 of the Code and the provisions of Chapter XV and Chapter XX of the 2013 Act shall be notified to come into force from 15th December, 2016;

And, whereas, it has been decided that (i) proceedings under the 1956 Act with High Courts on all cases other than winding-up as

on 15th December, 2016 shall stand transferred to the Benches of the Tribunals exercising respective territorial jurisdiction and (ii) all cases of winding up under the 1956 Act which are pending before the High Courts as on 15th December, 2016 and wherein petitions have not been served to the respondents as per rule 26 of Companies (Court) Rules, 1959 shall be transferred to Tribunal, and all remaining cases of winding up pending on that date would continue with the respective High Courts;

And, whereas, difficulties have arisen regarding continuation of provisions of the 1956 Act for (i) those proceedings relating to cases other than winding-up that are reserved for orders for allowing or otherwise and (ii) those winding up cases which would not be transferred to Tribunal and be proceeded with by High Courts on account of commencement of the corresponding provisions under the 2013 Act or under the Code;

And, whereas, difficulties have also arisen regarding transfer of proceedings relating to cases other than winding-up where hearings have been completed and only pronouncement of order is pending or is reserved since their transfer to Tribunal may result into delay and rights of parties to the proceedings are likely to be affected prejudicially;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 470 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following Order to remove the above said difficulties, namely:-

1. **Short title and commencement.**- (1) This Order may be called the Companies (Removal of Difficulties) Fourth Order, 2016.
(2) It shall come into force with effect from the 15th December, 2016.
2. In the Companies Act, 2013, in Section 434, in sub-section (1), in clause (c), after the proviso, the following provisos shall be inserted, namely:-
“Provided further that only such proceedings relating to cases other than winding-up, for which orders for allowing or otherwise of the proceedings are not reserved by the High Courts shall be transferred to the Tribunal:
Provided further that –
(i) all proceedings under the Companies Act, 1956 other than the cases relating to winding up of companies that are reserved for orders for allowing or otherwise such proceedings; or
(ii) the proceedings relating to winding up of companies which have not been transferred from the High Courts; shall be dealt with in accordance with provisions of the Companies Act, 1956 and the Companies (Court) Rules, 1959”.

AMARDEEP SINGH BHATIA
Joint Secretary

08 Companies (Transfer of Pending Proceedings) Rules, 2016.

[Issued by the Ministry of Corporate Affairs vide [F. No. 1/5/2016– CL-V) dated 07.12.2016. Published in Gazette of India, Extraordinary, Part-II, Section(3) Sub-section(i) vide Notification No. GSR1119(E) dated 07.12.2016]

In exercise of the powers conferred under sub-sections (1) and (2)

of section 434 of the Companies Act, 2013 (18 of 2013) read with sub-section (1) of section 239 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016) (hereinafter referred to as the Code), the Central Government hereby makes the following rules, namely:—

1. **Short title and Commencement.** - (1) These rules may be called the Companies (Transfer of Pending Proceedings) Rules, 2016.
(2) They shall come into force with effect from the 15th December, 2016, except rule 4, which shall come into force from 1st April, 2017.
2. **Definitions.**- (1) In these rules, unless the context otherwise requires-
(a) “Code” means the Insolvency and Bankruptcy Code, 2016 (31 of 2016);
(b) “Tribunal” means the National Company Law Tribunal constituted under section 408 of the Companies Act, 2013.
(2) Words and expressions used in these rules and not defined, but defined in the Companies Act, 1956 (1 of 1956)(herein referred to as the Act), the Companies Act, 2013 (18 of 2013) or the Companies (Court) Rules, 1959 or the Code shall have the meanings respectively assigned to them in the respective Act or rules or the Code, as the case may be.
3. **Transfer of pending proceedings relating to cases other than Winding up.**—All proceedings under the Act, including proceedings relating to arbitration, compromise, arrangements and reconstruction, other than proceedings relating to winding up on the date of coming into force of these rules shall stand transferred to the Benches of the Tribunal exercising respective territorial jurisdiction:
Provided that all those proceedings which are reserved for orders for allowing or otherwise of such proceedings shall not be transferred.
4. **Pending proceeding relating to Voluntary Winding up:**
All applications and petitions relating to voluntary winding up of companies pending before a High Court on the date of commencement of this rule, shall continue with and dealt with by the High Court in accordance with provisions of the Act.
5. **Transfer of pending proceedings of Winding up on the ground of inability to pay debts.**—(1) All petitions relating to winding up under clause (e) of section 433 of the Act on the ground of inability to pay its debts pending before a High Court, and where the petition has not been served on the respondent as required under rule 26 of the Companies (Court) Rules, 1959 shall be transferred to the Bench of the Tribunal established under sub-section (4) of section 419 of the Act, exercising territorial jurisdiction and such petitions shall be treated as applications under sections 7, 8 or 9 of the Code, as the case may be, and dealt with in accordance with Part II of the Code:
Provided that the petitioner shall submit all information, other than information forming part of the records transferred in accordance with Rule 7, required for admission of the petition under sections 7, 8 or 9 of the Code, as the case may be, including details of the proposed insolvency professional to the Tribunal within sixty days from date of this notification, failing which the petition shall abate.
(2) All cases where opinion has been forwarded by Board for

Industrial and Financial Reconstruction, for winding up of a company to a High Court and where no appeal is pending, the proceedings for winding up initiated under the Act, pursuant to section 20 of the Sick Industrial Companies (Special Provisions) Act, 1985 shall continue to be dealt with by such High Court in accordance with the provisions of the Act.

6. **Transfer of pending proceedings of Winding up matters on the grounds other than inability to pay debts.**—All petitions filed under clauses (a) and (f) of section 433 of the Companies Act, 1956 pending before a High Court and where the petition has not been served on the respondent as required under rule 26 of the Companies (Court) Rules, 1959 shall be transferred to the Bench of the Tribunal exercising territorial jurisdiction and such petitions shall be treated as petitions under the provisions of the Companies Act, 2013 (18 of 2013).
7. **Transfer of Records.**—Pursuant to the transfer of cases as per these rules the relevant records shall also be transferred by the respective High Courts to the National Company Law Tribunal Benches having jurisdiction forthwith over the cases so transferred.
8. **Fees not to be paid.**—Notwithstanding anything contained in the National Company Law Tribunal Rules, 2016, no fee shall be payable in respect of any proceedings transferred to the Tribunal in accordance with these rules.

AMARDEEP SINGH BHATIA
Joint Secretary

09 Clarification regarding due date of transfer of shares to IEPF Authority.

[Issued by the Ministry of Corporate Affairs vide General Circular No. 15/2016 dated 07.12.2016.]

1. Various representations have been received from the Companies for simplification of transfer process of shares under Investor Education & Protection Fund (Accounting, Audit, Transfer, and Refund) Rules, 2016, notified on 05.09.2016. It has also been requested for extending the due date prescribed for transferring the shares to IEPF Authority. The matters, including simplification of transfer process and extension of date for such transfer are under consideration and the rules are likely to be revised. The revised rules shall be notified in due course.
2. This issues with the approval of the Competent Authority.

MONIKA GUPTA
Deputy Director

10 Relaxation of additional fees and extension of last date in filing of forms MGT-7 (Annual Return) and AOC-4 (Financial Statement) under the Companies Act, 2013- State of Jammu and Kashmir- reg.

[Issued by the Ministry of Corporate Affairs vide General Circular

No. 14/2016 dated 07.12.2016.]

1. In continuation of this Ministry's General Circular 12/2016 dated 27.10.2016, keeping in view the requests received from various stakeholders stating that due to curfew/strikes and disturbances from past more than four months in the State of Jammu and Kashmir and the resultant difficulty expressed by various stakeholders in convening meetings in a timely manner, it has been decided to relax the additional fees payable by the companies having registered offices in the **State of Jammu and Kashmir** on e-forms AOC-4, AOC (CFS), AOC - 4 XBRL and e- Form MGT-7 upto **31.12.2016**, wherever additional fee is applicable.
2. This issues with the approval of the competent authority.

KMS NARAYANAN
Assistant Director

11 Companies (Registration Offices and Fees) Second Amendment Rules, 2016.

[Issued by the Ministry of Corporate Affairs vide [F. No. 01/16/2013 CL-V (Pt-I) dated 07.11.2016. Published in Gazette of India, Extraordinary, Part II—Section 3—Sub-section (i) vide Notification No. 1049(E) dated 07.11.2016]

In exercise of the powers conferred by sections 396, 398, 399, 403 and 404 read with subsections (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. (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.
2. 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-items shall be substituted, namely:—

For Application made	Other than OPCs 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

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

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.10,000/-) 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.10,000/-) 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.

ATTENTION MEMBERS

Guidelines for Change in Name of Proprietorship Concern/Firm of Company Secretary(ies)

In case an existing proprietary concern/firm of Company Secretary (ies) desires to change its name, the following conditions shall be fulfilled:

- (a) An application for change in name of the firm (preferably mentioning its Unique Code Number) shall be submitted along with the Form for giving particulars of Offices and Firms duly filled- in.
- (b) All the existing partners of the firm must sign the application and the Form duly filled- in.
- (c) In the case of a proprietary firm, an application along with the Form for giving particulars of Offices and Firms (mentioning its Unique Code Number) is to be submitted duly filled-in and signed by the proprietor.
- (d) The application for approval of the firm name along with the Form should be sent to the Directorate of Membership, ICSI.
- (e) The new proposed name will be approved under the provisions contained in Regulations 169 and 170 of the CS Regulations, 1982.
- (f) The letter granting approval of a trade / firm name will be sent at the address mentioned in the Form for giving particulars of Offices and Firms.
- (g) The Proprietorship concern/firm of Company Secretary (ies) which has requested for change in name, upon approval shall mention "formerly known as (old name)" for a period of one year from the date of approval of the changed name.



Members Admitted

FELLOWS*

SI. NO.	NAME	MEMB. NO.	REGN.
1	SH. UMESHKUMAR VASANTRAY BHATT	FCS - 8961	WIRC
2	MR. MANISH SATISH RAUT	FCS - 8962	WIRC
3	SH. VIVEK KUMAR SHUKLA	FCS - 8963	NIRC
4	MS. NELBYMOL NELSON	FCS - 8964	SIRC
5	SH. HIMANSHU GROVER	FCS - 8965	NIRC
6	MS. MRIDULA P THOMAS	FCS - 8966	SIRC
7	MS. SWETA GARG	FCS - 8967	NIRC
8	MR. PRAVIN NAVAMONEY	FCS - 8968	WIRC
9	SH. DHARMENDRA KUMAR	FCS - 8969	EIRC
10	MS. S CHELLA	FCS - 8970	SIRC
11	SH. PRITI ASTARAG PATNAIK	FCS - 8971	SIRC
12	MR. KAUSHAL NARULA	FCS - 8972	NIRC
13	MS. CHAITALI DEVENDRAKUMAR BHATT	FCS - 8973	WIRC
14	MS. BHAWNA GUPTA	FCS - 8974	NIRC
15	MR. MANOJ KUMAR SHARMA	FCS - 8975	NIRC
16	SH. VIVEK KUMAR	FCS - 8976	NIRC
17	MR. SWAROOP SURYANARAYANA	FCS - 8977	SIRC
18	MS. PURVEE DINESHCHANDRA ROY	FCS - 8978	WIRC
19	MS. SHWETA KARUNDIA	FCS - 8979	WIRC
20	SH. YASHPAL BANSAL	FCS - 8980	NIRC
21	MR. NIRAJ NAYAN KUMAR	FCS - 8981	NIRC
22	MS. UPASANA SRIVASTAVA	FCS - 8982	NIRC
23	MRS. SUJATA CHATTOPADHYAY	FCS - 8983	WIRC
24	SH. VIPIN KUMAR JAIN	FCS - 8984	NIRC

ASSOCIATES

SI. NO.	NAME	MEMB. NO.	REGN.
1	MR. ANAND LOHIA	ACS - 48220	EIRC
2	MR. ATUL KRISHNA TIWARI	ACS - 48221	EIRC
3	MS. CHANCHAL RANI	ACS - 48222	NIRC
4	MS. KOMAL SAHU	ACS - 48223	NIRC
5	MR. MOHIT KUMAR	ACS - 48224	NIRC
6	MR. SAMARTH DAVE	ACS - 48225	NIRC
7	MR. SAGAR VERMA	ACS - 48226	NIRC
8	MS. PRIYA CHAPLOT	ACS - 48227	NIRC
9	MR. RAHUL GAUR	ACS - 48228	NIRC
10	MR. DEVKINANDAN HARSWAL	ACS - 48229	NIRC
11	MS. ANKITA MALHOTRA	ACS - 48230	NIRC
12	MR. JAIDEV NAGAR	ACS - 48231	NIRC

13	MR. VINAYAK BANSAL	ACS - 48232	NIRC
14	MS. NEHA SHARMA	ACS - 48233	NIRC
15	MS. YOGESH BHATIA	ACS - 48234	NIRC
16	MS. BHAVIKA SHARMA	ACS - 48235	NIRC
17	MR. ABHISHEK KAMRA	ACS - 48236	NIRC
18	MS. PRIYA JAIN	ACS - 48237	SIRC
19	MR. SUMAN SUNDAR RAJ	ACS - 48238	SIRC
20	MS. SWETHA PRIYA MUDDANA	ACS - 48239	SIRC
21	MR. SANKA PHANI PAVAN KUMAR	ACS - 48240	SIRC
22	MR. ABHIRAJ K R	ACS - 48241	SIRC
23	MR. VIVEK JITENDRABHAI VAKHARIA	ACS - 48242	WIRC
24	MS. KANCHAN	ACS - 48243	WIRC
25	MS. DEEPIKA RAMESH GALA	ACS - 48244	WIRC
26	MR. HITESH MANOJ KAVEDIYA	ACS - 48245	WIRC
27	MR. PARTH SHIVKUMAR SINGHAL	ACS - 48246	WIRC
28	MR. NIKUNJ BHIMRAJ KOTHARI	ACS - 48247	WIRC
29	MS. BENAL VINOD SHAH	ACS - 48248	WIRC
30	MR. VIVEK JUGAL SARAF	ACS - 48249	WIRC
31	MR. NEERAJ RAJ KUMAR PARWANI	ACS - 48250	WIRC
32	MR. JAY MEHUL BHANSALI	ACS - 48251	WIRC
33	MS. SHEEJA MOHAN	ACS - 48252	WIRC
34	MS. PAMELA BOSE	ACS - 48253	NIRC
35	MS. BHAGYASHREE BALKRISHNA KULKARNI	ACS - 48254	WIRC
36	MR. KUSH JAYALSINGH PRADHAN	ACS - 48255	WIRC
37	MR. SANTOSH DIWAKAR BHANDARKAR	ACS - 48256	WIRC
38	MS. CHARU SINGH	ACS - 48257	NIRC
39	MS. PANKTI KASHYAP THAKKAR	ACS - 48258	WIRC
40	MS. ARCHITA CHORDIA	ACS - 48259	WIRC
41	MS. HETAL LILABHAI MOKARIYA	ACS - 48260	WIRC
42	MR. BALBIR SINGH	ACS - 48261	NIRC
43	MS. NEHA KUMARI	ACS - 48262	EIRC
44	MS. VARSHA RATHI	ACS - 48263	EIRC
45	MR. RAGHAV JHUNJHUNWALA	ACS - 48264	EIRC
46	MR. ABHINAY KUMAR SHAW	ACS - 48265	EIRC
47	MR. RITESH KUMAR JHA	ACS - 48266	EIRC
48	MS. L PRIYATAMA DEVI	ACS - 48267	EIRC
49	MR. MOHIT KUMAR SHARMA	ACS - 48268	EIRC
50	MS. PARIDHI BHARDWAJ	ACS - 48269	NIRC
51	MS. SHALU AGRAWAL	ACS - 48270	EIRC
52	MS. BABITA SHARMA	ACS - 48271	EIRC
53	MR. CHANDAN SINGHANIA	ACS - 48272	EIRC
54	MS. KAHKASHAN SHAHID	ACS - 48273	EIRC
55	MS. ARCHITA CHAKRABORTY	ACS - 48274	EIRC
56	MR. DINESH SHAW	ACS - 48275	EIRC
57	MS. SONU NAHATA	ACS - 48276	EIRC
58	MS. KARISHMA SARAWAGI	ACS - 48277	EIRC
59	MS. RICHA JAIN	ACS - 48278	EIRC
60	MS. ANUPRIYA SRIVASTAVA	ACS - 48279	EIRC
61	MS. KHUSHBOO SINGH	ACS - 48280	EIRC
62	MS. SWEETY DASSANI	ACS - 48281	EIRC
63	MS. VANITA JAIN	ACS - 48282	EIRC
64	MS. AANCHAL JAIN	ACS - 48283	EIRC
65	MR. TANAYJEET DAS	ACS - 48284	EIRC

*ADMITTED DURING THE PERIOD FROM 20.11.2016 TO 19.12.2016

66	MS. KIRAN SHARMA	ACS - 48285	EIRC	119	MR. KUNDAN KUMAR MISHRA	ACS - 48338	NIRC
67	MR. KAMAL GOEL	ACS - 48286	NIRC	120	MR. DEEPAK PATHAK	ACS - 48339	NIRC
68	MS. PRIYANKA GERA	ACS - 48287	NIRC	121	MR. PANKAJ SACHDEVA	ACS - 48340	NIRC
69	MS. PREETI GARG	ACS - 48288	NIRC	122	MR. TIPU SULTAN	ACS - 48341	NIRC
70	DR. VINAYAK MOHAN GUPTA	ACS - 48289	NIRC	123	MR. AMAN AGARWAL	ACS - 48342	NIRC
71	MR. SHANTANU KUMAR	ACS - 48290	NIRC	124	MS. SRASHTI MISHRA	ACS - 48343	NIRC
72	MR. NISHANT CHAUHAN	ACS - 48291	NIRC	125	MS. SAMIHA RAUTELA	ACS - 48344	NIRC
73	MS. PRERNA BANSAL	ACS - 48292	NIRC	126	MR. RAHUL BANGIA	ACS - 48345	NIRC
74	MR. AMIT SHARMA	ACS - 48293	NIRC	127	MS. NEELANSHA KHANDELWAL	ACS - 48346	NIRC
75	MS. HIMAXI BOHRA	ACS - 48294	NIRC	128	MS. SHRADHA GARG	ACS - 48347	NIRC
76	MS. KARUNA GUPTA	ACS - 48295	NIRC	129	MS. MEHAK JAIN	ACS - 48348	NIRC
77	MR. MADHVENDRA SHUKLA	ACS - 48296	NIRC	130	MS. KANIKA JAIN	ACS - 48349	NIRC
78	MS. AAKRITEE KHANNA	ACS - 48297	NIRC	131	MS. ANCHAL JINDAL	ACS - 48350	NIRC
79	MR. NISHANT BHAMRI	ACS - 48298	NIRC	132	MR. MOHIT BOTHRA	ACS - 48351	NIRC
80	MR. SANTOSH SINGH MEHRA	ACS - 48299	NIRC	133	MS. NEHA KHANDELWAL	ACS - 48352	EIRC
81	MS. RUCHI GUPTA	ACS - 48300	NIRC	134	MR. NIKHIL BINDAL	ACS - 48353	NIRC
82	MS. KIRAN BALA AGGARWAL	ACS - 48301	NIRC	135	MR. RAHUL	ACS - 48354	NIRC
83	MR. NARINDER SINGH	ACS - 48302	NIRC	136	MS. PRIYANKA YADAV	ACS - 48355	NIRC
84	MS. SMITA CHATURVEDI	ACS - 48303	NIRC	137	MS. VEENA K S	ACS - 48356	SIRC
85	MR. SUBHAM JOSHI	ACS - 48304	WIRC	138	MR. KAILASH CHAND	ACS - 48357	SIRC
86	MS. MEETU BATRA	ACS - 48305	NIRC	139	MS. MEENAKSHI R	ACS - 48358	SIRC
87	MS. PRIYA SHARMA	ACS - 48306	NIRC	140	MS. ANNAVARAMPU RAMA M MADHURI	ACS - 48359	SIRC
88	MR. ANKUSH SHARMA	ACS - 48307	NIRC	141	MR. SHREERAM GANESH HEGDE	ACS - 48360	SIRC
89	MS. NAMRATA SHARMA	ACS - 48308	NIRC	142	MS. ANITA SHIVANAND SONTAKKI	ACS - 48361	SIRC
90	MR. ROSHAN JHA	ACS - 48309	NIRC	143	MS. PRAKRUTHISHETTY T GOPAL KRISHNA	ACS - 48362	SIRC
91	MR. SUMIT WADHWANI	ACS - 48310	NIRC	144	MR. NITESH H P	ACS - 48363	SIRC
92	MS. KHYATI SHARMA	ACS - 48311	NIRC	145	MR. VINAYAK SHRIDHAR HEGDE	ACS - 48364	SIRC
93	MR. TEJINDER PAL SINGH	ACS - 48312	NIRC	146	MS. SWATHISHREE K R	ACS - 48365	SIRC
94	MRS. MANJU KAUSHAL	ACS - 48313	NIRC	147	MR. JAYESH KHATRI	ACS - 48366	SIRC
95	MR. SHAHZAD ALI	ACS - 48314	NIRC	148	MR. CHANDRAKANT SHANKAR BALLA	ACS - 48367	WIRC
96	MS. VINITA HIRWANI	ACS - 48315	NIRC	149	MS. RASHMI SATYENDRA RATURI	ACS - 48368	WIRC
97	MS. PREETI MOONKA	ACS - 48316	WIRC	150	MS. AKSHAYA PRABHAKR BAGWE	ACS - 48369	WIRC
98	MS. KIRTI OHRI	ACS - 48317	NIRC	151	MS. MAYURI AJAY DESHPANDE	ACS - 48370	WIRC
99	MR. NISHANT GOYAL	ACS - 48318	NIRC	152	MS. DHWANI RAJESH JAIN	ACS - 48371	WIRC
100	MS. VIDHISHA SHARMA	ACS - 48319	NIRC	153	MR. PRAVEEN TIWARI	ACS - 48372	WIRC
101	MR. PIYUSH PRAJAPATI	ACS - 48320	NIRC	154	MS. ARCHI NITIN KUMAR SHAH	ACS - 48373	WIRC
102	MS. DIVYA PAHWA	ACS - 48321	NIRC	155	MR. CHANDAN SHAMBHU TODI	ACS - 48374	WIRC
103	MS. KRITIKA SRIVASTAVA	ACS - 48322	NIRC	156	MR. ERNEST RODRIGUES	ACS - 48375	WIRC
104	MS. SUGANDHA KHANDELWAL	ACS - 48323	NIRC	157	MR. SANDEEP RAGHUWANSHI	ACS - 48376	WIRC
105	MR. NIKHIL SHARMA	ACS - 48324	NIRC	158	MS. SURBHI MEHTA	ACS - 48377	WIRC
106	MR. SHIVAM SHARMA	ACS - 48325	NIRC	159	MR. DEEPAK KUMAR BISSA	ACS - 48378	WIRC
107	MS. SAKSHI MADAAN	ACS - 48326	NIRC	160	MS. SARVAIYA ARCHANABA NARENDRASINH	ACS - 48379	WIRC
108	MR. GAURAV ARORA	ACS - 48327	NIRC	161	MR. NAVNATH SHALIK PATIL	ACS - 48380	WIRC
109	MS. ADITI GOEL	ACS - 48328	NIRC	162	MS. VIRALI DIPAK SHAH	ACS - 48381	WIRC
110	MS. ASTHA RUSTAGI	ACS - 48329	NIRC	163	MS. DEVIKA MOTIBHAI PATEL	ACS - 48382	WIRC
111	MR. PRINCE SHEKHAWAT	ACS - 48330	NIRC	164	MS. FENALI DEVANG SHAH	ACS - 48383	WIRC
112	MR. PRAVEEN	ACS - 48331	NIRC	165	MS. SHEFALI PRATIK KAPASI	ACS - 48384	WIRC
113	MR. ARPIT JAIN	ACS - 48332	NIRC	166	MS. DIPIKA SHAMSUNDER RATHI	ACS - 48385	WIRC
114	MS. HIMANSHI NEGI	ACS - 48333	NIRC	167	MR. MEHUL HARILAL SHAH	ACS - 48386	WIRC
115	MS. VARTA KHANDELWAL	ACS - 48334	NIRC	168	MS. ARATI LAXMIDAS MODI	ACS - 48387	WIRC
116	MS. BHAWNA	ACS - 48335	NIRC	169	MS. MEENAKUMARI ARVINDKUMAR SHARMA	ACS - 48388	WIRC
117	MS. PREETI SHARMA	ACS - 48336	NIRC	170	MS. SANGITA MOHANLAL RAJPUROHIT	ACS - 48389	WIRC
118	MS. JYOTIKA MEHRA	ACS - 48337	NIRC	171	MS. GUNJAN BHARAT BHAI LIMBANI	ACS - 48390	WIRC

172 MS. RITI JAIN	ACS - 48391	WIRC	225 MR. DUSHYANT SHAILESH BHAI PATADIYA	ACS - 48444	WIRC
173 MS. DHARTI PARESH TEJANI	ACS - 48392	WIRC	226 MS. ADITI AKHILESH MITTAL	ACS - 48445	WIRC
174 MS. SURUCHI MAHESHWARI	ACS - 48393	WIRC	227 MR. ATUL ARYA AGRAHARI	ACS - 48446	WIRC
175 MS. SONAM KUKREJA	ACS - 48394	WIRC	228 MR. ABHISHEK RAMESH KULKARNI	ACS - 48447	WIRC
176 MR. SANKALP RAMCHANDRA KANDI	ACS - 48395	WIRC	229 MR. HARSHIT PARASMAIL SHAH	ACS - 48448	WIRC
177 MS. MAKWANA POOJA BAKULBHAI	ACS - 48396	WIRC	230 MS. ARCHANA MAHENDRA KUMAR RAJPUT	ACS - 48449	WIRC
178 MS. NIDHI DEEPAK KAPASHI	ACS - 48397	WIRC	231 MS. JANVI DEEPAK TALAJIA	ACS - 48450	WIRC
179 MS. NIKITA RAJENDRA TRIVEDI	ACS - 48398	WIRC	232 MR. MD TABISH RIZWAN SIDDIQUI	ACS - 48451	WIRC
180 MS. POOJA VIRINDERNATH SAWHNEY	ACS - 48399	WIRC	233 MR. DHARMESH ARUNBHAI VARA	ACS - 48452	WIRC
181 MS. BHAGYASHREE KIRTIKUMAR VYAS	ACS - 48400	WIRC	234 MS. GOKLANI KIRAN PARMANAND	ACS - 48453	WIRC
182 MR. ASHISH RAVINDRA BAID	ACS - 48401	WIRC	235 MS. KARTIK JAIN	ACS - 48454	NIRC
183 MS. URVI CHANDRAKANT BHAI SHAH	ACS - 48402	WIRC	236 MR. SAGAR MALIK	ACS - 48455	NIRC
184 MR. MAYUR JAISINGH	ACS - 48403	WIRC	237 MR. RAJNEESH MISHRA	ACS - 48456	EIRC
185 MS. POOJA KAMLESH MANDALIA	ACS - 48404	WIRC	238 MR. KISHAN KUMAR SHARMA	ACS - 48457	EIRC
186 MS. DEVANSHI SATHWARA	ACS - 48405	WIRC	239 MR. SANDEEP BHATTER	ACS - 48458	EIRC
187 MR. RAMESH KUMAR SURAMPUDI	ACS - 48406	SIRC	240 MR. KINGSUK MONDAL	ACS - 48459	EIRC
188 MR. MANISH KUMAR BAJAJ	ACS - 48407	NIRC	241 MR. MANISH SHAW	ACS - 48460	EIRC
189 MR. AMIT KUMAR DEY	ACS - 48408	EIRC	242 MS. RANU BANSAL	ACS - 48461	EIRC
190 MS. SOHINI SHUKLA	ACS - 48409	EIRC	243 MS. VAISHALI JHUNJHUNWALA	ACS - 48462	EIRC
191 MS. PRERNA AGRAWAL	ACS - 48410	WIRC	244 MS. SUMMI KISHORE	ACS - 48463	EIRC
192 MS. SANDHYA HEGDE	ACS - 48411	SIRC	245 MS. UTTARA SHARMA	ACS - 48464	EIRC
193 MR. SATYA RANJAN PANDA	ACS - 48412	EIRC	246 MR. RITANKAR BANDYOPADHYAY	ACS - 48465	EIRC
194 MS. HANSA SHARMA	ACS - 48413	NIRC	247 MS. ANKITA BANERJEE	ACS - 48466	EIRC
195 MS. POOJA VIJAY GOHIL	ACS - 48414	WIRC	248 MS. PRITI JAIN	ACS - 48467	EIRC
196 MR. VENKATESH PRASAD S	ACS - 48415	SIRC	249 MR. RITEEK BAHETI	ACS - 48468	EIRC
197 MR. AKHIL JAIN	ACS - 48416	SIRC	250 MS. MONA PODDAR	ACS - 48469	EIRC
198 MR. SATYAJIT SINGH	ACS - 48417	EIRC	251 MS. DILKUSH JAMIL	ACS - 48470	EIRC
199 MS. ARCHANA MISHRA	ACS - 48418	EIRC	252 MS. CHANCHAL GOEL	ACS - 48471	EIRC
200 MS. BHAGYASHREE HIRAWAT	ACS - 48419	EIRC	253 MR. ATUL KHATER	ACS - 48472	EIRC
201 MR. ANKIT BHADANI	ACS - 48420	EIRC	254 MR. PANKAJ JHAWAR	ACS - 48473	EIRC
202 MR. AMIT BENIWAL	ACS - 48421	NIRC	255 MR. AMIT NARAYAN KAMAT	ACS - 48474	WIRC
203 MS. ANISHA NAGPAL	ACS - 48422	NIRC	256 MS. DIVYA JAIN	ACS - 48475	EIRC
204 MS. NIKITA MAHESH SADHNANI	ACS - 48423	SIRC	257 MS. SNEHA CHANDAK	ACS - 48476	EIRC
205 MS. SHELLY BHAGAT CHOUDHARY	ACS - 48424	NIRC	258 MS. NEHA AGARWAL	ACS - 48477	EIRC
206 MR. BHUMESH KUMAR YADAV	ACS - 48425	NIRC	259 MS. POOJA JAISWAL	ACS - 48478	EIRC
207 MR. BHARAT RATHORE	ACS - 48426	NIRC	260 MS. TANISHA GOURISARIA	ACS - 48479	EIRC
208 MR. RISHI SHARMA	ACS - 48427	NIRC	261 MS. PUJA KAUL	ACS - 48480	EIRC
209 MR. OJASWI ARYA	ACS - 48428	NIRC	262 MS. PUJA SINGH	ACS - 48481	EIRC
210 MS. LOVELY HURIA	ACS - 48429	NIRC	263 MS. BIDISHA ACHARI	ACS - 48482	EIRC
211 MS. SHRUTI JAIN	ACS - 48430	NIRC	264 MS. SHALINI OJHA	ACS - 48483	EIRC
212 MS. DIVYA GOEL	ACS - 48431	NIRC	265 MS. BOGA SANTHOSHI	ACS - 48484	SIRC
213 MR. VISHAL SIKARIYA	ACS - 48432	NIRC	266 MS. SWETA JAIN	ACS - 48485	EIRC
214 MR. MOHD SAQIB	ACS - 48433	NIRC	267 MS. DIVYA MUNDHRA	ACS - 48486	EIRC
215 MS. ASHNA VINAY JAIN	ACS - 48434	NIRC	268 MS. MEENAKSHI AGARWAL	ACS - 48487	EIRC
216 MS. HARMILAN KAUR	ACS - 48435	NIRC	269 MR. MAL CHAND SAINI	ACS - 48488	EIRC
217 MS. ANISHA KHANNA	ACS - 48436	NIRC	270 MS. SURBHI GAGGAR	ACS - 48489	NIRC
218 MR. KAWALPREET SINGH ARORA	ACS - 48437	NIRC	271 MR. PRATIK JAIN	ACS - 48490	NIRC
219 MS. SHEFALI KAHNDELWAL	ACS - 48438	NIRC	272 MS. MANSI JAIN	ACS - 48491	NIRC
220 MS. KANIKA GUPTA	ACS - 48439	NIRC	273 MS. RICHA KANODIA	ACS - 48492	NIRC
221 MS. KOMAL AWASTHI	ACS - 48440	NIRC	274 MS. REETIKA MAHENDRA	ACS - 48493	NIRC
222 MS. NISHTHA AGRAWAL	ACS - 48441	NIRC	275 MR. GAURAV SAINI	ACS - 48494	NIRC
223 MR. AVIL RAKSHITH SALINS	ACS - 48442	SIRC	276 MS. SHIKHA TIWARI	ACS - 48495	NIRC
224 MR. JITHIN SCARIA	ACS - 48443	SIRC	277 MR. AKASH JAISWAL	ACS - 48496	NIRC

278	MR. PRIYA KHANNA	ACS - 48497	NIRC	331	MR. SUBBY JACOB VARGHESE	ACS - 48550	SIRC
279	MR. NAVEEN SHARMA	ACS - 48498	NIRC	332	MS. PALLAVI PARAMESHWAR HEGDE	ACS - 48551	SIRC
280	MS. NIDHI	ACS - 48499	NIRC	333	MR. SWATHIGUPTA M S	ACS - 48552	SIRC
281	MS. NEHA BHATIA	ACS - 48500	NIRC	334	MR. ABIJITH UTTUKULAM BABU	ACS - 48553	SIRC
282	MS. ARUSHI KATYAL	ACS - 48501	NIRC	335	MS. POOJA N	ACS - 48554	SIRC
283	MS. ANU KADIAN	ACS - 48502	NIRC	336	MS. ASHRITA REDDY TAMMA	ACS - 48555	SIRC
284	MS. POONAM JANGID	ACS - 48503	NIRC	337	MS. SUNITA VIDYASAGAR DUBE	ACS - 48556	WIRC
285	MS. POOJA SINGH	ACS - 48504	NIRC	338	MS. REENA RAPHEAL ANTHONY	ACS - 48557	WIRC
286	MS. PRIYANKA	ACS - 48505	NIRC	339	MR. ROHAN MOHAN DESHPANDE	ACS - 48558	WIRC
287	MR. SANJAY KUMAR	ACS - 48506	NIRC	340	MS. PRIYA UTTAM ARWAT	ACS - 48559	WIRC
288	MR. HASMUKH SONI	ACS - 48507	NIRC	341	MS. CIJI ANTONY	ACS - 48560	WIRC
289	MS. JYOTI SHARMA	ACS - 48508	NIRC	342	MR. GOPAL GIRISH CHANDE	ACS - 48561	WIRC
290	MR. NARENDRA KUMAR PRAJAPAT	ACS - 48509	NIRC	343	MR. NACHIKET SUDHIR SOHANI	ACS - 48562	WIRC
291	MS. YASHNA PAHWA	ACS - 48510	NIRC	344	MR. MUKESH CHANDRASHEKHAR PUROHIT	ACS - 48563	WIRC
292	MR. DINKER MISHRA	ACS - 48511	NIRC	345	MS. REBECCA OSCAR NEVIS	ACS - 48564	WIRC
293	MS. KARISHMA BAKSHI	ACS - 48512	NIRC	346	MS. NAYANA UTTAM PACHANGE	ACS - 48565	WIRC
294	MS. POOJA JAIN	ACS - 48513	NIRC	347	MS. POOJA SUDHIR KOHLI	ACS - 48566	WIRC
295	MS. KAJAL ANEJA	ACS - 48514	NIRC	348	MR. AKSHAYKUMAR HEMANTKUMAR RAO	ACS - 48567	WIRC
296	MS. KOMAL BANWANI	ACS - 48515	NIRC	349	MS. DHWANI BHUPENDRA SHAH	ACS - 48568	WIRC
297	MR. KSHITIJ AGARWAL	ACS - 48516	NIRC	350	MS. UTTARA MAHADEO DEHERKAR	ACS - 48569	WIRC
298	MS. VANIKA BANSAL	ACS - 48517	NIRC	351	MR. NILESH PARSHURAM KELKAR	ACS - 48570	WIRC
299	MS. SHUBHANGI MAHESHWARI	ACS - 48518	NIRC	352	MS. SAPNA JAIN	ACS - 48571	WIRC
300	MS. ANNU BIRLA	ACS - 48519	NIRC	353	MS. SWATI NARAYANAN	ACS - 48572	WIRC
301	MS. NANDITA SINGH	ACS - 48520	NIRC	354	MS. HIMISHA CHIMAN PATEL	ACS - 48573	WIRC
302	MS. NEHA KHAN	ACS - 48521	NIRC	355	MR. SWAPNIL VISHNU BHOSALE	ACS - 48574	WIRC
303	MS. MEERA SAWHNEY	ACS - 48522	NIRC	356	MS. KRUPALI HEMENDRABHAI SHAH	ACS - 48575	WIRC
304	MR. PRINCE KUMAR	ACS - 48523	NIRC	357	MS. HIRANYAMAI SURESH KULKARNI	ACS - 48576	WIRC
305	MR. AMIT	ACS - 48524	NIRC	358	MS. CHANDNI MUKESHBHAI CHHABARIYA	ACS - 48577	WIRC
306	MS. NISHTHA MAHESHWARI	ACS - 48525	NIRC	359	MS. POOJA BHADRESH BAGADIA	ACS - 48578	WIRC
307	MR. RAVIKANT	ACS - 48526	NIRC	360	MR. JIGAR PRADUMAN BAGARIA	ACS - 48579	WIRC
308	MS. SUHANI WALIA	ACS - 48527	NIRC	361	MS. SHACHI DOSI	ACS - 48580	WIRC
309	MR. AMIT KUMAR	ACS - 48528	NIRC	362	MS. MUKTA VASUDEO DESHPANDE	ACS - 48581	WIRC
310	MS. MEGHA PATHAK	ACS - 48529	NIRC	363	MS. MANSI KUNDAN PATEL	ACS - 48582	WIRC
311	MR. MAHAVIR SINGH RATNOO	ACS - 48530	NIRC	364	MR. NIRAV DAHYABHAI VEKARIYA	ACS - 48583	WIRC
312	MS. SHIVANGI SETHI	ACS - 48531	NIRC	365	MS. KRISHNA DEEPAK KARIA	ACS - 48584	WIRC
313	MS. VANSHIKA NAYYAR	ACS - 48532	NIRC	366	MS. BHOOMI MUKESHBHAI SANGHVI	ACS - 48585	WIRC
314	MR. NIKHIL JAIN	ACS - 48533	NIRC	367	MR. ADITYA KATARIA	ACS - 48586	EIRC
315	MS. SEEMA	ACS - 48534	NIRC	368	MS. PAWNI BHAVE	ACS - 48587	WIRC
316	MS. KANGAN JAIN	ACS - 48535	NIRC	369	MR. SANJAYKUMAR MOTILAL SHARMA	ACS - 48588	WIRC
317	MR. AMAN GARG	ACS - 48536	NIRC	370	MR. MOHIT KUMAR GOYAL	ACS - 48589	WIRC
318	MS. MUSKAN SAHNI	ACS - 48537	NIRC	371	MS. SAVITA SUNDARLAL TILANTE	ACS - 48590	WIRC
319	MR. SACHIN TAKSALI	ACS - 48538	NIRC	372	MR. PARTH PARESHBHAI SHAH	ACS - 48591	WIRC
320	MS. NIMISHA TAYAL	ACS - 48539	NIRC	373	MR. HARESHKUMAR ISHWARLAL SOMJIYANI	ACS - 48592	WIRC
321	MS. SONIA CHABRA	ACS - 48540	NIRC	374	MS. AMULYA	ACS - 48593	NIRC
322	MS. AMANDEEP KAUR	ACS - 48541	NIRC	375	MS. ANSHU GOENKA	ACS - 48594	WIRC
323	MR. AMOL MANIK BHAGAT	ACS - 48542	SIRC	376	MS. ANMOL KANCHWANI	ACS - 48595	WIRC
324	MS. PADMAJA SRINIVASAN	ACS - 48543	SIRC	377	MR. ASHISH OMPRAKASH KHANDELWAL	ACS - 48596	WIRC
325	MS. RESHMA BABU P	ACS - 48544	SIRC	378	MR. BISWAJIT DATTA	ACS - 48597	EIRC
326	MR. BALAMURUGAN V	ACS - 48545	SIRC	379	MR. ARUN KUMAR MEHER	ACS - 48598	EIRC
327	MR. LAXMI CHANNABASAV BAGALI	ACS - 48546	SIRC	380	MS. JAGMEET KAUR	ACS - 48599	NIRC
328	MR. NARENDER SHARMA	ACS - 48547	SIRC	381	MS. RUCHI TARE	ACS - 48600	WIRC
329	MR. SIVARAMAKRISHNAN C J	ACS - 48548	SIRC	382	MR. MUKESH SAKHARAM TANDALEKAR	ACS - 48601	WIRC
330	MR. AVNIT SINGH ARORA	ACS - 48549	SIRC	383	MS. NEHA CHAURASIA	ACS - 48602	EIRC

384 MS. SHRISHTI SINHA	ACS - 48603	EIRC	437 MS. NASRA ALI HABIB	ACS - 48656	NIRC
385 MR. ANANGO BHATTACHARYA	ACS - 48604	EIRC	438 MR. KAMAL KUMAR	ACS - 48657	NIRC
386 MS. NEHA AGARWAL	ACS - 48605	EIRC	439 MS. NIHARIKA MAHAJAN	ACS - 48658	NIRC
387 MS. TWINKLE BIHANI	ACS - 48606	EIRC	440 MR. HIMANSHU WASON	ACS - 48659	NIRC
388 MS. SEMANTI PUTATUNDA	ACS - 48607	EIRC	441 MS. SONIA GUPTA	ACS - 48660	NIRC
389 MS. PARINITA GOENKA	ACS - 48608	EIRC	442 MS. PRIYA JAIN	ACS - 48661	NIRC
390 MR. PRAKASH R	ACS - 48609	EIRC	443 MR. SHEKHAR KUMAR	ACS - 48662	NIRC
391 MS. JOLLY VASUDEV GIDWANI	ACS - 48610	NIRC	444 MS. GURPREET KAUR KOHLI	ACS - 48663	NIRC
392 MS. MAMTA RANI	ACS - 48611	NIRC	445 MS. POOJA KATHPAL	ACS - 48664	NIRC
393 MR. SHOBHIT RAWAT	ACS - 48612	NIRC	446 MR. AKSHAY PARNAMI	ACS - 48665	NIRC
394 MS. AMITA SINGH	ACS - 48613	NIRC	447 MR. SOHAN LAL KUMAWAT	ACS - 48666	NIRC
395 MS. POOJA SHARMA	ACS - 48614	NIRC	448 MR. SHANTANU SRIVASTAVA	ACS - 48667	NIRC
396 MS. NAMRATA SOMANI	ACS - 48615	NIRC	449 MS. SOMA DEY	ACS - 48668	NIRC
397 MS. JYOTI KUMARI	ACS - 48616	NIRC	450 MR. MOHIT TIWARI	ACS - 48669	NIRC
398 MS. RAVEENA ANAND	ACS - 48617	NIRC	451 MR. NOOR MOHAMMAD	ACS - 48670	NIRC
399 MS. NAINA ISRANI	ACS - 48618	NIRC	452 MR. PRANABH KAPOOR	ACS - 48671	NIRC
400 MS. ANJALI AGGARWAL	ACS - 48619	NIRC	453 MR. ANKIT PRITHVIRAJ SARAWGI	ACS - 48672	NIRC
401 MS. SINJU BALU K K	ACS - 48620	SIRC	454 MS. NIKITA SALUJA	ACS - 48673	NIRC
402 MR. RAJDEEP SHAHANE	ACS - 48621	WIRC	455 MS. ANKITA MALANI	ACS - 48674	NIRC
403 MR. DIPESH SHASHI GOYAL	ACS - 48622	WIRC	456 MS. MEGHA MALHOTRA	ACS - 48675	NIRC
404 MR. RAVENDRA SINGH PARIHAR	ACS - 48623	WIRC	457 MS. BHAVYATA BAJPAI	ACS - 48676	NIRC
405 MS. MINAL VINODRAY LAKHLANI	ACS - 48624	WIRC	458 MS. LAVINA CHANDNANI	ACS - 48677	NIRC
406 MR. VAIBHAV PANKAJBHAI KAKKAD	ACS - 48625	WIRC	459 MS. SWATI MEDATWAL	ACS - 48678	NIRC
407 MS. NANDA SAMPAT MUNDRA	ACS - 48626	WIRC	460 MR. SAMEER SUDARSHAN RV	ACS - 48679	SIRC
408 MS. DIVYA VINOD JAIN	ACS - 48627	WIRC	461 MR. SUDHIR GUPTA	ACS - 48680	WIRC
409 MS. KRISHNA SUBHASHCHANDRA LODHIYA	ACS - 48628	WIRC	462 MR. SUMEET SADANAND MORE	ACS - 48681	WIRC
410 MR. DIXIT DIPAKKUMAR SHAH	ACS - 48629	WIRC	463 MS. SEEMA HARISHCHANDRA GAWAS	ACS - 48682	WIRC
411 MR. RISHABH JITENDRABHAI SHAH	ACS - 48630	WIRC	464 MS. SHRUTI DWIVEDI	ACS - 48683	NIRC
412 MR. SHYAM KUMAR JADUKA	ACS - 48631	EIRC	465 MR. PARESH DAMODAR PATIL	ACS - 48684	WIRC
413 MS. SHRUTI AGARWAL	ACS - 48632	EIRC	466 MS. VIPENJEET KAUR BANGER	ACS - 48685	WIRC
414 MS. HARSHITA CHANGLANI	ACS - 48633	EIRC	467 MS. SHIVANI PANWAR	ACS - 48686	WIRC
415 MR. ADITI AGARWAL	ACS - 48634	EIRC	468 MS. APURVA MURALIDHAR JOSHI	ACS - 48687	WIRC
416 MS. NISHA CHHAJER	ACS - 48635	EIRC	469 MS. PRIYA DEVIDAS SHANBHAG	ACS - 48688	WIRC
417 MS. SIKHA DHANUKA	ACS - 48636	EIRC	470 MS. VARSHA MAHENDRA WAGHELA	ACS - 48689	WIRC
418 MS. SAFIYA SHAIKH	ACS - 48637	EIRC	471 MS. AVANI JOSHI	ACS - 48690	WIRC
419 MR. NITESH KEJRIWAL	ACS - 48638	EIRC	472 MS. KIRAN HIRALAL BASAWA	ACS - 48691	WIRC
420 MS. MEGHA KAKRANIA	ACS - 48639	EIRC	473 MS. BANSARI PRAFUL JOSHI	ACS - 48692	WIRC
421 MS. JAYA SURANA	ACS - 48640	EIRC	474 MS. AMRUTA GIRADKAR	ACS - 48693	WIRC
422 MS. ANKITA DUTTA	ACS - 48641	EIRC	475 MR. SOHIN SAMSON DONGRE	ACS - 48694	WIRC
423 MS. HEMA KUMARI	ACS - 48642	EIRC	476 MS. VAISHALI VIMALKUMAR PUNJABI	ACS - 48695	WIRC
424 MS. PAYAL KESHARI	ACS - 48643	EIRC	477 MS. POOJA KANTIBHAI PATEL	ACS - 48696	WIRC
425 MR. MANOJ KUMAR RATHI	ACS - 48644	WIRC	478 MS. JINAL JAYESHBHAI SHAH	ACS - 48697	WIRC
426 MR. PATHIK KUMAR TEJA	ACS - 48645	NIRC	479 MR. MANJUNATHA A	ACS - 48698	SIRC
427 MS. YASHVEE	ACS - 48646	NIRC	480 MR. SUNIL DUTT SHARMA	ACS - 48699	NIRC
428 MR. GAURAV TALWAR	ACS - 48647	NIRC	481 MR. DINESH UNNIKRISHNAN	ACS - 48700	SIRC
429 MS. LATA RANI	ACS - 48648	NIRC	482 MR. THIMMA REDDY GATTU	ACS - 48701	SIRC
430 MS. NIDHI BHASKAR	ACS - 48649	NIRC	483 MR. HAJA SEENA MOHAMMED HAZEEM	ACS - 48702	SIRC
431 MR. PUNEET KANDPAL	ACS - 48650	NIRC	484 MR. VINAYAK VISHWANATHAN	ACS - 48703	WIRC
432 MR. AKASH KANDOI	ACS - 48651	NIRC	485 MR. GOHEL SANDIP PRAVINBHAI	ACS - 48704	WIRC
433 MS. NIDHI KULSHRESHTHA	ACS - 48652	NIRC	486 MR. G DEEPAK	ACS - 48705	EIRC
434 MR. VIKAS KUMAR MAHESHWARI	ACS - 48653	NIRC	487 MS. SAMRIDHI MAHAJAN	ACS - 48706	NIRC
435 MS. SWATI SRIVASTAVA	ACS - 48654	NIRC	488 MR. DEEPAK SHARMA	ACS - 48707	NIRC
436 MR. PEER SAJAD AHMAD	ACS - 48655	NIRC	489 MS. GARIMA BATRA	ACS - 48708	NIRC

490 MR. RAVI SINGH	ACS - 48709	NIRC	543 MS. TRIPTI MITTAL	ACS - 48762	NIRC
491 MS. ANUPMA KASHYAP	ACS - 48710	NIRC	544 MS. VINITA SINGH	ACS - 48763	NIRC
492 MR. KARAN VYAS	ACS - 48711	NIRC	545 MS. SOWMIYA V	ACS - 48764	SIRC
493 MS. NIKITA MEHRA	ACS - 48712	NIRC	546 MR. MADHAV BHAT	ACS - 48765	SIRC
494 MS. GEETIKA BISHT	ACS - 48713	NIRC	547 MR. JUBIN JOHN	ACS - 48766	SIRC
495 MS. GAYTRI MANWANI	ACS - 48714	NIRC	548 MR. AMIT GANAPATI INAMADAR	ACS - 48767	SIRC
496 MR. RUCHIL DEEPAK GANDHI	ACS - 48715	WIRC	549 MS. ANKEETA B GOUTAM DAGA	ACS - 48768	SIRC
497 MS. MAHEK DHIREN NAGDA	ACS - 48716	WIRC	550 MR. NINAD VIJAY SAWANT	ACS - 48769	WIRC
498 MR. CHANDRAKANT SHIVSHANKAR NIMJE	ACS - 48717	WIRC	551 MS. PRITI HARISH MANYAL	ACS - 48770	WIRC
499 MS. RASHMI RAMESH ARMARKAR	ACS - 48718	WIRC	552 MS. SANKITA DEVRAJ AJINKYA	ACS - 48771	WIRC
500 MS. NAMRATA SACHDEV	ACS - 48719	WIRC	553 MS. ANKITA BEN HAMIRBHAI AHIR	ACS - 48772	WIRC
501 MS. SHRUSHTI JIGNYANSHU GANDHI	ACS - 48720	WIRC	554 MR. MITESH PRAVINBHAI PATEL	ACS - 48773	WIRC
502 MR. BORAD HARDIK SURESHBHAI	ACS - 48721	WIRC	555 MR. PARAG MITTAL	ACS - 48774	WIRC
503 MR. VIJAY MUKESH THAKKAR	ACS - 48722	WIRC	556 MR. AKHILESH KUMAR SINGH	ACS - 48775	NIRC
504 MS. ALPA KISHORBHAI SANGHAVI	ACS - 48723	WIRC	557 MS. YOGESHWARI YOURAJ CHAMBHARE	ACS - 48776	WIRC
505 MS. NAMITA SINGH	ACS - 48724	WIRC	558 MR. YOGESH ASHOK PATOLE	ACS - 48777	WIRC
506 MS. AVNEE ANUP UPASANI	ACS - 48725	WIRC	559 MS. FORAM MAHESHBHAI CHAUHAN	ACS - 48778	WIRC
507 MR. GAUTAM GOSWAMI	ACS - 48726	EIRC	560 MS. KETKI SHRIKANT KHARE	ACS - 48779	WIRC
508 MS. RAGINI SHUKLA	ACS - 48727	EIRC	561 MS. FORUM RAJNIKANT SHAH	ACS - 48780	WIRC
509 MR. RAHUL KUMAR	ACS - 48728	EIRC	562 MS. APARNA CHETAN DAGLI	ACS - 48781	WIRC
510 MR. SAIKAT RAY	ACS - 48729	EIRC	563 MS. SHANTIBEN GOPAL BHAI DANGAR	ACS - 48782	WIRC
511 MS. PAYEL AGARWALA	ACS - 48730	EIRC	564 MS. RACHANA ANJAN DIXIT	ACS - 48783	WIRC
512 MS. PRACHI AGARWAL	ACS - 48731	EIRC	565 MS. BUTANI KARISHMA HARESH	ACS - 48784	WIRC
513 MS. NEHA LAKHOTIA	ACS - 48732	EIRC	566 MR. VIVEK KANWAR	ACS - 48785	WIRC
514 MS. PRAGYA PANDEY	ACS - 48733	EIRC	567 MR. MAULIK SHASHIKANTBHAI BHAVSAR	ACS - 48786	WIRC
515 MS. ALOK PUROHIT	ACS - 48734	EIRC	568 MR. MUKESH SINGH RATHOR	ACS - 48787	NIRC
516 MS. SUNITA SAHA	ACS - 48735	EIRC	569 MR. VIJAY KUMAR S	ACS - 48788	SIRC
517 MS. NIDHI SIPANI	ACS - 48736	EIRC	570 MR. SARBESWAR SWAIN	ACS - 48789	EIRC
518 MS. ALKA JAIN	ACS - 48737	EIRC	571 MS. RAKHI GAUTAM PATWA	ACS - 48790	WIRC
519 MR. PANKAJ BANSAL	ACS - 48738	NIRC	572 MS. SONI PANDEY	ACS - 48791	EIRC
520 MS. SAPNA RAKHECHA	ACS - 48739	NIRC	573 MS. RITIKA JALAN	ACS - 48792	EIRC
521 MS. PUROHIT PRIYA	ACS - 48740	NIRC	574 MS. ANJU VENARAM CHOUDHARY	ACS - 48793	SIRC
522 MS. RADHIKA VERMA	ACS - 48741	NIRC	575 MS. MEGHA NARENDRA JAIN	ACS - 48794	NIRC
523 MS. MANALI NARULA	ACS - 48742	NIRC	576 MS. RASHMI GYAN KHIMAWAT	ACS - 48795	WIRC
524 MR. SACHIN KHURANA	ACS - 48743	NIRC	577 MR. YOGESH SHYAM HEGDE	ACS - 48796	WIRC
525 MR. SADAT MOIN SANJARI	ACS - 48744	NIRC	578 MS. RASHMI GUPTA	ACS - 48797	EIRC
526 MR. SANDESH SETHI	ACS - 48745	NIRC	579 MS. LEENA NARANG	ACS - 48798	NIRC
527 MS. SALONI GUPTA	ACS - 48746	NIRC	580 MS. NEHA GUPTA	ACS - 48799	NIRC
528 MR. RAVI KASANA	ACS - 48747	NIRC	581 MR. AKASH GOEL	ACS - 48800	NIRC
529 MS. RUPAL JAIN	ACS - 48748	NIRC	582 MR. HIMANSHU DUBEY	ACS - 48801	WIRC
530 MR. DHRUV KHANDELWAL	ACS - 48749	NIRC	583 MS. AVANI HASMUKH CHHEDA	ACS - 48802	WIRC
531 MR. MOHAK JAIN	ACS - 48750	NIRC	584 MS. SHWETA GARG	ACS - 48803	NIRC
532 MS. ANIMA TEMANI	ACS - 48751	NIRC	585 MR. SASHI DEV DURGA	ACS - 48804	EIRC
533 MR. ROBIN PARASHAR	ACS - 48752	NIRC	586 MS. POOJA DIXIT	ACS - 48805	EIRC
534 MS. KARISHMA	ACS - 48753	NIRC	587 MR. PRADIP PD KASERA	ACS - 48806	EIRC
535 MS. OSHIN GEHLOT	ACS - 48754	NIRC	588 MS. KARISHMA KANKARIYA	ACS - 48807	EIRC
536 MS. VARSHA JANGIR	ACS - 48755	NIRC	589 MR. VIJIT BAJ	ACS - 48808	NIRC
537 MS. AYUSHI AGRAWAL	ACS - 48756	NIRC	590 MS. SUNAKSHI SACHDEVA	ACS - 48809	NIRC
538 MS. PANKAJ TANWAR	ACS - 48757	NIRC	591 MR. SANDEEP KUMAR	ACS - 48810	NIRC
539 MR. SUSHANT ARORA	ACS - 48758	NIRC	592 MR. AMIT KUMAR SHUKLA	ACS - 48811	NIRC
540 MR. JATIN MANOCHA	ACS - 48759	NIRC	593 MS. RAKHI MAKHLOGA	ACS - 48812	WIRC
541 MS. SAKSHI	ACS - 48760	NIRC	594 MR. SANCHIT SHARMA	ACS - 48813	NIRC
542 MS. MEGHA SHARMA	ACS - 48761	NIRC	595 MS. RASHMI PUROHIT	ACS - 48814	NIRC

596	MR. DINESH KUMAR SHINDI	ACS - 48815	NIRC
597	MS. AYUSHI THAKURIYA	ACS - 48816	WIRC
598	MR. RITURAJ RASTOGI	ACS - 48817	NIRC
599	MS. VARSHA JAIN	ACS - 48818	NIRC
600	MR. SANOJ KUMAR	ACS - 48819	NIRC
601	MR. MAYANK VASHIST	ACS - 48820	NIRC
602	MS. SUKHJIT KAUR	ACS - 48821	NIRC
603	MS. RAVINA SOOD	ACS - 48822	NIRC
604	MS. MEHREEN RAHMAN	ACS - 48823	NIRC
605	MS. DIVYA BADAYA	ACS - 48824	NIRC
606	MS. ESHITA JAIN	ACS - 48825	NIRC
607	MR. NIKHIL KHANDELWAL	ACS - 48826	NIRC
608	MS. VEENA SHANKAR HUNSIMARAD	ACS - 48827	SIRC
609	MR. PRASANNA SUBRAMANYA BHAT	ACS - 48828	SIRC
610	MS. VANISHREE ANANDMURTHY KULKARNI	ACS - 48829	SIRC
611	MS. PRIYANKA NITINKUMAR DIGHE	ACS - 48830	WIRC
612	MR. RAHUL GIRDHARILAL AGRAWAL	ACS - 48831	WIRC
613	MR. GANDHI MAUNISHKUMAR SANATKUMAR	ACS - 48832	WIRC
614	MR. ROMI KUMAR AGRAWAL	ACS - 48833	WIRC
615	MS. POOJA BIHARILAL KUKRETI	ACS - 48834	WIRC
616	MS. SAKSHI SHIVKUMAR SHARMA	ACS - 48835	WIRC
617	MS. ROMA NILKANTHA JOSHI	ACS - 48836	WIRC
618	MR. PARMAR JAYESH MANSHUKHBHAI	ACS - 48837	WIRC
619	MR. MALAY TRUPTESH DESAI	ACS - 48838	WIRC
620	MS. SURABHI NARAYAN DAFTARI	ACS - 48839	WIRC
621	MS. RACHANA LAXMAN KANOR	ACS - 48840	WIRC
622	MS. SHEFALI RAVIJIT TANNA	ACS - 48841	WIRC
623	MR. LLOYD SERRAO	ACS - 48842	WIRC
624	MR. MIRAJKUMAR KISHORKUMAR DAVE	ACS - 48843	WIRC
625	MR. GAURAV	ACS - 48844	NIRC
626	MS. DIPIKA BHUTRA	ACS - 48845	EIRC
627	MR. VIJENDERPAL SINGH JUDGE	ACS - 48846	WIRC
628	MS. SUMUKHI JAYVANT VAISHAMPAYAN	ACS - 48847	WIRC
629	MS. VIDHI MEHTA	ACS - 48848	WIRC
630	MS. ROSHNI MOHANLAL JETHANI	ACS - 48849	WIRC
631	MS. NIVEDITA ARUN JUVATKAR	ACS - 48850	WIRC
632	MS. SHILPA RANI	ACS - 48851	NIRC
633	MR. JAI PRAKASH SAINI	ACS - 48852	NIRC
634	MS. ANISHA DUTTA	ACS - 48853	NIRC
635	MS. SHRUTI GUPTA	ACS - 48854	NIRC
636	MS. SWARNA	ACS - 48855	NIRC

RESTORED*

SR. NO.	A/F	MEM. NO.	MEM. NAME	PLACE
1	A	16642	K. VENKATA RAM RAO	SIRC
2	A	9022	MANISHA VEDAK	WIRC
3	A	34980	PRAGATI JAIN	WIRC
4	A	16068	PAYAL M PURI	NIRC
5	A	3160	K NARAYANA RAO	NIRC
6	A	15681	PRIYA TIWARI	WIRC
7	A	17783	AITIPAMULA ARAVIND	SIRC
8	A	33431	SMIT SHAILESH SHAH	WIRC
9	A	24599	GAURAV SHARMA	SIRC

10	A	3988	RAJAGOPALA NAGARAJAN	SIRC
11	A	11825	MANOJ KUMAR SATNALIWALA	EIRC
12	F	6296	NEERJA CHHABRA	NIRC
13	F	6386	RAJKUMAR	NIRC
14	A	16705	S VASUDEV	SIRC
15	A	19977	RANGANATHA CHENNA	SIRC
16	F	4295	RAMESH CHANDRA CHOPRA	NIRC
17	A	33979	SHRUTI RAJINDER CHOPRA	NIRC
18	A	29836	YOGYA DUTT ARYA	NIRC
19	F	1937	D S GUNASINGH	WIRC
20	A	6882	SANDRA LOBO	F/WIRC
21	A	6401	RAMNATH NATESAN IYER	WIRC
22	A	11551	SAMEER SHAH	SIRC
23	A	21198	ANAND VIJAY KUMAR CHAPEKAR	WIRC
24	A	28130	NIDHI AGARWAL	EIRC
25	A	21777	VIVEK CHANDRAKANT DANAIT	WIRC
26	A	32326	EKTA TUSHAR VADARIA	WIRC

CERTIFICATE OF PRACTICE**ISSUED***

SI. NO.	NAME	MEMB. NO.	REGN.	COP NO.
1	MR. GUNTUR VAMSHESHWAR RAO	FCS - 7885	SIRC	17452
2	SH. V J BALAKRISHNAN	ACS - 23831	SIRC	17453
3	MS. VANDANA PERIWAL	ACS - 33565	WIRC	17454
4	MS. DISHA BHARAT PATEL	ACS - 35199	WIRC	17455
5	MS. SOUMYA N R	ACS - 43981	SIRC	17456
6	MR. PRASANNAKUMAR BHAGAVANTH BEDI	ACS - 45210	SIRC	17457
7	MR. DEVESH PANT	ACS - 45633	NIRC	17458
8	MS. RICHA PAHWA	ACS - 46967	WIRC	17459
9	MS. MEENAKSHI MATHUR	ACS - 47272	NIRC	17460
10	MR. NAUFAL NAZAR	ACS - 47340	SIRC	17461
11	MR. MOHAMMED TARIQ HAROON RASHID BUDGUJAR	ACS - 47471	WIRC	17462
12	MS. VINITA KABRA	ACS - 47504	EIRC	17463
13	MR. ABHISHEK PATHAK	ACS - 47517	NIRC	17464
14	MR. RAJAN GHAI	ACS - 47607	NIRC	17465
15	MR. SARATH SASIDHARA	ACS - 47669	SIRC	17466
16	MS. LEENA CHITTI	ACS - 47711	WIRC	17467
17	MR. ABDUL QUADIR	ACS - 47721	NIRC	17468
18	MR. MANISH KUMAR ARORA	ACS - 43833	NIRC	17469
19	MR. REAGAN ALVIT ANTHONY SAMPAYO	ACS - 45108	WIRC	17470
20	SH. SATYA PRAKASH	FCS - 8175	NIRC	17471
21	MS. PALLAVI K	ACS - 27692	SIRC	17472
22	MS. BHAWIKA RAMNANI	ACS - 37248	NIRC	17473
23	MS. ANIT AHUJA	ACS - 40699	NIRC	17474
24	MS. SUNITA YADAV	ACS - 43103	NIRC	17475
25	MS. KHUSHBU KUMARI AGARWAL	ACS - 43701	EIRC	17476
26	MR. HAREESHA GOWDA	ACS - 44176	SIRC	17477
27	MR. AKASH BANSAL	ACS - 44657	NIRC	17478
28	MR. NISHANT TAYAL	ACS - 44713	NIRC	17479
29	MS. PRIYA NARNOLIA	ACS - 47211	EIRC	17480
30	MS. MANISHA AGARWAL	ACS - 47310	EIRC	17481
31	MR. LALITH KRISHNA PRASAD KOTA	ACS - 47345	SIRC	17482

*RESTORED FROM 01.11.2016 TO 30.11.2016

ISSUED DURING THE MONTH OF NOVEMBER, 2016

32	MR. ANAS ABDULHAI PATEL	ACS - 47470	WIRC	17483	85	MR. SHUBHAM SHUKLA	ACS - 47874	NIRC	17536
33	MS. SIMPI BORAH	ACS - 47626	EIRC	17484	86	MR. ROHITKUMAR VIKAS PINGALE	ACS - 47920	WIRC	17537
34	MS. SAREEKA JAIN	ACS - 47632	EIRC	17485	87	MR. SHANTANU DATTATRAYA JAGTAP	ACS - 47925	WIRC	17538
35	MS. ASHA AGARWAL	ACS - 47636	EIRC	17486	88	MS. NEHA AVINASH MARATHE	ACS - 47927	WIRC	17539
36	MR. SOURABH BATRA	ACS - 47646	NIRC	17487	89	MR. JEETENDRA ROCHIRAM KESWANI	ACS - 47960	WIRC	17540
37	MS. MONICA NANDA	ACS - 47731	NIRC	17488	90	MR. SOMESHCHANDRA SHEKHAR KALE	ACS - 47968	WIRC	17541
38	MR. RAHUL DNYANESHWAR DAHAPUTE	ACS - 47741	WIRC	17489	91	MR. SUNIL KHATRI	ACS - 48004	NIRC	17542
39	MR. SANDIP SUMTILAL CHORDIYA	ACS - 47744	WIRC	17490	92	MR. ANKURKUMAR DINESHCHANDRA GANDHI	ACS - 48016	WIRC	17543
40	MR. SUJITH RAVINDRANATH	ACS - 39757	SIRC	17491	93	MR. HASMUKH BHUDARBHAI PRAJAPATI	ACS - 48018	WIRC	17544
41	MR. ANAND RAMESH PARAB	ACS - 43884	WIRC	17492	94	MR. SUBHASH KISHAN KANDRAPU	ACS - 32743	SIRC	17545
42	MR. AKASH PHALSWAL	ACS - 45233	NIRC	17493	95	MS. DEEPTI GROVER	FCS - 7654	NIRC	17546
43	MS. MANSI MAHESHKUMAR BAVISHI	ACS - 45853	WIRC	17494	96	SH. NAVIN KUMAR JAIN	ACS - 10703	WIRC	17547
44	MS. KALINDEE CHOUDHARY	ACS - 45984	WIRC	17495	97	MS. PRERNA BOTHRA	ACS - 22420	WIRC	17548
45	MR. SAHIL MALHOTRA	ACS - 47328	NIRC	17496	98	SH. S R KRISHNAN	FCS - 2075	NIRC	17549
46	MS. GORIKA ARORA	ACS - 47426	NIRC	17497	99	MRS. MANASY AMIT ABHYANKAR	ACS - 17386	WIRC	17550
47	SH RAJIB LOCHAN SARANGI	ACS - 20312	SIRC	17498	100	SH. YASHPAL BANSAL	FCS - 8980	NIRC	17551
48	MS. VIDNYA KEDAR SAKHARDANDE	ACS - 21941	WIRC	17499	101	MS. GARIMA JAIN	ACS - 39886	WIRC	17552
49	MR. AKSHAT CHECHANI	ACS - 23506	WIRC	17500	102	MS. KAMNA	ACS - 42769	NIRC	17553
50	MR. VARUN KUMAR JINDAL	ACS - 31601	NIRC	17501	103	MR. RAIMEEN BHANUBHAI MARADIA	ACS - 43050	WIRC	17554
51	MS. DEEPALI GAJANAN MORE	ACS - 32117	WIRC	17502	104	MR. MUKESH BHAWAR LAL UNECHA	ACS - 46678	WIRC	17555
52	MR. VISHAL MITTAL	ACS - 36647	NIRC	17503	105	MR. ARJUN TYAGI	ACS - 47084	NIRC	17556
53	MS. NANCY GULATI	ACS - 40670	NIRC	17504	106	MR. JAGADISH PRASAD DAS	ACS - 47623	EIRC	17557
54	MS. SHAH SIDDHI SUMANBHAI	ACS - 42373	WIRC	17505	107	MR. VISHWAS JAIN	ACS - 47859	NIRC	17558
55	MS. DEEPIKA BANSAL	ACS - 47810	NIRC	17506	108	MR. SWAMINATHAN VENKATESH	ACS - 47893	SIRC	17559
56	MS. PRIYA MALHOTRA	ACS - 47811	NIRC	17507	109	MR. MOHAMMED GOUS CHANDPASHA SHAIKH	ACS - 47913	WIRC	17560
57	MS. NEHA GUPTA	ACS - 46227	NIRC	17508	110	MR. VIJAY RAMCHANDRA ALIMKAR	ACS - 47938	WIRC	17561
58	MS. MANISHA GAJANAN JAWALE	ACS - 47905	SIRC	17509	111	MR. TOSHIK HITENDRA SHAH	ACS - 47978	WIRC	17562
59	MS DEEPTI GAURAV SRIVASTAV	FCS - 7334	NIRC	17510	112	MR. DEVENDRA SINGH	ACS - 48048	NIRC	17563
60	SH. RAMACHANDRA MURTHY GOLLAKOTA	ACS - 7594	SIRC	17511	113	MR. MANMOHAN SHARMA	ACS - 48087	SIRC	17564
61	SH. GAURAV PINGLE	ACS - 22733	WIRC	17512	114	MR. CHETAN BHARAT KHALADKAR	ACS - 48103	WIRC	17565
62	SH. ANUPAM C JOSHI	ACS - 26127	WIRC	17513	115	MR. NIKUNJ VASANT PATEL	ACS - 48105	WIRC	17566
63	MR. MOHIT CHANDRA SHARMA	ACS - 33192	NIRC	17514	116	MS. RAJVI SHAH	ACS - 22576	WIRC	17567
64	MS. MEGHA AGARWAL	ACS - 33269	EIRC	17515	117	MR. MANISH LOKWANI	ACS - 31557	NIRC	17568
65	MS. PRIYANKA JOSHI	ACS - 36608	NIRC	17516	118	MRS. NITA ASHOK BUGADE	ACS - 34576	WIRC	17569
66	MR. VEERAMANIKANDAN T	ACS - 37576	SIRC	17517	119	MR. AMIT GUPTA	ACS - 36403	WIRC	17570
67	MS. ASHWINI PUNDALIK KAMBLE	ACS - 37891	WIRC	17518	120	MRS. SHAGUN VERMA	ACS - 39100	NIRC	17571
68	MR. GAURAV KAUSHIK	ACS - 44393	NIRC	17519	121	MR. K JAGDISH CHOWDHARY	ACS - 39766	SIRC	17572
69	MS. NAINA KAUSHAL	ACS - 44732	NIRC	17520	122	MS. MEENAKSHI UPMAN	ACS - 44050	NIRC	17573
70	MS. MAMTA TIWARI	ACS - 46444	NIRC	17521	123	MR. ABHISHEK CHANDRASHEKHAR SHALU	ACS - 44190	WIRC	17574
71	MS. SONI	ACS - 46772	NIRC	17522	124	MR. MUDITH A	ACS - 45687	NIRC	17575
72	MS. MEGHA KHANDELWAL	ACS - 46837	NIRC	17523	125	MR. BARAMDEO HIRALAL SHARMA	ACS - 46061	WIRC	17576
73	MR. DIPESH KAMLESH JAIN	ACS - 47199	WIRC	17524	126	MR. SHEKHAR SHARMA	ACS - 47527	NIRC	17577
74	DR. CHIDAMBARA IYER J	ACS - 47608	SIRC	17525	127	MR. ASHUTOSH SHARMA	ACS - 48052	NIRC	17578
75	MS. SWETA AGARWAL	ACS - 47628	EIRC	17526	128	MS. CAUVERY RAWAL	ACS - 39903	NIRC	17579
76	MS. SEJAL TEJAWAT	ACS - 47634	EIRC	17527	129	MS. ANITA RAMESH CHOUGULE	ACS - 47929	WIRC	17580
77	MS. ALPNA GALGAT	ACS - 47639	SIRC	17528	130	MS. HINAL RONAK MEHTA	ACS - 25618	WIRC	17581
78	MS. POOJA CHOTANI	ACS - 47641	NIRC	17529	131	MS. JHANKI GIRDHARILAL POPTANI	ACS - 37338	WIRC	17582
79	MR. ANKIT JAIN	ACS - 47735	NIRC	17530	132	MS. POONAM LAKHIPRASAD PAREEK	ACS - 40628	WIRC	17583
80	MR. A MANISH KUMAR	ACS - 47772	EIRC	17531	133	MR. HIREN HASMUKH SHAH	ACS - 42463	WIRC	17584
81	MR. TARUN CHAKARWARTY	ACS - 47791	NIRC	17532	134	MR. HARSH UPADHYAY	ACS - 43668	NIRC	17585
82	MS. YASHIKA AGRAWAL	ACS - 47818	NIRC	17533	135	MR. DEEPANSHU ARORA	ACS - 44595	NIRC	17586
83	MR. NARAYAN DUTT TIWARI	ACS - 47830	NIRC	17534	136	MS. PURVA HARSHAL BHOKRE	ACS - 44676	WIRC	17587
84	MR. ASHU SACHDEVA	ACS - 47857	NIRC	17535	137	MR. GURPRIT SINGH	ACS - 44849	NIRC	17588

138	MS. ANKITA NIGAM	ACS - 45813	NIRC	17589	191	MS. SOMAN POOJA SUNIL	ACS - 43801	WIRC	17643
139	MR. ABHINAV AGARWAL	ACS - 46266	NIRC	17590	192	MR. VIK MOHAPATRA	ACS - 44600	WIRC	17644
140	MR. AMIT KUMAR	ACS - 46941	NIRC	17591	193	MS. KUMUD SOMANI	ACS - 45777	EIRC	17645
141	MR. NAMAN SETHI	ACS - 47513	NIRC	17592	194	MS. NEHA GARG	ACS - 47273	NIRC	17646
142	MR. DEVESH SURESHBHAI JOSHI	ACS - 47961	WIRC	17593	195	MS. MEENAL KEEJA	ACS - 47705	WIRC	17647
143	MS. ANJU BANSAL	ACS - 48013	NIRC	17594	196	MS. SUHASI BANTHIA	ACS - 47757	EIRC	17648
144	MR. BALAKRISHNAN A P	ACS - 48085	SIRC	17595	197	MS. MANPREET KAUR HORA	ACS - 47979	WIRC	17649
145	MS. BEENA RANI	ACS - 48160	NIRC	17596	198	MR. DEEPAK ASWANI	ACS - 48024	NIRC	17650
146	MS. KOMAL	ACS - 48168	NIRC	17597	199	MS. JYOTI ARYA	ACS - 48050	NIRC	17651
147	MS. DEEPA BAJAJ	ACS - 22604	WIRC	17598	200	MR. ROHIT CHOPRA	ACS - 48159	NIRC	17652
148	MS. EKTA JAIN	ACS - 31960	EIRC	17599	201	MR. PRAVEEN TIWARI	ACS - 48372	WIRC	17653
149	MS. MANPREET KAUR	ACS - 47047	NIRC	17600	202	MR. DINESH A ASHARA	ACS - 36278	WIRC	17654
150	MS. KRISHNABEN JAYESHBHAI PAREKH	ACS - 48017	WIRC	17601	203	MS. POOJA DATTA	ACS - 41703	NIRC	17655
151	MS. SUMAN BAJORIA	ACS - 20904	SIRC	17602	204	MS. HUMA SEHRISH	ACS - 44712	NIRC	17656
152	MS. NEHA DEWAN	ACS - 24010	NIRC	17603	205	MR. VENKATESH PRASAD S	ACS - 48415	SIRC	17657
153	MS. NITISHA ANAND	ACS - 35197	NIRC	17604	206	MR. MANVINDER SINGH KALRA	ACS - 43387	NIRC	17658
154	MS. SHWETA VIJAY KANDANI	ACS - 42858	NIRC	17606	207	MS. NUPUR GUPTA	ACS - 36454	NIRC	17659
155	MR. MANISH KUMAR	ACS - 47796	NIRC	17607	208	MS. EKTA SHARMA	ACS - 29344	EIRC	17660
156	MR. SUDISH KUMAR GUPTA	ACS - 47500	NIRC	17608	209	MS. LEENA JAIN	FCS - 8500	NIRC	17661
157	MR. TANUJ KUMAR SAXENA	ACS - 47728	NIRC	17609	210	SH. PARTHA KAMAL SEN	ACS - 11527	EIRC	17662
158	MR. AMAR KUMAR	ACS - 47629	NIRC	17610	211	MS. POOJA MAJITHIA	ACS - 24387	WIRC	17663
159	MR. UDIT DUA	ACS - 47806	NIRC	17611	212	MS. ANURADHA SAXENA	ACS - 35630	NIRC	17664
160	MR. SUMAN SUNDAR RAJ	ACS - 48238	SIRC	17612	213	MS. PREETI BHATIA	ACS - 35807	NIRC	17665
161	MR. SANKA PHANI PAVAN KUMAR	ACS - 48240	SIRC	17613	214	MS. SONAM NATANI	ACS - 36243	NIRC	17666
162	MR. SANAND SINGH	ACS - 44704	EIRC	17614	215	MR. KEKIN PRAKASHBHAI PATEL	ACS - 37872	WIRC	17667
163	SH. CHANDRA SEKHAH RAJANALA	FCS - 8804	SIRC	17615	216	MR. HIRENDRA RAJENDRA KATIRA	ACS - 38528	NIRC	17668
164	SH. ASHOK KUMAR ARORA	FCS - 4148	NIRC	17616	217	MS. NEHA MAYURESH KOLHE	ACS - 39395	WIRC	17669
165	MS. GAGAN DEEP KAUR	ACS - 30670	NIRC	17617	218	MS. NISHTHA KUKREJA	ACS - 39446	NIRC	17670
166	MS. PUJA JAIN	ACS - 38570	EIRC	17618	219	MR. ABHISHEK PALIWAL	ACS - 39500	NIRC	17671
167	MR. YOGENDRA FATESINH PARMAR	ACS - 44427	WIRC	17619	220	MR. RUSHI JAGDISH SATHE	ACS - 40200	WIRC	17672
168	MS. AYUSHI GUPTA	ACS - 44634	NIRC	17620	221	MRS. SWAPNALI SHAILESH BORHADE	ACS - 40482	WIRC	17673
169	MS. SONIA BHATIA	ACS - 45029	WIRC	17621	222	MS. POOJA GUPTA	ACS - 41230	NIRC	17674
170	MR. ABHILASH S	ACS - 45477	SIRC	17622	223	MR. VIRENDRA KUMAR SAINI	ACS - 44142	NIRC	17675
171	MR. AMTESHWAR SINGH	ACS - 45794	NIRC	17623	224	MS. MONA BANSAL	ACS - 44163	NIRC	17676
172	MS. TANVI MALHOTRA	ACS - 46127	NIRC	17624	225	MS. NEHA GUPTA	ACS - 44349	EIRC	17677
173	MR. LALIT MOHAN	ACS - 46526	NIRC	17625	226	MS. ANKITA SINGLA	ACS - 45454	NIRC	17678
174	MR. ANKUR AWASTHI	ACS - 46754	NIRC	17626	227	MS. KAJAL JAIN	ACS - 46670	NIRC	17679
175	MS. RUKHSAR BEGAM	ACS - 46852	WIRC	17627	228	MR. ALIASGAR MUSTANSIR LOKHANDWALA	ACS - 45717	WIRC	17680
176	MR. PRANJAL PRASAD DONGARE	ACS - 47349	WIRC	17628	229	MS. ARUNITA CHOUDHURY	ACS - 46518	EIRC	17681
177	MR. VYANKATESH MADHUKAR KINHIKAR	ACS - 47465	WIRC	17629	230	MS. RICHA SHARMA	ACS - 46786	NIRC	17682
178	MS. MEENAKSHI KAUSHIK	ACS - 47784	NIRC	17630	231	MS. NIDHI AGARWAL	ACS - 47010	NIRC	17683
179	MS. PRACHI SINGH	ACS - 32444	NIRC	17631	232	MR. DWIREF LAXMIPRASAD VORA	ACS - 47575	WIRC	17684
180	SH. ANIL KOHLI	FCS - 1310	NIRC	17632	233	MS. NEHA GUPTA	ACS - 47714	NIRC	17685
181	MS. SAMANT DIPTI DILIP	ACS - 22474	WIRC	17633	234	MR. ADITYA JAIN	ACS - 47723	NIRC	17686
182	MRS. PRERANA JHA	ACS - 23830	WIRC	17634	235	MS. SWETA SHARMA	ACS - 47816	NIRC	17687
183	MS. FALAHTAJ TANZEEM	ACS - 25219	EIRC	17635	236	MR. VINOD KUMAR SHARMA	ACS - 47945	WIRC	17688
184	MS. SHWETA JAIN	ACS - 46174	WIRC	17636	237	MR. ANKIT RAWAL	ACS - 48067	NIRC	17689
185	SH. AJMAL AHAMMED T T	FCS - 7889	SIRC	17637	238	MS. MAMTA KABRA	ACS - 48186	WIRC	17690
186	SH. SANTOSH KUMAR SINGH	ACS - 15964	WIRC	17638	239	MS. PRIYA JAIN	ACS - 48237	SIRC	17691
187	MR. KARTHIK S N	ACS - 34876	SIRC	17639	240	MS. BHAGYASHREE BALKRISHNA KULKARNI	ACS - 48254	WIRC	17692
188	MS. NIMITA KALUBHAI RADADIYA	ACS - 36104	WIRC	17640	241	MS. KIRAN SHARMA	ACS - 48285	EIRC	17693
189	MS. ALICE SANTHIYA S	ACS - 39975	SIRC	17641	242	MS. VINITA HIRWANI	ACS - 48315	NIRC	17694
190	MS. CHITRANGDA VISHWAKARMA	ACS - 41337	WIRC	17642	243	MR. NISHANT GOYAL	ACS - 48318	NIRC	17695

244	MR. GAURAV ARORA	ACS - 48327	NIRC	17696
245	MS. PREETI SHARMA	ACS - 48336	NIRC	17697
246	MR. NITESH H P	ACS - 48363	SIRC	17698
247	MS. SOHINI SHUKLA	ACS - 48409	EIRC	17699
248	MR. RISHI SHARMA	ACS - 48427	NIRC	17700
249	MS. SHRUTI JAIN	ACS - 48430	NIRC	17701
250	MR. MANISH SHAW	ACS - 48460	EIRC	17702
251	MR. PANKAJ JHAWAR	ACS - 48473	EIRC	17703
252	MR. AKASH JAISWAL	ACS - 48496	NIRC	17704
253	MR. NAVEEN SHARMA	ACS - 48498	NIRC	17705
254	MS. KANGAN JAIN	ACS - 48535	NIRC	17706
255	MR. ABIJITH UTTUKULAM BABU	ACS - 48553	SIRC	17707
256	MS. SUNITA VIDYASAGAR DUBE	ACS - 48556	WIRC	17708
257	MR. NIRAV DAHYABHAI VEKARIYA	ACS - 48583	WIRC	17709
258	MR. ASHISH OMPRAKASH KHANDELWAL	ACS - 48596	WIRC	17710
259	MS. NEHA CHAURASIA	ACS - 48602	EIRC	17711
260	MS. SINJU BALU K K	ACS - 48620	SIRC	17712
261	MR. VAIBHAV PANKAJBHAI KAKKAD	ACS - 48625	WIRC	17713
262	MR. RAVENDRA SINGH PARIHAR	ACS - 48623	WIRC	17714
263	MR. DIXIT DIPAKKUMAR SHAH	ACS - 48629	WIRC	17715
264	MR. RISHABH JITENDRABHAI SHAH	ACS - 48630	WIRC	17716
265	MR. HIMANSHU WASON	ACS - 48659	NIRC	17717
266	MR. THIMMA REDDY GATTU	ACS - 48701	SIRC	17718
267	MR. HAJA SEENA MOHAMMED HAZEEM	ACS - 48702	SIRC	17719
268	SH. DEEPAK JAIN	FCS - 3792	NIRC	17720

CANCELLED*

SL. NO.	NAME	MEMB NO	COP NO.	REGN
1	MR. RAJENDRAKUMAR BUPARKAR	ACS 8950	12100	WIRC
2	MR.SUBHASH CHANDER SHARMA	ACS 42135	15803	NIRC
3	MR. KRISHAN KUMAR G	ACS 28566	17221	SIRC
4	MR. VIRENDRA KUMAR GUPTA	FCS 6755	14362	NIRC
5	MS. GEETHA JAIDEEP	ACS 43216	16129	SIRC
6	MS. SWATI	ACS 42914	16379	WIRC
7	MR. PUNIT KUMAR TRIVEDI	FCS 8682	16668	NIRC
8	MS. NAMRATA SARAF	ACS 40824	16394	EIRC
9	MRS. SHREYA JAIN	ACS 23640	11872	WIRC
10	MR. RAM KUMAR BHARGAV	ACS 28395	10870	NIRC
11	MR. BALWANT SINGH	ACS 43702	16766	EIRC
12	MR. RAHUL CHAWLA	ACS 38758	16145	NIRC
13	MR. UMANG ANILKUMAR LALPURWALA	ACS 38420	15403	WIRC
14	MR. SUDHIR MUKUND GALANDE	FCS 6325	13881	WIRC
15	MS DEEPA BAJAJ	ACS 22604	8297	WIRC
16	MRS. DIVYA ASHUTOSH PUGALIA	ACS 31184	14391	NIRC
17	MS. ASHIMA BANODHA	ACS 30105	17266	NIRC
18	MS. BINAL HARISHBHAI KOTHARI	ACS 42148	16570	WIRC
19	MRS. RUCHI VIJAYVERGIYA	ACS22614	11450	WIRC
20	MS. VARSHA DANGAYACH	ACS 31802	11759	NIRC
21	MS. FLAVIA PETER MACHADO	ACS 38986	15662	WIRC
22	MS. AYUSHI AGARWAL	ACS 39955	14952	NIRC
23	MR. ARJUN SURYANARAYAN AMANCHI	FCS 8887	9884	WIRC
21	MR. ANIL KUMAR	ACS 13430	14863	NIRC
25	MS. GAURI HAMANT GOKHALE	ACS 45512	16708	WIRC
26	MS. MONIKUNTALA BOWRA	ACS 29713	16878	EIRC

*CANCELLED DURING THE MONTH OF NOVEMBER, 2016

27	MS. KANIKA SHARMA	ACS 30953	14897	NIRC
28	MR. BHAVESH SONI	ACS 33475	12857	NIRC
29	MS. AKANSHA	ACS 41944	16742	NIRC
30	MS. KAMAKSHI SINGH	FCS 8901	12971	WIRC
31	MR. ABHIJAAT A SINHA	ACS 13519	12971	WIRC
32	MR. ABHIJIT MAJUMDER	ACS 20849	8687	EIRC
33	MR. ASHISH	ACS 46443	17245	NIRC
34	MR. ASIF KHAN	ACS 44633	16577	EIRC
35	MR. SHAH MASOOM HIMANSHUBHAI	ACS 44325	16949	WIRC
36	MS. AANCHAL BEDI	ACS 45290	16678	WIRC

LICENTIATE ICSI**ADMITTED#**

SL. NO.	LICENTIATE NO.	NAME	REGN.
1	6894	MS. SNEHA S	SIRC
2	6895	MR. GADIGEPPA SHIVANAND TIGADI	SIRC
3	6896	MR. PRASANNA VENKATESWARAN S	SIRC
4	6897	MR. VIGNESH	SIRC
5	6898	MR. VINEET SINGLA	NIRC
6	6899	MR. RAMESH A	SIRC
7	6900	MR. KUSHAL RAJENDRA RAICHADA	WIRC
8	6901	MS. KOMAL GOVIND PASARI	WIRC
9	6902	MS. PADMAPRIYA M	WIRC
10	6903	MR. UDAY BHIKAJIRAO KITTEKAR	WIRC

*ADMITTED DURING THE MONTH OF NOVEMBER, 2016

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	Proposed fee	Existing fee	Proposed 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

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.

ATTENTION MEMBERS

Revised Guidelines for name of a Proprietorship concern / Firm / Trade

The Guidelines of the Council for name of a Proprietorship concern / Firm / Trade under Regulation 169 of the Company Secretaries Regulations, 1982.

1. A trade or firm or concern name shall be restricted to the name(s) of the proprietor/partners or a name which is already in use.
2. A trade/firm name may include the name(s) of the member(s) as it/they appear in the Register of Members in the following manner:
 - (i) **For Sole proprietorship concern:**
 - (a) Name comprising first name and/or middle name and/or surname of the member, in any order, with or without commonly used suffix or prefix
 - (b) Initials of the first name and/or middle name and/or surname, in whichever order
 - (c) Combination of (a) and (b) above, in any order
 - (d) Parts of or prevalent abbreviations of or acronyms of commonly used names alongwith any combination referred to in (c) above
 - (ii) **For Partnership firm:**
 - (a) Full surnames of two or more partners
 - (b) Full first names of two or more partners
 - (c) Combination of first names and / or middle names and/or surnames of two or more partners with or without commonly used suffix or prefix
 - (d) Combination of initials of first names and/or middle names and/or surnames of the two or more partners
 - (e) Combination of (c) and (d) above, in any order
3. General
 - (i) A trade or firm name shall not be approved if the same or similar or nearly similar name is already used by a Company Secretary in practice or which resembles the name of Company Secretary in practice or firm of such Company Secretaries and has been entered in the Register of office of firms.
 - (ii) A trade/firm name shall not contravene the provisions of The Names and Emblems (Prevention of Improper Use) Act, 1950 or any modification/re-enactment thereof.
 - (iii) The trade or firm name may be suffixed by the suffixes "& Co.", "& Company" or "& Associates". However, any suffixes that may be considered undesirable by the Council shall not be allowed.
 - (iv) The word "and"/ "&" could be used in between the first name/middle name/surname including initials thereof, of the partners of the firm.
 - (v) A firm name may also be allowed without the use of the suffixes "& Co.", "& Company" or "& Associates" provided full first names and/or full middle names and/or full surnames of the partners are used. Also, in such cases, the word "&"/"and" is compulsorily to be used either in between the full first names and/or full middle names and/or full surnames of the partners or before the last full first name/full middle name/full surname of the partners.
 - (vi) The name of a sole proprietorship concern shall not be allowed without the use of suffixes "& Co." / "and Company" / "& Associates".
 - (vii) A trade/firm name, which has no relationship with the name of member(s) as above, shall not be allowed.
 - (viii) Descriptive trade/firm names viz. Fire, Smash, Leader, Champion, Mastermind, Super, Supreme etc. shall not be allowed.
 - (ix) Trade/firm names denoting publicity shall not be allowed. Any trade/firm name, regardless of reason or logic, using the initials, acronyms or full forms of any profession whether used individually and/or collectively and/or in any order, shall not be allowed. The use, therefore, of CA, CS, CMA, MBA, CACMA, CACS, CSCA, CSCMA, CMACS, CMACA, Secretary, Accountant, Management, Chartered Accountant, Cost Accountant, Chartered Secretary etc., shall not be allowed. However, trade/firm names matching with the group name/theme shall be allowed, if the same is not in contradiction with any other criteria.
 - (x) The name, middle name and surname of the member shall conform to the name, middle name and surname as they appear in the register of members.
 - (xi) In case any change in the status of the firm from individual firm to partnership firm or vice-versa, the firm name already been in use by any of the partner or individual could be approved provided there is no objection by any of the partners or individual.
 - (xii) A trade/firm name which was in use by a proprietor or partners shall not be allowed to any other member or members for a period of three years of the closure of firm. The name may be re-allotted to the same member or members' upto a period of three years of the closer of the firm. In the event of removal of name of a practising member, after the expiry of the period of three years, the said trade/firm may be allowed to any member or members who are eligible for allotment of such name under the guidelines.
 - (xiii) After various permutations and combinations under guidelines 2(i) and (ii) have been exhausted and the member is not able to get approval of firm/trade name in accordance with the same, he may be permitted to adopt or coin a firm/trade name out of the names of his/her family members provided that such name was not already registered by some other members. The terms "family" for this purpose means husband, wife, father, mother, son and daughter. An affidavit or other evidence to the satisfaction of the Secretary is to be produced in such cases.
 - (xiv) Any reconstitution of the firm with the same firm name shall not have effect except with the prior approval of the Council pursuant to Regulation 170.
 - (xv) Approval accorded by the ICSI for any trade/firm name shall not tantamount to any protection by the ICSI in case of any dispute arises affecting to Intellectual Property Rights between any trade/firm with any other brand, entity, business etc., outside the profession and in relation to the name in dispute. The responsibility and liability in such cases shall solely be of the concerned trade/firm and at its own risk and costs and not of the ICSI. The ICSI shall not be any party to any kind of dispute that may arise in this regard.

236th meeting of the Council held on 29-30th March, 2016



List of Practising
Members Registered
For The Purpose of
Imparting Training During The
Month of November, 2016

ABHIMANUEE RAJPUROHIT

F-2/151, SECTOR-11, ROHINI, NEW DELHI-110085

ABHISHEK PATHAK

S.K. 1/20, SINDHORA KALAN, CHOWKI NO. 2, NEAR SHAKTI NAGAR, DELHI-110052

AJINKYA PANDURANG BAGADE

FLAT NO. 104, PATWARDHANGAD, 545/46/47, NARAYAN PETH OPP MATI GANAPATI, PUNE-411030

AKSHITA ANAND

L-5-B, SHUKLA BHAWAN, KRISHNA MARG, C-SCHEME, JAIPUR-302001

AMRITA SINGH

27, BT ROAD, PRASAD NAGAR, BLOCK A/6, FLAT NO. 202, KOLKATA-700058

ANKIT MEDATWAL

302 CITIZEN APARTMENT, 276, SAKET NAGAR, NEAR EUREKA HOSPITAL, INDORE-452001

ANUSHA RAMAKRISHNAN

2ND FLOOR, LAKSHMI TOWERS, PP ORAVINGAL MARIYAMMAN KOVI. SULTHANPET, PALAKKAD DISTT-678001

AYUSH GUPTA

26/15 2ND FLOOR, SHAKTI NAGAR, DELHI-110007

DASVINDER KAUR CHAWLA

OFFICE NO.84, FIRST FLOOR, AMRIT PLAZA COMPLEX, SURYA NAGAR, GHAZIABAD-201011

DHANANJAY JITESH PANDEY

PLOT NO. 31, BLOCK E, PHASE -1, QUTUB VIHAR, GOYLA DAIRY NEW DELHI-110071

DHRUVKUMAR BHARATKUMAR PATEL

SURAJ ESTATE NR. J K PARK, OPP ANAND GINNING MILL, N H NO. 08, VAGHASI, ANAND-388320

GUNDARLAHALLI ASWATHA NARAYANA

SETTY VIKRAM RAJ

1063/71-A, F-3A, 2ND MAIN, 8TH CROSS, VIDYARANYAPURAM MYSORE-57008

HARSHITA SAXENA

32-117, PRATAP NAGAR, SANGANER, JAIPUR

HRUSHIKESH AUDUMBAR TABE

321, PATIL PLAZA, SARASBAG- MITRAMANDAL ROAD PARVATI, PUNE-411009

KHUSBU AGRAWAL

P-41 PRINCEP STREET, ROOM NO. 222, 2ND FLOOR KOLKATA-700072

KHUSHBOO BHARAT PATWA

FLAT NO.6, KUSHANKUNJ APT, BIBREWADI, KONDWA ROAD PUNE-411037

KINJAL KOTAK RAJNIKANT

04, DEEP SAGAR SOCIETY, SARVODAYA NAGAR BADLAPUR (WEST)-421503

LEENA CHITTI

C/O NIWARA CONSULTANTS, SHIPRON TOWERS (SHREERAM APARTMENT), AJAB NAGAR, AURANGABAD-431001

M H V S N S PRASAD

49-9-10, LALITHA NAGAR, AKKAYYAPALEM, VISAKHAPATNAM-530016

MANISH KUMAR

170-B POCKET 1, MAYUR VIHAR PHASE 1, NEW DELHI-110091

MONIKA JAIN

BUNGLOW NO. 2, VIKRAM VIHAR, 493 B, G T ROAD, HOWRAH-711102

MONIKA KATARIA

FLAT NO. 406/E, MAPLE SOCIETY, F-26, SECTOR 50, NOIDA-711102

N SATHEESH KUMAR

BLDG. NO:55/1682, 2ND FLOOR, KRISHNA APARTMENTS, M G ROAD, (B/H DUROFLEX SHOWROOM) RAVIPURAM, KOCHI-688524

NEELABH KAUSHIK

A-11, GURUKRUPA BUSINESS, CENTRE, PLOT NO. 309/2P, OPP. KOTAK BANK, VAPI ROAD, SILVASSA-396230

NINGANNA MAHESH

NO. 168 K, 2ND FLOOR, 19TH MAIN, RAJAJI NAGAR 1ST BLOCK BANGALORE-560010

PALANISAMY SATHYASUNDARI

NO. 7, R K MILLS B COLONY, PEELAMEDU PUDHR, COIMBATORE-641004

PAWAN HARINARAYAN KASAT

FLAT 107, SADBHAVANA APT, SADASHIV PETH, PUNE-411030

PAWAN KUMAR

401 A, GANDHI NAGAR, JAMMU-180004

PRABHAS SINGH

5/64, VINAY KHAND, GOMTI NAGAR, LUCKNOW-226010

RAHUL DNYANESHWAR DAHAPUTE

OFFICE NO. 403, PINNACLE PRIDE, OPP COSMOS BANK, TILAK ROAD, SADASHIV PETH, PUNE-411030

SANDEEP GUPTA

H. NO.604 STREET CHHAWLIYAN, NAWADA BAZAR NAJAFGARH, NEW DELHI-110043

SANDIP SUMTILAL CHORDIYA

FLAT NO: A 303, EISHA ERICA SOCIETY, NEAR DSK VISHWA GATE DHAYRI, PUNE-411041

SARATH SASIDHARA

L2/25 JRWA, JUSTICE LANE, MAJOR ROAD, VYTILLA, KOCHI-682019

SAVITA KUMARI AGRAWAL

PARNAMI MANDIR ROAD, NATHUA PARK APPARTMENT, 3RD FLOOR, SILIGURI-734001

SHAILESH KUMAR JAIN

306-C BLOCK, SILVER MALL R.N.T. MARG, INDORE-452001

SHANTANU DATTATRAYA JAGTAP

8, JITENDRA GLADES, BEHIND MHATOBA MANDIR KOTHRUD, PUNE-411038

SHEETAL JAIN

48, KRISHNA KRIPA, OPP. SHAGUN, PALACE, SARADARPURA, 11TH PAL ROAD, JODHPUR-342003

SIDDHARTH MITTAL

S 560 FIRST FLOOR, SCHOOL BLOCK, SHKARPUR, NEW DELHI-110092

SMIT ANADAJI TANK

9/D, 10TH FLOOR, SUMERU CENTRE, NEAR SUVIDHA SHOPPING CENTER PARIMAL, UNDER BRIDGE, C G ROAD, PALDI, AHMEDABAD-380007

SPARSH MAHESH GUPTA

703, MAURYANSH ELANZA, NR. PAREKH'S, HOSPITAL SHYAMAL
CROSS ROADS, SATELLITE, AHMEDABAD-380015

SWATI SANDEEP NIVALKAR

A/402, SAVITA ENCLAVE, POONAM SAGAR COMPLEX, MIRA
ROAD (EAST), THANE DIST-401107

TRIBHUWNESHWAR BHUWNESHWAR KAUSHIK

67/6, SAKET, J B NAGAR, ANDHERI (EAST), MUMBAI-400059

VISHAKHA TANWAR

INSIDE HAMALON KI BARI, BIKANER-334001

VORA BANSI TUSHAR

101, GOLDEN ARC FLATS, ATABHAI CHOWK, BHAVNAGAR-364001

VRITI ARORA

JUNEJA HOUSE, SHASTRI NAGAR(E), DHOVATAND
DHANBAD-826001

YATIKA AGARWALLA

HOUSE NO. 2, 4TH FLOOR, SARASWATI VIHAR, SUNDARPUR
R.G BARUAH ROAD, GUWAHATI-781005



List of Companies Registered
for Imparting
Training during the month
of November, 2016

ACCENT AGENCIES PRIVATE LIMITED

7A, BENTICK STREET, KOLKATA-700001

AEW TECHNOLOGIES LLP

14, WATKINS LANE, GOKUL APARTMENT NEAR HOWRAH AC
MARKET, HOWRAH, HOOGHLY

AMPLUS ENERGY SOLUTIONS PRIVATE LIMITED

6TH FLOOR, THE PALM SQUARE, GOLF COURSE
EXTENSION ROAD, SECTOR 66, GURGAON

CLEAN COAL ENTERPRISES PRIVATE LIMITED

ROOM NO.1, FIRST FLOOR SHRI SAI PARISAR COMPLEX
SHRI KANT VERMA MARG BILASPUR, BILASPUR

DEFMACRO SOFTWARE PRIVATE LIMITED

B-3, LOWER GROUND FLOOR, SCHOOL LANE, NARAINA
VIHAR DELHI

DIXON TECHNOLOGIES (INDIA) PRIVATE LIMITED

B-14 & 15, PHASE-II, NOIDA

EMBASSY PROPERTY DEVELOPMENTS PRIVATE LIMITED

1ST FLOOR, EMBASSY POINT, 150 INFANTRY ROAD
BANGALORE

FITNESS FIRST INDIA PRIVATE LIMITED

THE NEW DELHI DOME, 5TH & 6TH FLOOR, SELECT
CITYWALK MALL, SAKET DISTRICT CENTRE, DELHI

INDUSIND MEDIA AND COMMUNICATIONS LIMITED

INDUSIND MEDIA & COMMUNICATIONS LTD, IN CENTRE, PL
12TH ROAD, MAROL MIDC, ANDHERI (E), MUMBAI

IRLE KAY JAY ROLLS PRIVATE LIMITED

PLOT NO. 61 INDUSTRIAL AREA, PHASE-II PANCHKULA

IVL DHUNSERI PETROCHEM INDUSTRIES LIMITED

DHUNSERI HOUSE, 4A WOODBURN PARK
KOLKATA-700020

JSW PROJECTS LIMITED

JSW CENTRE, BANDRA KURLA COMPLEX, MUMBAI

JURIS & JURIS ADOVATES & SOLICITORS

B-4/115, SAFDARJUNG ENCLAVE, NEW DELHI

LEIXIR RESOURCES PRIVATE LIMITED

101, VATIKA BUSINESS PARK, TOWER-2, SOHNA ROAD,
SECTOR-49, GURGAON

LIGARE AVIATION LIMITED PLOT-345, 3RD FLOOR,
UDOYG VIHAR, PHASE II, GURGAON-122016 HARYANA

PARTHVIMEDA GAU PHARMA PVT. LTD.

GOMATA BHAVAN, BASEMENT-1, MEDICARE CENTRE
B/H. M. J. LIBRARY, ELLISBRIDGE, AHMEDABAD

RAKYAN BEVERAGES PRIVATE LIMITED

2ND FLOOR, DTC BUILDING, SITARAM MILLS, N. M. JOSHI
MARG, LOWER PAREL, MUMBAI

RELITRADE COMMODITIES PVT. LTD.

B-609, MONDEAL SQUARE, NR. PRAHALAD NAGAR
GARDEN, ANAND NAGAR ROAD, SATELLITE.,
AHMEDABAD

SHREE AHUJA PROPERTIES AND REALTORS PVT. LTD.

A-201, PLOT NO.104 & 105, RAJPIPLA LINKING ROAD,
SANTACRUZ (WEST), MUMBAI

VERITAS FINANCE PRIVATE LIMITED

S-15, 2ND FLOOR, ECONOMIST HOUSE, THIRU VI KA
INDUSTRIAL ESTATE, GUINDY, CHENNAI

AAGAM CAPITAL LIMITED

OFFICE NO.602, 6TH FLOOR, RAHEJA CHAMBERS, 213
NARIMAN POINT MUMBAI

MONOTYPE INDIA LIMITED

OFFICE NO-602, 6TH FLOOR, RAHEJA CHAMBERS, 213
NARIMAN POINT, MUMBAI

APPOINTMENT**NATIONAL CREDIT GUARANTEE
TRUSTEE COMPANY LTD.**

Ministry of Finance, Government of India
MSME Development Centre, 2nd Floor,
C-11, G-Block, Bandra East, Mumbai-400 051

**APPOINTMENT OF
COMPANY SECRETARY**

National Credit Guarantee Trustee
Company Ltd. (NCGTC) invites
application for appointment of Company
Secretary, on contract Basis. For details,
please visit <http://www.ncgtc.in/careers>.
The application should reach the
designated address by 1800 hrs. on
February 7, 2017.

Company Secretaries Benevolent Fund

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



SL. No.	LM NO.	NAME	MEMB. NO.	CITY
EIRC				
1	11563	SH. BISHNU DEO ROY	ACS - 18586	PATNA
2	11570	SH. SUNILSHOVAN SAMANTARAY	FCS - 8022	NAYAGARH
3	11577	MR. SACHIN KUMAR	ACS - 40097	BOKARO
4	11578	SH. RAJKUMAR SINGH KASHYAP	FCS - 8588	HOOGLY
5	11588	MR. RAHUL VIJAY	ACS - 47256	JODHPUR
6	11625	SH. ARNAB CHAKRABORTY	FCS - 8557	HOOGLY
7	11629	MR. MANISH KUMAR PASWAN	ACS - 43552	HOOGLY
8	11642	SH. NARENDRA KUMAR RAI	FCS - 5879	KOLKATA
9	11686	MR. SUMIT SAHGAL MISHRA	ACS - 46604	KOLKATA
10	11693	MR. RAHUL KUMAR MISHRA	ACS - 38492	SAMBALPUR
11	11697	MS. SWATI SWAGATIKA PRATIHARI	ACS - 39670	PURI
12	11698	MS. SEEMA AGARWAL	ACS - 39426	CUTTACK
13	11711	MS. SUJATA SARKAR	ACS - 28621	KOLKATA
14	11722	MR. NITESH SRIVASTAVA	ACS - 36488	PATNA
15	11751	MR. NEWTON KUMAR DHAR	ACS - 33591	SILCHAR

SL. No.	LM NO.	NAME	MEMB. NO.	CITY
NIRC				
16	11552	MR. RAJAT MISHRA	ACS - 47538	LUDHIANA
17	11553	MS. PARUL SHARMA	ACS - 45431	GAUTAM BUDH NAGAR
18	11556	MR. BHARAT HASSANI	ACS - 38724	AGRA
19	11560	MS. VIBHU AGARWAL	ACS - 17346	DELHI
20	11561	SH. C B GUPTA	FCS - 2232	MOHALI
21	11565	MR. GAURAV MEHROTRA	ACS - 42495	HARDOI
22	11580	MR. ANAND KHETAN	ACS - 44345	GURGAON
23	11582	MR. NITIN KUMAR	ACS - 45968	NEW DELHI
24	11584	MR. ANOOP KUMAWAT	ACS - 38831	JAIPUR
25	11586	MS. RITA SINGHAL	ACS - 41519	NEW DELHI
26	11587	SH. NIKHILESH KUMAR VERMA	ACS - 16306	NEW DELHI
27	11597	MR. GHANSHYAM KUMAR	ACS - 30595	NEW DELHI
28	11598	SH. MUKESH SOOD	FCS - 3625	LUDHIANA
29	11600	SH. SANJEEB KUMAR SUBUDHI	ACS - 18791	NEW DELHI
30	11603	MR. SIDHARTH SHARMA	ACS - 36825	NEW DELHI
31	11605	MS. NEHA JAIN	ACS - 33386	AGRA

* ENROLLED DURING THE PERIOD 20.11.2016 TO 19.12.2016

SL. No.	LM NO.	NAME	MEMB. NO.	CITY
32	11609	MS. SAKSHI MADAAN	ACS - 48326	SOHNA
33	11610	SH. SANJAY CHANDAK	FCS - 5065	DELHI
34	11611	SH. AMIT KUMAR JAIN	FCS - 5433	GURGAON
35	11613	MS. SAKSHI GOEL	ACS - 39209	BAREILLY
36	11616	SH. RAJESH KUMAR KHURANA	FCS - 7293	DELHI
37	11628	MS. NEHA GUPTA	ACS - 47714	NEW DELHI
38	11630	MR. ANKUR GUPTA	ACS - 37030	BAREILLY
39	11636	SH. ASHISH JAIN	ACS - 17569	GURGAON
40	11637	MS. MONIKA AGRAWAL	ACS - 31258	GAUTAM BUDH NAGAR
41	11641	MS. PAYAL	ACS - 45436	DELHI
42	11644	MRS. PRAMILA NYATI	ACS - 17631	UDAIPUR
43	11650	MS. DURGA	ACS - 48136	NEW DELHI
44	11652	MR. AMAN DEEP SINGH	ACS - 43902	MOHALI
45	11657	MR. SANDEEP SHARMA	ACS - 31717	BAHADURGARH
46	11661	SH. ATIUTTAM PRASAD SINGH	FCS - 8719	NEW DELHI
47	11662	MS. HEMLATA GUPTA	ACS - 34582	LUCKNOW
48	11666	MR. AMIT KUMAR	ACS - 36223	NEW DELHI
49	11669	MR. NITIN SAMADHIYA	ACS - 45463	BHARATPUR
50	11677	MR. ARUN KUMAR	ACS - 46918	KANGRA
51	11678	MR. GHAZALI SHADAB	ACS - 41153	LUCKNOW
52	11682	MR. VIJAY KUMAR SHARMA	ACS - 32547	DELHI
53	11684	MR. ABHISHEK NAGAR	ACS - 23085	NEW DELHI
54	11689	SH. MANOJ KUMAR PAREEK	ACS - 24857	DELHI
55	11690	MR. MINAS KUMAR	ACS - 30988	GHAZIABAD
56	11704	MR. KULDEEP KUMAR	ACS - 35084	JIND DISTT
57	11707	MR. BAGGA SINGH	ACS - 31048	FARIDABAD
58	11709	MR. DHIRENDER PRAKASH	ACS - 34543	NEW DELHI
59	11710	MS. SAKSHI PHERWANI	ACS - 47808	KANPUR
60	11712	MR. RAMAN SAPRA	ACS - 29044	NOIDA
61	11714	MS. RAMANDEEP KAUR	ACS - 42607	NEW DELHI
62	11715	MR. PURUSHOTTAM PANDEY	ACS - 37332	
63	11716	MR. DEEPAK KUMAR	ACS - 23673	NEW DELHI
64	11721	MR. RAHUL MALHOTRA	ACS - 39518	NEW DELHI
65	11726	MR. ANSHUL CHHABRA	ACS - 37155	HAPUR
66	11727	SH. RUPENDER DHIMAN	FCS - 6937	DELHI
67	11730	MR. VIJAY KUMAR NARERA	ACS - 33505	JHUNJHUNU
68	11731	MR. ANOOP SABHARWAL	ACS - 42915	NEW DELHI
69	11734	MR. DEEPAK BEHL	ACS - 40924	FARIDABAD
70	11742	MS. KOMAL RINGAN	ACS - 22120	AGRA
71	11756	SH. ROOPESH KUMAR	ACS - 15283	BHIWANI
72	11758	MR. AMIT KUMAR GUPTA	ACS - 34243	PANIPAT
73	11765	MR. SANCHIT SHARMA	ACS - 48813	NEW DELHI
74	11766	MR. PRINCE MOHAN SINHA	ACS - 38693	DELHI
75	11770	MR. AMBUJ GUPTA	ACS - 39108	BAREILLY
SIRC				
76	11557	MR. ARJUN R	ACS - 47671	KOTTAYAM
77	11558	MR. VISHWAS HEGDE	ACS - 41955	UTTARA KANNADA
78	11559	MR. M ASIR RAJA SELVAN	ACS - 46402	CHENNAI

SL. No.	LM NO.	NAME	MEMB. NO.	CITY
79	11564	MR. V ANANTHA SUBRAMANIAN	ACS - 29770	MADURAI
80	11566	MR. PRADEEP KUMAR NATH	ACS - 40148	BHADRAK
81	11567	MR. KUMAR N	ACS - 46403	CHENNAI
82	11573	MS. NAGA VASUDHA TADEPALLI	ACS - 23711	HYDERABAD
83	11574	MS. SARANYA G	ACS - 37469	SALEM
84	11575	MR. SUDHARMAN M S	ACS - 37863	THRISSUR
85	11579	MR. SANTHOSH G	ACS - 47339	PALAKKAD
86	11590	MR. K. SENTHIL KUMAR	ACS - 47459	SALEM
87	11599	MR. SHOBAN BABU B	ACS - 47282	CHENNAI
88	11606	MR. KORATTIKKATIL DEEPAK	ACS - 45823	THRISSUR
89	11608	MR. RAMESH M	ACS - 47496	HYDERBAD
90	11619	MR. ABHILASH UNNIKRISHNAN	ACS - 33395	MYSORE
91	11622	MR. SAJEEV S	ACS - 37649	PALAKKAD
92	11623	MS. SABARI GIRISH H	ACS - 36021	PALAKKAD
93	11624	MR. RAMU KONDARU	ACS - 37917	PRAKASAM DISTT
94	11631	MS. SANGEETHA S T	ACS - 32120	MADURAI
95	11633	MR. KANNAPIRAN R	ACS - 40490	CHENNAI
96	11635	MR. MARATH SURESH BABU AMAL	ACS - 45743	THRISSUR
97	11638	MR. ILLA NAVEEN SEKHAR	ACS - 47896	HYDERABAD
98	11645	MS. VEENA UMASHANKAR IYER	ACS - 26839	CHENNAI
99	11646	DR. LAKSHMI MANEAN	ACS - 46426	CHENNAI
100	11648	MR. NAGARAJ M O	ACS - 34768	BANGALORE
101	11649	MS. RANJANI M	ACS - 41328	KOLAR
102	11656	MR. GAURAV DUTT TRIVEDI	ACS - 44305	HYDERABAD
103	11658	MS. A SATYADEVI	FCS - 2701	CHENNAI
104	11659	MR. PRABHAKAR TIWARI	ACS - 32733	BANGALORE
105	11663	SH. ANANTH RANGANATHA KESHAV	ACS - 24390	BANGALORE
106	11665	MR. ALOK	FCS - 8927	MYSORE
107	11668	MR. DEEPAK M J	ACS - 36424	THIRUVANANTHAPURAM
108	11671	MR. THADI PRAKUL	ACS - 46477	HYDERABAD
109	11673	MS. LAXMI SOWJANYA ALLA	ACS - 44779	GUNTUR
110	11674	SH. SRIKANTH REDDY KOLLI	ACS - 25290	HYDERABAD
111	11676	MS. GINNI SINGHAL	ACS - 32254	BANGALORE
112	11679	MR. SANTHANAGOPALAN JAYARAMAN	ACS - 47285	CHENNAI
113	11680	MS. MEGHANA HASSAN YOGARAJ	ACS - 41193	BANGALORE
114	11681	MR. GEORGE MATHEW	ACS - 31948	KOZHICODE
115	11683	MR. MUHAMMED RIYAS A T	ACS - 47675	KOLLAM
116	11687	MS. SWETHA V	ACS - 41011	BANGALORE
117	11688	MS. CHITRA RANI M S	ACS - 41394	BANGALORE
118	11694	MS. SAMAYAMANTULA SAROJINI	ACS - 46252	KHAMMAM
119	11696	MS. PAYAL MEHTA	ACS - 44881	THRISSUR
120	11702	MR. B VISWANATH	ACS - 30700	COIMBATORE
121	11706	MR. DANISH PUTHIYA PURAYIL	ACS - 36552	ERNAKULAM
122	11708	MS. RATNAMALA HEGDE	ACS - 31365	BANGALORE
123	11713	MS. SHILPA H R	ACS - 29469	BANGALORE
124	11718	SH. VIJAYAKUMAR THANAPATHY	ACS - 16567	CHENNAI
125	11720	MR. PRABHU G	ACS - 37565	CHENNAI
126	11728	MR. S RAMASUBRAMANIAN	ACS - 43794	MADURAI

SL. No.	LM NO.	NAME	MEMB. NO.	CITY
127	11729	MR. MOHAN REDDY	ACS - 45070	BANGALORE
128	11733	MR. ABHIJITH C	ACS - 28305	BANGALORE
129	11743	MR. GANAPATHI GHATTI	ACS - 42323	BANGALORE
130	11744	MR. GOWRISHANKAR S	ACS - 43151	COIMBATORE
131	11749	MR. VENKATA NARESH G	ACS - 47898	SECUNDERABAD
132	11754	MR. SRIRAM S	ACS - 33810	BANGALORE
133	11757	SH. VENKATA RAMA KRISHNA DEVARSETTI	ACS - 22926	RAMANAGAR DISTT
134	11759	MR. YASHVNTH V	ACS - 40072	CHENNAI
135	11760	MR. KRISHNA MASHETTI	ACS - 44662	HYDERBAD
136	11761	MR. ADIVENKATARAMA RAJANEDI	ACS - 46744	GUNTUR DISTT
137	11762	MRS. PRIYA KANNAN	ACS - 33877	CHENNAI
138	11767	MR. NEERAJ VASUDEVAN	ACS - 38517	KOCHI
139	11768	MS. ANJANA BINU	ACS - 32286	ERNAKULAM
WIRC				
140	11554	MS. SWARA JIMIT DEVANI	ACS - 20851	MUMBAI
141	11555	MR. NIRAJ KUMAR VINOD KUMAR JAIN	ACS - 38603	AHMEDABAD
142	11562	SH. ABHIJIT NAGESH GAONKAR	ACS - 26731	BARDEZ
143	11568	MR. ANURAG SHARADKUMAR VYAS	ACS - 41824	PUNE
144	11569	MS. SWAPNA SADANAND VENGURLEKAR	ACS - 32376	MUMBAI
145	11571	SH. SWAPNIL BHIMRAO PATOLE	ACS - 26274	KOLHAPUR
146	11572	MR. VENU MADHAV KALLURU	ACS - 33998	PUNE
147	11576	MR. VIJAY MAHENDRABHAI DAKSHINI	ACS - 34688	DHRANGADHRA
148	11581	MR. DHANANJAY MANOHAR DUMBRE	ACS - 22150	DOMBIVLI
149	11583	SH. ANANT M GOVANDE	ACS - 12817	PUNE
150	11585	MR. ANURAG PANDYA	ACS - 27528	NAVI MUMBAI
151	11589	SH. KETAN K. ADHVARYU	ACS - 6539	AHMEDABAD
152	11591	MR. PIYUSH ASHOK KATARIYA	ACS - 22461	NAGPUR
153	11592	MS. PRIYA SURESH NAGMOTI	ACS - 19132	DOMBIVLI
154	11593	SH. VIJAY BABAJI KONDALKAR	ACS - 15697	MUMBAI
155	11594	SH. MINENDER POSHETTY BOGA	ACS - 25528	THANE DISTT
156	11595	MR. VINOD VIJAY KOYANDE	ACS - 33696	MUMBAI
157	11596	SH. VIJAYKUMAR BABULAL PATEL	FCS - 7871	AHMEDABAD
158	11601	MR. UMESH MANSUKHBHAI BHIMANI	ACS - 38271	AMRELI
159	11602	MS. HETAL BHANSALI	ACS - 40324	RAIPUR
160	11604	MR. RANPURA RAVI PRAKASHBHAI	ACS - 45842	DHANDHUKA
161	11607	MR. KAMAL KISHORE LAHOTY	ACS - 30434	MUMBAI
162	11612	SH. PANDY VIJAYARAGHAVANVEERA RAGHAVAN	ACS - 17313	PUNE
163	11614	MR. ROHAN SUBHASH ANAND	ACS - 47998	AHMEDABAD
164	11615	SH PARVESH DHAWAN	FCS - 8863	BHOPAL
165	11617	MR. HEMESH GARG	ACS - 34348	DHAR
166	11618	MR. KETAN HARILAL BAMBHANIYA	ACS - 44886	ANJAR KUTCH
167	11620	MS. PURVEE DINESHCHANDRA ROY	FCS - 8978	VADODARA
168	11621	SH. MAULIK BHARAT KUMAR GANDHI	FCS - 8819	RAJKOT
169	11626	MR. TEJAS SUDHAKAR TUNGARE	ACS - 33430	THANE
170	11627	MR. MUKESHKUMAR SOHANRAM CHAUDHARY	ACS - 41625	
171	11632	SH. MAHESH DEVJANI	FCS - 2711	PANAJI
172	11634	MR. TAPAN KUMAR PADHY	ACS - 35857	MUMBAI

SL. No.	LM NO.	NAME	MEMB. NO.	CITY
173	11639	MR. MOHAMMAD FAKRUDDIN PILLIKANDLU	ACS - 39232	MUMBAI
174	11640	MS. SONIA RADHA GUPTA	ACS - 43003	THANE
175	11643	SH. R D GORADIA	FCS - 1120	MUMBAI
176	11647	MR. KULDIPSINH JAYENDRASINH ZALA	ACS - 47574	AHMEDABAD
177	11651	MR. AMIT RAMESH BHAI KATHORE	ACS - 41609	BHARUCH DISTT
178	11653	MR. AMEET ASHOK RATHI	ACS - 44786	AURANGABAD
179	11654	MR. MANDAR GANESHRAO TAKALKAR	ACS - 32369	AURANGABAD
180	11655	MR. NIMISH CHUNIBHAI SAKHIYA	ACS - 35847	RAJKOT
181	11660	SH. TUNU SAHU	ACS - 19050	THANE
182	11664	MR. NAYANKUMAR SURESHBHAI PATEL	ACS - 37703	AHMEDABAD
183	11667	MR. BHAVIN NAVINBHAI SHETH	ACS - 35903	SURAT
184	11670	MRS. SANJANA ASHUTOSH BHUTKAR	ACS - 22008	PUNE
185	11672	MR. RICHI MINESHBHAI SHAH	ACS - 47622	AHMEDABAD
186	11675	SH. PUNEET JUNEJA	ACS - 17151	MUMBAI
187	11685	SH. ASHISH JAIN	FCS - 8319	INDORE
188	11691	MR. AASHIT VIJAY DOSHI	ACS - 28415	MUMBAI
189	11692	MR. OMESH BOHARA	ACS - 34255	JAIPUR
190	11695	MS. SHEETAL MEHRA	FCS - 8544	BHOPAL
191	11699	MR. KSHITIJ JAININDRA LUNKAD	ACS - 36030	PUNE
192	11700	MR. KARMIT HARIBHADRABHAI SHETH	ACS - 46197	SURAT
193	11701	MS. SWATI SINGH	ACS - 36664	NEW DELHI
194	11703	MR. PATEL HIREN KUMAR BHARAT BHAI	ACS - 43023	AHMEDABAD
195	11705	MS. NAMRATA VANAMALA	ACS - 40814	MUMBAI
196	11717	MR. NIRANJAN KUMAR	ACS - 47967	PUNE
197	11719	MRS. JASMITA TAPAN TRIVEDI	ACS - 28321	MUMBAI
198	11723	MR. ROHAN YESHWANT NAIK	ACS - 29329	THANE
199	11724	MS. DIPTIBEN CHIRAG KHANDHAR	ACS - 31037	AHMEDABAD
200	11725	MR. HARSHAL ARUN LAHAMGE	ACS - 36695	AHMEDNAGAR
201	11732	SH. BIPINKUMAR L MAKWANA	ACS - 15650	AHMEDABAD
202	11735	MR. DHAWAL CHHAGANLAL GADDA	FCS - 8955	MUMBAI
203	11736	MR. PARESH VALLABH BHAI RAIYANI	ACS - 42691	SURAT
204	11737	MR. VINOD KANUBHAI RANA	ACS - 47963	AHMEDABAD
205	11738	MR. DHANRAJ KRISHNA SALIYAN	ACS - 34837	MUMBAI
206	11739	MR. SANJAY UTTAMRAO PATARE	ACS - 33075	PUNE
207	11740	MR. SHAILENDRA PATHAK	ACS - 27386	THANE
208	11741	MS. APARNA CHETAN DAGLI	ACS - 48781	MUMBAI
209	11745	SH. SHRI RAM MOTILAL GAUD	FCS - 6932	MUMBAI
210	11746	MS. HETANSHI HEMANTKUMAR SHAH	ACS - 43510	AHMEDABAD
211	11747	MS. NISHA DWIVEDI	ACS - 37739	NAGPUR
212	11748	MR. MANISH TOLAMBIYA	ACS - 37101	INDORE DISTT
213	11750	MR. SANJIV VIJAY NAIDU	ACS - 44728	BHOPAL
214	11752	MS. VAISHALI SURENDRA BHAT	ACS - 38812	NASHIK
215	11753	MR. SAURABH VISHWAS KARMASE	ACS - 41701	NASHIK
216	11755	SH. PRADEEP SHEKARA SALIAN	ACS - 18480	MUMBAI
217	11763	MS. DIPTI ABHAY MARATHE	ACS - 35902	PUNE
218	11764	MR. KUSH JAYALSINGH PRADHAN	ACS - 48255	CHAMPA
219	11769	MRS. SATI MUKUND	ACS - 16162	PUNE




NEWS FROM THE REGIONS


EASTERN INDIA REGIONAL COUNCIL

Programme	QR Code/Weblink
Campus Placement for Members and Students organised at ICSI-EIRC House on 2.12.2016.	https://www.icsi.edu/eiro/Archive.aspx 
1st Regional Conference of Women Company Secretaries held on 3.12.2016.	
Discussion Meetings on "CSR" held on 16.12.2016 at ICSI-EIRC House.	
Discussion Meetings on "The Insolvency and Bankruptcy Code" held on 15.12.2016 at ICSI-EIRC House.	
Discussion Meetings on "New Company Registration Form" held on 14.12.2016 at ICSI-EIRC House.	
Full Day Seminar on "CS - A Perfect Professional" held on 17.12.2016.	



BHUBANESWAR CHAPTER

Programme	QR Code/Weblink
ICSI – IBBI joint National Seminar on "Insolvency & Bankruptcy Code of India" held on 11.12.2016	https://www.icsi.edu/bhubaneswar/NewsEvents.aspx 
ICSI Press Conference held at Bhubaneswar on 11.12.2016	


GUWAHATI CHAPTER

Programme	QR Code/Weblink
1st North Eastern Regional Conference held on 17 and 18.12.2016 at Guwahati	http://www.icsi.edu/guwahati/NewsEvents.aspx 


NORTHERN INDIA REGIONAL COUNCIL

Programme	QR Code/Weblink
1st Regional Conference for Women on the theme "Women in Leadership Roles - Challenges and Success Mantras" held on 03.12.2016	http://www.icsi.edu/Portals/70/NEWS%20FROM%20NIRC.pdf 
Motivational Talk for Officials of NIRC and Regional Council Members of NIRC held on 06.12.2016	
PCS Help Line on De-Listing of Securities and Dissemination Board held on 07.12.2016	
Workshop on Related Party Transactions – Compliance's & Taxation (Transfer Pricing) held on 10.12.2016	
Session on "Essentials of Business Contracting" held on 12.12.2016	
Master Classes on GST held on 13.12.2016	
Seminar on Insolvency and Bankruptcy Code-2016 Jointly organised with Insolvency and Bankruptcy Board of India (IBBI) held on 17.12.2016	



ALLAHABAD CHAPTER

Programme	QR Code/Weblink
Latest Impact of Demonetization of Indian Currency Notes of Rs.1000 and Rs.500 on Society	http://www.icsi.edu/allahabad/NewsEvent.aspx 



CHANDIGARH CHAPTER

Programme	QR Code/Weblink
Critical Analysis of Corporate Insolvency Resolution Process Under Insolvency and Bankruptcy Code, 2016 held on 17.12.2016.	http://www.icsi.edu/chandigarh/Home.asp 

SOUTHERN INDIA REGIONAL COUNCIL


Programme	QR Code/Weblink
Research Symposium on The Companies Act, 2013 – Decoding unsolved Mysteries and impact of Amendment Bill 2016 organized jointly by ICSI-CCGRT with ICSI-SIRC on 10-11, December 2016 at ICSI-SIRC House, Chennai	https://www.icsi.edu/Webmodules/TwoDayProg_ResearchSymposium.pdf 
ICSI-NSE Joint Workshop on Secretarial Audit on 16.12.2016 at Hotel Deccan Plaza, Chennai	https://www.icsi.edu/Webmodules/NSE_JointWorkshop_SecretarialAudit.pdf 

BENGALURU CHAPTER

Programme	QR Code/Weblink
Inauguration of CS Acceleration Centre at The ICSI-Bengaluru Chapter by President, ICSI and Interaction with Members, Students and Press held on 12.12.2016	http://bit.ly/2gl830C 
Study Circle Meeting for Members	http://bit.ly/2gQzw0p 

WESTERN INDIA REGIONAL COUNCIL

PUNE CHAPTER

Programme	QR Code/Weblink
Workshop on "Knowledge Refresher Course on Critical Aspects of Companies Act, 2013 - II" (Third Workshop Among a Series of Four Workshops)	http://www.icsi.edu/portals/32/Chartered%20Secretary_11_12_2016_to_20_12_2016_fnl.pdf 
Workshop on "Knowledge Refresher Course on Critical Aspects of Companies Act, 2013 - II" (Fourth Workshop Among a Series of Four Workshops)	
Joint Seminar on "Corporate Social Responsibility (Csr)" By MCA, ICSI Pune And Icai Pune.	
Full Day Program on "CSR And Corporate Governance in India."	
Study Circle Meeting on "Noteworthy Recent Rulings in Companies Act, 2013 & Recent Important Updates in Securities Laws"	



Indian Institute of Corporate Affairs
Under the aegis of Ministry of Corporate Affairs, Government of India
School of Corporate Law

Six Months Certificate Course on Corporate Law (online)
Fourth Batch | February - July 2017

*Certification from a Premier Institution established by Ministry of Corporate Affairs, Government of India
(February – July, 2017)*

Last date for registration: 31st January, 2017
(Limited Seats per Batch)

This Certificate Programme will enable the participants in gaining a sound and comprehensive understanding of the concepts of corporate and allied laws including the Companies Act, 2013; Incorporation and Structure, Capital Market, SEBI and IPOs, Corporate Finance, Arbitration, Corporate Social Responsibility (CSR), Corporate Insolvency, Fundamentals of Intellectual Property Law, etc. The course is designed with inclusion of the latest developments on Corporate Laws in India.

- **FOR WHOM:** Government Officials, Industry, Professionals, Entrepreneurs, Academicians, Directors and Students.
- Course delivery by way of **online Learning Management System** spread over 6 months (120 Class Hours)

Contact:
Dr. Pyla Narayana Rao, Course Coordinator, School of Corporate Law, IICA
Web: www.icaa.in E-mail: pyla.nari@gmail.com T: 0124-2640088 : Mob: 7042712183

APPOINTMENTS

REQUIRED

A QUALIFIED COMPANY SECRETARY AND ONE TRAINEE

We require a qualified Company Secretary and one Company Secretary trainee as per ICSI guidelines to look after day to day secretarial work & to do deal with appropriate authorizes. We are a Private Limited Company having capital base of Rs. 9 Crore and engaged in the manufacturing and designing of garments and wearing apparels.

We offer a good salary package as prevailing in the industry.

RINKU SOBTI FASHIONS PVT. LTD.

19A, G. F., KHASRA NO.-1234, KISHANGARH
J.N.U. MARG, VASANT KUNJ NEW DELHI - 110070

Contact No. 64647859

Email : csmohan20@gmail.com

6

MISCELLANEOUS CORNER



- ETHICS & SUSTAINABILITY CORNER
- GST CORNER
- CG CORNER

SUSTAINING RESPECT THROUGH SPIRITUALITY

Contributed by Brahma Kumaris, Om Shanti Retreat Centre, Gurugram

Of all the human values that sustain the society or any system, RESPECT is considered to be the most basic one. It is considered to be the way to imbibe others ethics easily. The seeds of respect are sown into every individual since the early years. It is observed that in any household, children are taught to greet elders with gestures of respect and the language taught to them is that of honor and respect towards others. Whether it is “ladies first”, “pehle aap”, “haanji”, “shukriya”, “thank you”, etc the code of conduct of respect is reflected in every civilized gentry. In India, which is considered as world’s spiritual guru, the rich culture and heritage reflects respect for every individual. Any guest is equated to deity by the feeling of ‘atithi Devo bhav’. Parents are considered next to God, particularly mothers. A girl child born in a family or a new bride in household is considered to be ‘Lakshmi’ (the goddess of wealth and fortune). It is taught that every woman should be considered as your sister or mother, out of respect. The nation is also equated to a mother and ‘Vande Matram’ is sung in its praise. Be it ‘Mother-land’ or ‘Mother-tongue’ it depicts the feelings of respect towards the seen or the unseen, tangible or non-tangible entities. More-so, the names of most of the rivers are feminine and they are considered to be sacred. All the elements of nature are worshipped as gods and goddess. Like the elements of fire, earth, water, air, mountains, trees, sun, moon, stars, constellations are considered as gods and goddesses. Not just the Indian civilization, but other civilizations or cultures also have a rich heritage of equating various forces of nature with gods and goddesses.

However, while the above mentioned facts arouse the feelings of pride, somewhere we are not convinced by them as what one observes in practice is different than this. Thus it makes us wonder, what could be the main reason for lack of respect among individuals, as what is heard and spoken differs from what we see and observe being practised around us. To understand this gap and ways to bridge it, lets first look at the meaning and manifestations of respect more deeply and holistically.

• Self Respect- The seed to cultivate Respect for Others

Self respect is the virtue or the feeling of self worth, which includes valuing one’s belief system, one’s strengths, acknowledging and accepting one’s limitations without feeling defeated and with a vision to overcome those. As per the ancient spiritual wisdom of the India, we are aware that every individual is a combination of physical and spiritual entities that have a symbiotic relationship with each other. The spiritual entity makes the physical entity (body and its systems) work but it itself cannot function without the medium of the body. When we understand that it is the spiritual entity that defines our

state of being- our thoughts, actions and personality traits put together, and not the physical entity, it automatically fosters a feeling of being beyond the effect of good and bad, praise or defamation governed by or as a result of the physical entity. We understand more deeply what is our original worth and that anything external or anything materialistic can affect only the physical and not the spiritual entity, unless we ourselves allow it to impact that deep- core- immortal- spiritual- consciousness.

When I appreciate the existence, the qualities and the worth of the spiritual side of my being, I also start appreciating the same for others around me. This induces a feeling of humility in the self. Each river crosses so many obstacles and travels such a long way just to merge in the ocean only because the ocean is humble and respects the river. Similarly a person with humility attracts the love and respect of others. Hence to give respect is to take respect.

If I come back home on a sunny- hot afternoon and expect someone to offer me a glass of water for instant relief from the effect of the heat outside, I also understand that it is completely fine if others expect the same from me. Thus, I automatically understand the needs of others and it would be easy for me to develop a sense of respect for them as well and treat them the way we would want to be treated.

• Respect is like Sunshine

As the rays of the Sun transform darkness into light and help us see the true colors of an object, respect helps us look at the true state of the being of every individual and we get exposed to their brighter side (they may have a dark side as well, of which I am fully aware; but I am not influenced by that) and I give them the respect that they deserve. Also, the rays of the Sun have the capability to kill germs. Similarly, when we start respecting others, we tend to dissolve disputes and remove the germs of ill-feeling for others resulting in initiation of better karmic accounts with that person, in other words, settling previous negative karmic accounts. Gradually, as I mend up the karmic account with that individual, a spiritual entity, it is reciprocated in the same way (depending upon how much I need to settle the karmic accounts from my end).

• To Respect others is to admire their qualities

It is true that if I start respecting an individual, I start noticing more of their qualities. However, the corollary to this is also true: When I start noticing the strengths and qualities of an individual, I generate a feeling of respect of them.

Respect can also be understood as a deep feeling of admiration for someone’s qualities, abilities or achievements. So let’s think of all those abilities that we

actually admire in an individual we respect (could be specific to different persons as well). Now, give yourself a moment to think: Is this ability or quality limited to only that person, or do I know someone else who has that or a similar quality? If yes, do I respect them in the same manner? If no, then it is most likely that I don't have equal respect for them due to some of their weakness that rules my mind. So when I fail to demonstrate respect for someone, it is actually because my mind is clouded by their weakness or some negativity. Thus, to start respecting people, start noticing their strengths and qualities.

• **Respecting others generates Equality**

I know that each one of us has a specific role in this big picture- the world drama. If we think about someone we respect, we would realize that it is not the role in itself but how that person uses those qualities in their role, is what we admire; i.e. it is actually a regard for their abilities or qualities. So each individual is playing their part. A direct result of understanding the worth of the spiritual entity and demonstrating the ability to distinguish the spiritual entity to be separate from the role one plays is that it also dissolves the difference in the way we treat different individuals. If a movie has an actor, it also has a villain. Both the actors, even though having opposite characters, are respected as individuals; despite their roles being so different; as the spiritual entity is eternal while the role is subject to change. We appreciate that the role is not of the prime importance, but it is the individual playing that role- which is of a greater worth. So we value and accept the rich- the poor, the blacks- the whites, the elders- the peers- the subordinates, every individual in the family- neighborhood- workplace, also the strangers, people of all backgrounds, nationalities, gender, caste or creed and start developing the same feeling of respect for each one of them.

• **To Respect is to Listen**

One of the best ways to show respect for someone is to truly listen to another's point of view. It prevents me to become judgmental or establishing prejudices for someone. Listening enables us to convey "I understand what you say/ mean and I care for your feelings". Sometimes, to be heard is the biggest satisfaction one needs. We should allow others to express their views freely. While listening, we should feel as a 'child' who is keen to know and doesn't color the perception about the other person on the basis of what they express, even though we may or may not agree with the same. When it comes to taking decision, we have our own right to be the 'master' and go by what we feel is right.

• **Respecting others demonstrates Acceptance**

Respecting others also means to respect their ideas and beliefs even if they are not the same as mine. It is to start accepting their feelings, their decisions, their space & privacy, their belongings, their limits etc and this brings us in harmony to people around me. In fact respecting others means to celebrate diversity.

I appreciate the fact that no two individuals or actors on this planet can have the same role, as each one of us is unique. Each of us has had a unique and different journey over many lives. When I am not fully aware of even my journey so far, how can I expect others to be aware of the same and moreover, how can I be aware of what their journey has been like? What I take currently as right for me is according to my experiences accumulated during my journey. The same stands true for others. Thus, we must appreciate that what is right for me could be the other way round for someone else. So, the definition of 'right' and 'wrong' is unique to each one of us. Hence, when we say "you are wrong" in other words, we mean to convey "your right is not aligned to my definition of right (as my journey and the experiences during that journey have been different than yours), so I take it as wrong". This helps me to understand that I need not expect others to have the same belief systems, the same choices and the same definition of right as mine and neither can I change them according to me but I can rather enjoy the diversity of characters in this beautiful bouquet of world. It's when I start the chain reaction of acceptance, others follow me and the reaction propagates.

An ocean accepts the water of all rivers and even the debris coming along with the river without any discrimination and prejudice. The water of the river assimilates with the ocean's water while the ocean waves leave the debris at the shore. Moreover, the surface of the ocean has waves but the ocean bed is still and full of jewels. Similarly, each individual is a bundle of strengths and weaknesses. To look at other's weaknesses or strengths is to make them your own. If we reject the person looking at their weakness, we are also deprived of their strengths or qualities. Thus if we become like an ocean, accepting everyone around us, leaving the negativities at the shore and assimilating their qualities in me, I can remain stable, peaceful and powerful within.

• **To Respect is to demonstrate Obedience**

Obedience is a demonstration of respect. Whether it is abiding by the laws of the society, or organizational values or guidelines, or following the advice or ethical principles laid by the elders- obedience towards them is taken as regard for the person or body in concern of those principles or laws. In order words, to respect others is to show faith in their judgment and to be committed to it.

• **Respect- it freely flows...**

It is not just the individuals that ought to be respected, but everything tangible and intangible around us. Be it time, money, resources, rules, disciplines, nature, environment etc, everything deserves respect. Hence, respect is intrinsic trait and subjective rather than dependent on the object. If we experience a high level of self- respect ourselves, it simply overflows and it is easy to extend and sustain the feeling to others.

GST UPDATES

GST Council

1. The Fifth GST Council Meet, held on December 2-3, 2016 had discussion on revised draft legislation but remained inconclusive and the Council was unable to iron out the dual control issues.
2. The Sixth GST Council Meeting was held on December 11, 2016 in which discussions were made upto Section 99 of the model GST law but was again unsuccessful in resolving the contentious issue of dual control of assesseees. Most of the time was taken up in discussion of Draft GST Bills i.e., Central GST, Inter State GST and Compensation Law.
3. The Seventh GST Council Meeting held on December 22-23, 2016 finalized the following:
 - ◆ In CGST and SGST Laws, a total of 197 provisions and five schedules, were approved
 - ◆ The Compensation Law was cleared and mentions that the Centre would compensate states for five years, if they incur losses post the implementation of GST
 - ◆ The revenue growth rate that would be considered to arrive at the compensation amount would be 14 percent, and the base year would be kept as 2015-16
 - ◆ The compensation to the states for the loss of revenue, if any, from the rollout of GST would be paid on bimonthly basis.
 - ◆ Few issues are left to be settled in the Compensation Law— such as the source of the compensation fund — but the law will be placed for approval, along with the CGST and SGST laws, after legal vetting in the next meeting.
4. The Eight meeting will be held on January 3-4, 2017 to discuss the issue of cross empowerment, the main issue eluding consensus, and finalizing other remaining issues.

OTHER GST UPDATES

1. SAP has aggressively promoted its data platform called SAP HANA, which is fully GST ready. It has partnered with local data centre provider called CtrlS to offer services to corporate as well as Governments.
2. GSTN is organising workshops across the country, according to the schedule for rollout of GST, wherein states have been clubbed under different categories and is assisting in the migration process from VAT to GST.
3. Despite Puducherry being the first State in the country to launch the GSTN portal, the migration of traders and merchants registered under various State and Central tax regimes to the GST is in progress.
4. National Academy of Customs, Excise and Narcotics (NACEN) has already trained about three-fourth of the targeted 60,000 field officials who would be instrumental in implementing the new indirect tax regime.
5. Final list of GST Suvidha providers has been released.

GST IN NEWS

- Finance Ministry hopeful of GST Roll-Out on April 1,2017

- In run-up to GST, Budget to see cleanup of Import Sops
- Traders can get enrolled under GST provisions at Government camps
- Telangana likely to complete Data migration to GST by January
- GST could trip 'Make in India' for smart phones
- Tally announces launch of GST Mobile Application
- Workshop for traders ahead of GST rollout
- Migration of traders to GST sluggish
- Airlines may have to bear Additional tax burden of Rs.15000 crore under GST
- GST Council approves primary drafts of Central GST and State GST Laws
- About 75 per cent of targeted 60,000 officers trained for GST
- 15 day slot given to Andhra Pradesh dealers to register
- States won't go back on Auto Tax Sops Post GST

RETURNS UNDER GST

List of GST Returns/Statements to be furnished by Registered Persons is as follows:

Form	Description
GSTR-1	Details of outward supplies of taxable goods and/or services effected
GSTR-1A	Details of outward supplies as added, corrected or deleted by the recipient
GSTR-2	Details of inward supplies of taxable goods and/or services claiming input tax credit
GSTR-2A	Details of inward supplies made available to the recipient on the basis of FORM GSTR-1 furnished by the supplier
GSTR-3	Monthly return on the basis of finalization of details of outward supplies and inward supplies along with the payment of amount of tax
GSTR-3A	Notice to a registered taxable person who fails to furnish return under section 27 and section 31
GSTR-4	Quarterly Return for compounding Taxable persons
GSTR-4A	Details of inward supplies made available to the recipient registered under composition scheme on the basis of FORM
GSTR-1	furnished by the supplier
GSTR-5	Return for Non-Resident foreign taxable person
GSTR-6	Input Service Distributor Return
GSTR-6A	Details of inward supplies made available to the ISD recipient on the basis of FORM GSTR-1 furnished by the supplier
GSTR-7	Return for authorities deducting tax at source
GSTR-7A	TDS Certificate
GST-ITC-1	Communication of acceptance, discrepancy or duplication of input tax credit claim
GSTR-8	Details of supplies effected through e-commerce operator and the amount of tax collected as required under sub-section (1) of section 43C
GSTR-9	Annual return
GSTR-9A	Simplified Annual return by Compounding taxable persons registered under section 8
GSTR-9B	Reconciliation Statement
GSTR-10	Final return
GSTR-11	Details of inward supplies to be furnished by a person having UIN

Developments –December 2016

Netherlands: New Dutch Corporate Governance Code

The Monitoring Committee Corporate Governance Code has published the new Corporate Governance Code on 8th December 2016. The Code applies to any financial year starting on or after 1 January 2017. The Code was first adopted in 2003 and was amended once in 2008. At the request of the National Federation of Christian Trade Unions in the Netherlands (CNV), Eumedion, the Federation of Dutch Trade Unions (FNV), Euronext NV, the Association of Stockholders (VEB), the Association of Securities-Issuing Companies (VEUO) and the Confederation of Netherlands Industry and Employers (VNO-NCW), the Code has been amended by the Corporate Governance Code Monitoring Committee.

Focusing on the governance of listed companies, the Dutch Corporate Governance Code provides guidance for effective cooperation and management. The purpose of the Code is to facilitate – with or in relation to other laws and regulations – a sound and transparent system of checks and balances within Dutch listed companies and, to that end, to regulate relations between the management board, the supervisory board and the shareholders (including the general meeting of shareholders). Compliance with the Code contributes to confidence in the good and responsible management of companies and their integration into society.

The Code applies to:

- i. all companies whose registered offices are in the Netherlands and whose shares, or depository receipts for shares, have been admitted to trading on a regulated market or a comparable system; and
- ii. all large companies whose registered offices are in the Netherlands (balance sheet value > €500 million) and whose shares, or depository receipts for shares, have been admitted to trading on a multilateral trading facility or a comparable system.

The Code does not apply to an investment company or an undertaking for collective investment in transferable securities that is not a manager within the meaning of Section 1:1 of the Financial Supervision Act.

The Code contains principles and best practice provisions that regulate relations between the management board, the supervisory board and the shareholders (including the general meeting of shareholders). The principles and provisions are aimed at defining responsibilities for long-term value creation, risk control, effective management and supervision, remuneration and the relationship with shareholders (including the general meeting of shareholders) and stakeholders. The principles may be regarded as reflecting widely held general views on good corporate governance. The principles have been supplemented in the form of best practice provisions. These provisions contain standards for the conduct of management board members, supervisory board members and shareholders. They reflect best practices and supplement the general principles of good corporate governance.

Companies may depart from these best practice provisions, provided that they give reasons for doing so. The conditions for departures are explained below under 'Compliance with the Code' The relationship between the company and its employees (representatives) are

regulated by law. This relationship is addressed in the Code in those provisions which relate to culture and the contact between the supervisory board and the employee participation body.

The principal changes to the 2008 Code revolve around seven themes:

1. A greater focus on long-term value creation
2. Reinforcement of risk management
3. A shift of focus in effective management and supervision
4. Introduction of culture as an explicit part of corporate governance
5. Improvement and simplification of the remuneration provisions in the code
6. Shareholders and the general meeting
7. Quality requirements for "comply or explain" statements

Amendments to the current Dutch corporate governance code for listed companies include a clause requiring firms to publish the size of the pay gap between senior staff and shop floor workers. By publishing the size of the pay gap, investors and other interested parties will be able to flag up the issue if they feel the gulf is becoming too wide. In the revised code companies would be free to compare their position to other firms to show the pay gap is not unreasonable. The new corporate governance code also states that supervisory board members may not be paid in shares and they are limited to eight years in the job. Two extensions of two years will be permissible if a proper explanation is given in the annual report.

For details please visit-

<http://www.mondaq.com/x/553482/Shareholders/New+Dutch+Corporate+Governance+Code+The+Changes+In+Detail>

The Dutch corporate governance code is available at the link -

<http://www.commissiecorporategovernance.nl/download/?id=3367>

Guidance Note on Board Evaluation released by SEBI, India

The Companies Act, 2013 and SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 contain broad provisions on Board Evaluation. With the purpose to educate/guide the listed entities and their boards of directors about various aspects involved in the board evaluation process and improve their overall performance as well as corporate governance standards to benefit all stakeholders, SEBI has issued Guidance Note on board Evaluation on 5th Jan 2017.

SEBI has studied the practices of Board evaluation prevalent among listed entities in India. It also conducted an analysis of the global practices in various jurisdictions like regulatory requirements, best practices, internal versus external evaluation, disclosure requirements etc. and based on the analysis, guidance note has been issued in order to guide listed entities. The detailed Guidance Note is available at-

http://www.sebi.gov.in/cms/sebi_data/attachdocs/1483607537807.pdf.

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.



The Compleat Governance Solution



LEGILENS

BoardEye

LegiLens for CS (Web)

- Secretarial office Management with Compliance Support
- Event based compliance support for CA-2013 & SEBI regulations, from Initiation to Audit
- Time-bound compliance Checklists including alerts & reminders
- Readily accessible repository of your compliance proofs and forms
- Allocate tasks including a Plan B option & get real-time status reporting
- eStatutory Registers with maker-checker flow and DSC
- Continuously calibrated to statutory & regulatory changes

BoardEye for CS (Web)

- Plan Meetings, Note Proceedings, Upload ATR information
- Auto Create Documents – Notices, Agenda Folders, Draft Minutes
- Get Electronic Document Approval & Voting on Circular Resolutions
- Auto Support for Notifications & Reminders

BoardEye fully supports the secretarial team ...far more comfortably than before, whether its planning meetings, conducting them or implementing effects of the meeting later.
~ Dr KR Chandratre

BoardEye for Directors (iPad)

- Track Board & Committee decisions through ATRs
- View Compliance Reports to confirm adequacy of Compliance activity
- Board Room preparation with document handling, online & offline
- Make, store and share Notes with fellow Directors and CS

... acquiring BoardEye should facilitate listed companies with busy boards to assist their directors in executing their duties to the company more effectively and efficiently.
~ Dr KR Chandratre

Hosted on your server in your premises

Book a Demo

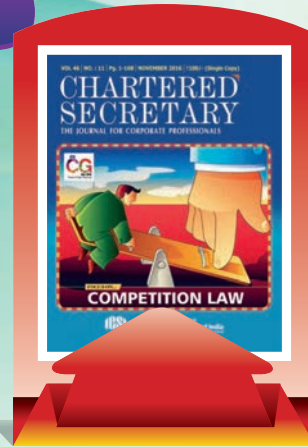
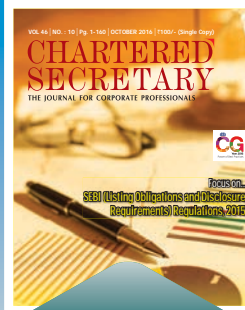


Axar Digital Services Pvt. Ltd.
 www.axardigital.com | info@axardigital.com
 Pune: M: +91 85509 22115 Ph: +91 20 4014 9968 | Mumbai: +91 99670 24550 | Delhi: +91 98108 60253

CHARTERED SECRETARY

Advertisement

Tariff



(With Effect from 1st 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 1st 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 20th 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

'ICSI House', 22, Institutional Area, Lodi Road, New Delhi- 110 003
Phones : 41504444, 45341000; Fax : 91-11-24626727, 24645045
E-Mail: info@icsi.edu; Website: <http://www.icsi.edu>



MeetX

Going paperless with
your board has never
been easier



Organisations around the globe are experiencing the benefits of the Boardvantage board portal called MeetX. You can too.



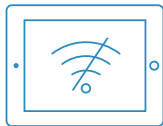
Automate the board meeting process

With dedicated workflows and support for last-minute updates, MeetX automates boardbook creation and distribution. Board members view the particulars of the current meeting or quickly reference relevant items from previous meetings. Any updates are flagged with visual cues.



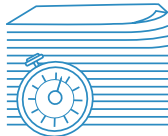
Go beyond boardbook access

When it comes to eSigning consents, voting on resolutions, or filling out self-assessments, MeetX makes all board process paperless.



Make online-to-offline transparent

MeetX auto-syncs its content so board members have ready access to their documents, private notes, approvals, and surveys, whether online or offline. Even annotations made offline sync back to the server when the board member is back online.



Cut cost, time and paper

With MeetX, you no longer have to print, ship and track board materials, and no one has to lug them around.

Boardvantage

Request a free demo at boardvantage.com/demo

Boardvantage is now a part of Nasdaq

boardvantage.com/hk

Room 1204-8, 12/F, Man Yee Building
68 Des Voeux Road Central, Hong Kong
852 2167 2578 | sales@boardvantage.com