

CHARTERED SECRETARY

THE JOURNAL FOR GOVERNANCE PROFESSIONALS

Labour Reforms A full throttle Transformation



THE INSTITUTE OF
Company Secretaries of India

भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE

Statutory body under an Act of Parliament

(Under the jurisdiction of Ministry of Corporate Affairs)

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Motto

सत्यं वद। धर्मं चर।

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05

1. CS Ranjeet Pandey met Amit Shah (Hon'ble Union Minister for Home Affairs). Also seen CS Chetan Patel and CS Manish Gupta.
2. ICSI delegation met Kalraj Mishra (Hon'ble Governor of Rajasthan).
3. Delegation of Kenya Accountants and Secretaries National Examination Board visited ICSI Headquarter at New Delhi.
4. CS Ranjeet Pandey addressing at CII's 10th Financial Markets Summit 2019 on the theme "India@2024:\$5 Trillion Economy and Indian Financial Markets" at Mumbai.
5. Group Photo of CS Ranjeet Pandey, President, ICSI with participants of one day orientation programme at ICSI Jaipur Chapter.



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6. Group photo of 3 Day Workshop organised by ICSI Jaipur Chapter with Rajasthan Police at Rajasthan Police Academy between 16th to 18th October 2019 .
7. Group photograph on the occasion of Inaugural ceremony of Reliance Industries Study Circle of ICSI at Navi Mumbai.
8. CS Praveen Soni addressing at 3 Day Residential Research Workshop organised by ICSI CCGRT on National Company Law Tribunal on October 11-13, 2019 at Kochi, Kerala. Sitting dais from Left: G C Yadav (Registrar of Companies, Kochi), CS Nagendra D. Rao and CS Asish Mohan.
9. Group photo of 3 Day Residential Research Workshop organised by ICSI CCGRT on National Company Law Tribunal at Kochi, Kerala.



तस्मादसक्तः सततं कार्यं कर्म समाचर ॥

असक्तो ह्याचरन्कर्म परमाप्नोति पूरुषः ॥

(Giving up attachment, perform actions as a matter of duty, for by working without being attached to the fruits, one attains the Supreme.)



Dear Professional Colleagues,

The month of October, has been witness to full scale preparations for the upcoming 47th National Convention of Company Secretaries. On a personal note, while until now the National Convention meant participation as a delegate, as the head of this institute, the thought has transformed into anticipation; anticipation of not just witnessing the biggest event of the year in full grandeur, but the coming to life of months of hard work, the anticipation of meeting not just dignitaries but to have an up and close reunion with our fellow members and students and the anticipation of creating many more wondrous memories for the times to follow.

The National Convention of Company Secretaries was conceptualised with the thought of creating a platform for networking and exploring greater professional opportunities which are completely unhindered by the geographical boundaries. The **47th National Convention to be held at Jaipur on the 14th–16th of November, 2019** shall not only live up to the thought but has also marked its way into the history of the Institute for the highest ever delegate registrations received for the event. I wholeheartedly thank all the members, students and stakeholders for this feat and I am sure that the deliberations, discussions as well as the launches at the event shall live up to your expectations.

Furthering Ease of Doing Business: 14 rank jump

The above shloka from the *Shrimad Bhagawad Gita* quite aptly convey the message as to how should the conduct of a true professional be and yet at a macro level the performance of the nation on the Ease of Doing Business Index portrays the dedicated efforts of the Government of India to achieve the desired ambitions and results. While the ranks jumped may seem fewer as regards the precedents

set, the achievement is nonetheless exhilarating. A total leap of 79 places over a span of half a decade has truly redefined the term leapfrogging for the Indian economy. And though the said ascend may be attributable to a long list of reasons, the one which stands out and is a reason for immense gratification is the biggest jump in ranking in “resolving insolvency” category, to 52nd rank from 108th, on the back of implementation of the Insolvency and Bankruptcy Code. Still in its nascent stage under the constant process of self-evolvement, the Code has plummeted various issues facing the Indian Corporates as regards insolvency and bankruptcy. From simplifying procedures and processes to according designated qualification for pursuance of the same and including professionals and soliciting their services, the Insolvency and Bankruptcy Code has dawned a new era for the India Inc., one where the sun shall never set.

Labour Reforms: A full throttle Transformation

Back in the day, while preparing for our Company Secretaryship Examinations, the subject of Industrial, Labour and General Laws fell in the list of subjects we feared the most. Though the laws in themselves were not knotty, what rendered their complexity was their long list and the variety of definitions accorded to same terms and terminologies under the different Acts. And yet, from a professional's perspective, with their broad base of stakeholders, their far reaching impact and their constant requirement for expert professionals, these laws hold a significant position in the Indian mainland in totality and the corporate India in particular.

Understanding the need for simplification, rationalization and digitisation of labour laws and to make them

comprehensive, effective, easy to comply, the recent attempt of the Ministry of Labour and Employment to codify the multitude of laws into countable codes confirms with the overall national goal and agenda of promoting Ease of doing business. Apart from subsuming the long list of laws, the Codes shall definitely open up gates for better transparency and greater governance, an aspect standing at the helm of any and every thought and activity of this Institute. And discerning the fact that the governance of laws and Governance Professionals move in reasonable concurrence, the recent enactment of the Code of Wages, 2019 and the Codes to follow shall accord us with both opportunities for professional growth and far greater responsibilities than ever to conserve and protect the interests of the stakeholders while guiding the corporates in the right direction.

Congratulating the Regulatory Authorities on this commendable initiative, I would urge all my professional friends to recognize, cherish and harness this opportunity with unparalleled zeal and vigour and render this a niche area for the brigade of Company Secretaries.

Training the Trainers Program

Realising the true meaning of the thought that, “A student is only as good as his teacher”, the Institute has rolled out a unique initiative under the masthead of ‘Training of Trainers’ (ToT) Program. For students to become deft professionals, contributing sufficiently to the goal of nation building, it is imperative that they are imparted training by Trainers possessing requisite attributes to assist and guide efficiently and appropriately. The ToT, which is an Induction Program for newly registered trainers of ICSI for imparting practical training to CS students for making them successful professionals was conducted with the key objective to apprise the trainers on the 4Ps of training, i.e., Purpose, Planning, Presentation and Performance.

I hope that this initiative shall go a long way in redefining the prevalent training culture and accord to the trainers a greater sensitization of their roles in creating the Governance Professionals of tomorrow.

Self governance: The road ahead

While UDIN and eCSIN marked the beginning of our journey of self governance, the way ahead is being paved with our renewed commitment to standardise procedures and processes undertaken in the regular course at the Institute. It is with this thought and intent that the Council has approved and made effective the ‘Formation, Recognition and Functioning of Study Circle Guidelines, 2019 to supersede the existing guidelines so as to facilitate members to achieve the objectives of Continuing Professional Education at comparatively lower cost. Along with these, the Council of the Institute has issued a second set of guidelines, i.e., the ‘ICSI (Guidelines for Compulsory Attendance of Professional Development Programmes by the Members), 2019’ to facilitate the members in keeping them abreast of latest developments, widening their knowledge base and improving their skills to maintain the cutting edge by providing training and expertise in critical areas of professional interest. The guidelines pertaining to Attendance shall be applicable from 1st April, 2020 and shall bring about uniformity in the requirement for both Members in employment and in practice.

Another set of guidelines under the aegis of ‘The Institute of Company Secretaries of India (Protocol Guidelines), 2019’ provide for the protocol to be followed for orderly conduct of various programmes and other formal events of the Institute in a well planned and professional manner so as to accord a focused learning experience to the participants at every programme. Understanding the significance of our Regional Offices and Chapters, as our true brand ambassadors, the ICSI (Branding Activities & Media) Guidelines, 2019 have been rolled out to propagate uniformity in their attempts to promote Brand ICSI.

Altering dynamics of Technology in governance

The recent debates, discussions and deliberations in the professional arena have been of the growing and expanding role of technology. The apprehensions of Artificial Intelligence taking up the activities, roles and responsibilities being undertaken by professionals since ages have opened up a series of discussions. With the pros and cons being defined, listed and recreated in these deliberations, the fact that the onset of a new era is in process is yet to be gulped down by many with ease. The conventional roles, the duties, having been a part of the job profile of professionals since the inception of the profession itself is witnessing a 360 degree transformation. Jargons like agenda, minutes, and board meetings perceive the prefixing of an ‘e’ to each of them.

These trepidations remind me of the words of an American writer, publisher, artist, and philosopher, Elbert Hubbard. According to him, *“One machine can do the work of fifty ordinary men. No machine can do the work of one extraordinary man”*. As professionals and even further as members of an Institute with a history of half a century, it is imperative that we rise up to the occasion and carve a niche for ourselves and pave the way for future governance professionals as well. Machines may replace ordinary human activities but no machine can ever replace an extraordinary human with an exceptionally professional approach.

With a hope to meet you at the 47th National Convention of Company Secretaries at Jaipur on the 14–16th of November, 2019 and take forth discussions on the above aspects, I would like to share the words of Napoleon Hill which read as follows:

“If you cannot do great things, do small things in a great way.”

Happy Reading !!!

Yours Sincerely



CS Ranjeet Pandey
President, ICSI

Recent Initiatives Taken by ICSI

Interaction with Dignitaries

Taking forward our pursuit for exploring opportunities for the profession and also for joint participation in flagship government initiatives, meetings with the following dignitaries were organised:

- Shri Om Birla, Hon'ble Speaker, Lok Sabha
- Shri Kalraj Mishra, Hon'ble Governor of Rajasthan
- Shri Amit Shah, Hon'ble Union Minister of Home Affairs

Fit India – Fit ICSI Walkathon

The Institute of Company Secretaries of India celebrated its Foundation Day on, 4th of October, 2019 by aligning with the recently launched Fit India Movement. The ICSI organised Pan India '**Fit India-Fit ICSI**' Walkathon at all the Regional Councils and Chapter Offices of the Institute. Members and students along with their peers participated in the Walkathon which was flagged-off in the presence of dignitaries. The Fitness Pledge was also administered to propagate the adoption of a healthy lifestyle. The same was well appreciated by the Hon'ble President of India.

51st Foundation Day of ICSI

The 51st Foundation Day of the Institute of Company Secretaries of India was celebrated in the benign and gracious presence of **Shri Ram Nath Kovind, the Hon'ble President of India** on the 5th of October, 2019 at Vigyan Bhawan, New Delhi. During his address, the Hon'ble President said that *"Company Secretaries have played a seminal role in the development and growth of India; we are, indeed, proud of your contribution, hard work and success"*. Along with the First Citizen of the nation, **Shri Anurag Singh Thakur, Minister of State, Ministry of Corporate Affairs; Shri Arjun Ram Meghwal, Union Minister of State for Parliamentary Affairs, Heavy Industries and Public Enterprises** and **Shri Injeti Srinivas, Secretary, Ministry of Corporate Affairs** presided over the event. The dignitaries while acknowledging the role played by Company Secretaries guided the members and the ICSI with their motivating words.

Sankalp se Siddhi – Single Use Plastic Free ICSI

The celebration of the Foundation Day of ICSI was a day of reiteration of the commitment towards its intended goals and towards building a sustainable nation and serving the society and stakeholders in an unprecedented manner. In pursuit of this vision and with the theme of **India @ 75 – Sankalp se Siddhi** in sight, the ICSI has stepped up to the responsibility and has intended to contribute to the national mission of 'Single use Plastic Free India' by launching 'Single use Plastic Free ICSI' initiative.

Honorary Fellow Membership of ICSI

Honorary Fellowship of the ICSI was conferred on

Shri Arjun Ram Meghwal, MOS for Parliamentary Affairs, Heavy Industries and Public Enterprises and **Shri Injeti Srinivas, Secretary, Ministry of Corporate Affairs**, for having made significant contribution by promoting and recognising good Corporate Governance practices in general and for the development and growth of the profession of Company Secretaries in particular, on the 5th of October, 2019 at Vigyan Bhawan, New Delhi on the occasion of celebration of the 51st Foundation Day of ICSI.

ICSI on DigiLocker Platform

The National Digital Locker System, launched by Govt. of India, is a secure cloud based platform for storage, sharing and verification of documents and certificates. Targeted at the idea of paperless governance, DigiLocker is a platform for issuance and verification of documents & certificates in a digital way, thus eliminating the use of physical documents. On 5th October, 2019 during the 51st Foundation Day Celebrations of ICSI held at Vigyan Bhawan, New Delhi, the Institute launched digital Identity Cards for its members in association with the National e-Governance Division (NeGD), Digital India Corporation, Ministry of Electronics & Information Technology (MeitY), Government of India. The Identity Cards will be available online and real time. It is envisaged that this initiative will play a significant role in reducing the administrative overhead of the Institute by minimizing the use of paper and will be convenient and time saving for the members. The utilization of the facility of DigiLocker by ICSI will be free of cost.

Opening of one new Study Centre

In an attempt to enhance the infrastructural base of the Institute and to overcome the distance barrier for the students, the Institute of Company Secretaries of India had launched the Study Centre Scheme, the same has been successful in creating the much needed links between the Institute and its stakeholders, especially students. With the aim to provide better facilities to students, the Institute has opened 01 new study centre recently to add to the already existing fleet of ICSI Study Centres. In the month of October, 2019, study centre has been opened at **Prestige Institute of Management, Dewas, Madhya Pradesh.**

Self Governance – the road to excellence

The ICSI in its attempt to excel in its own endeavours, activities, and its responsibilities, had launched two initiatives at the 20th National Conference for Practising Company Secretaries. The Unique Document Identification Number (UDIN) and the Employee Company Secretary Identification Number (eCSIN), while initially had been made applicable on a voluntary basis, have been made mandatory by the Council of ICSI w.e.f. 1st October, 2019. Members are advised to ensure adherence to the guidelines pertaining to the same in true letter and spirit.

AICPA & CIMA Finance Transformation New York on 15-16 October 2019, at New York

ICSI delegation led by CS Ranjeet Pandey, President, ICSI, attended the AICPA & CIMA Finance Transformation New York held on 15-16 October, 2019 at New York. During the visit, the ICSI delegation met with dignitaries viz H.E. Sandeep Chakravorty, Consulate General of India to USA, Mr. Syed Akbaruddin, India's Ambassador & Permanent Representative to the United Nations, New York, Ms. Darla Stuckey, President and CEO of Society for Corporate Governance. Meetings were also held with various official of Deloitte, viz; Mr. Sean Daly, CCO and Ms. Renee Bombchill, Global Consumer Products Leader and Natalia Nguyen, Manager and Mr. Kunal Singhania, Vice President-External Reporting, American Express regarding the employment opportunities for CS Professionals in USA. The ICSI Delegation also met with the members of CS fraternity for the operationalization of ICSI Overseas Centre-New York, USA.

Training of Trainers (ToT) Program

With a view to enhance the quality of guidance provided to the trainees during their practical training and in accordance with the requirement of ICSI Vision New 2022, the institute organised a one day **Training of Trainers (TOT)** Program on 19th October 2019 at ICSI, Noida. The TOT program is a unique initiative of the Institute towards harnessing the skill set of trainees through the Trainers mentoring them and provide them an environment to build their competencies in core ancillary and hybrid areas. The program was organised in a workshop mode and attended by 31 newly inducted Trainers from Delhi and NCR Region.

Tie-up with Universities/Colleges for use of their libraries by Members and Students of ICSI

As an initiative to provide library services to its Members and Students all over India, the Institute of Company Secretaries of India has forayed into a tie-up with 54 Renowned Universities and Colleges of India for providing access to its Library/Reading room facilities to esteemed Members and students of ICSI. The Study Material of Company Secretaryship Course and ICSI Publications will also be available in these Universities/ Colleges for the benefit of all. The list of these Universities and Colleges is published in this and also made available on the Institute's website.

Video lecture on "Goods and Service Tax -Concepts of Supply and input tax credits" organised across the country for Class Room Teaching Students and Students of various Colleges

The Institute has taken various initiatives for the

students enrolled for Class Room Teaching. Recording video lecturers of eminent faculties is one of them. The video lectures are being uploaded at LMS (E learning) platform of the Institute. Sessions are also being conducted on important topics for such students by using these video lecturers which will help them in preparing for the examinations. The students of Commerce, Management and law colleges are also invited in these sessions to create awareness amongst them regarding CS Course and to further elevate brand ICSI. The first such Session was organised on 21st October 2019 across the country on "Goods and Service Tax -Concepts of Supply and input tax credits".

Result of the preliminary round of ALL INDIA COMPANY LAW QUIZ-2019

The Preliminary Round of All India Company Law Quiz-2019 was held on 12th October, 2019. Based on the performance of the participants in the preliminary round of the said competition, the qualified candidates shall be participating in the Semi-Final Round of the competition which shall be held on 6th November, 2019.

Creating awareness about Class Room Teaching Centres of ICSI

Keeping in view the importance of creating awareness about Class Room Teaching and its availability at various centres of the Institute amongst the students of the Institute, a video byte comprising message of the President, ICSI has been developed emphasising the benefits of Class Room Teaching and the centres of the Institute across the country.

ICSI Initiatives towards GST

In standing shoulder to shoulder with the government towards directed implementation of GST, the Institute has been committed to building the capacity of its members, students and related stakeholders by advancing their understanding about GST and also by constantly apprising them with updates in GST through various initiatives. Some of the major initiatives in this direction are listed below:

- GST Newsletter – Initiated from April, 2017, 27 issues of the GST Newsletter have been published in so far, with October, 2019 issue being the latest.
- GST Educational Series – 470 Issues have been brought so far.

In addition to this, the Institute is regularly organising workshops, seminars and programmes on GST in order to keep its members & students updated on developments in GST.



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Dear Professional Colleague,

ICSI establishes its presence in Middle East – Expands professional horizons

The Institute of Company Secretaries of India (ICSI) in pursuance of its vision “**To be global leader in promoting good corporate governance**” has been treading forward to globalize the profession of Company Secretaries and seeking to leave international footprints. In this context, we are pleased to inform that the ICSI has constituted the **ICSI Middle East (DIFC) NPIO** at **Dubai International Financial Centre, Dubai**, with following founding members and board:

- Ms. Bhawna Srivastava, Chairperson
- Mr. Lakshmi Narasimha Das Nyayapathi, Secretary (representative of Crowe Mak Limited)
- Mr. Vijay Kumar Ojha, Member
- Mr. R. Lakshmanan, Member
- Mr. G V S Sai Arvind, Member

The ICSI Middle East (DIFC) NPIO will strengthen the global outreach of the profession and facilitate the students and members residing in Middle East and North Africa (MENA) region. The presence of ICSI in UAE will pave way for expanding the dimensions of corporate governance in the MENA region as well.

The Inauguration ceremony of the ICSI Middle East (DIFC) NPIO has been scheduled to be held on 10th December, 2019 at Dubai.

Regards,

CS Ranjeet Pandey

President

The Institute of Company Secretaries of India

CS Hitender Mehta

Chairman

International Affairs Committee,

The Institute of Company Secretaries of India



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EXPANDING PROFESSIONAL HORIZONS

**Benchmarking of
Company
Secretaryship Course
by UK NARIC**

The Institute of Company Secretaries of India (ICSI) with a view to expand the opportunity base of its students and members beyond the national territory had engaged National Recognition Information Centre based at UK (UK NARIC), to conduct an independent benchmarking study, and evaluate comparability of the Executive and Professional Programmes of the Company Secretaryship Course in the context of UK and UAE education systems. UK NARIC is responsible for providing informed advice and guidance on vocational, academic and professional qualifications from over 190 countries worldwide.

UK NARIC has made the following comparability recommendations to the UK and UAE education systems :

STAGE	UK QUALIFICATIONS	UAE QUALIFICATIONS
CS Executive Programme	RQF Level 6 [Bachelor degree standard]	QF Emirates Level 7 [Bachelor degree standard]
CS Professional Programme	RQF Level 7 [Masters degree standard]	QF Emirates Level 9 [Masters degree standard]

Intended benefits:

- Recognition of skills and qualifications by institutions, employers and key stakeholders
- Both national and international mobility for students
- Cross border movement of CS professionals
- Globalization of the profession of Company Secretaries

CS Ranjeet Pandey
President, ICSI

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REGISTERED VALUERS ORGANISATION

A wholly owned subsidiary of ICSI registered with IBBI

**Mandatory
Classroom
Training**

Registrations Open for

50 Hours

Educational Course on
'Valuation of Securities
or Financial Assets'

**Northern India Regional Council
'ICSI-House', Plot No. 4, Prasad Nagar
Institutional Area, New Delhi-110 005**

22nd to 24th November, 2019
and
28th November to
1st December, 2019

We feel pleased to share that the ICSI Registered Valuers Organization (ICSI RVO), a wholly owned subsidiary of the ICSI is the first Registered Valuers Organization among its peer Institutes to receive the recognition from the IBBI.

PURPOSE

- Enable to learn nuances of Financial Modelling and Valuation
- One of the pre requisites to be a Registered Valuer professional is to complete 50 hours Educational Course prescribed by IBBI for which the class room training is being conducted by ICSI RVO

KEY DELIVERABLES

- Enhance the knowledge base and refresh the memory of participants on subjects like Macroeconomics, Financial statement analysis, professional ethics and standards, General laws, Financial reporting under Indian Accounting Standards, Valuation and Valuation approaches and valuation applications, Regulations relevant to Financial assets valuation, Judicial pronouncements on valuation and related case studies.
- Interaction with the experts who would share their varied experiences in respective areas for gaining knowledge and expertise

Fees for the Course:

Any individual willing to register for the Educational Course may fill-in the online application in the form available at the link below with the requisite attachments:
<http://www.icsirvo.in/Member/Login>

After the successful submission of application, the payment link shall be sent to the candidates.

Enrolment Fee:

Rs. 8,850 (Rs. 7,500 + GST @ 18%)

Educational Course Fee:

Rs. 23,600 (Rs. 20,000 + GST @ 18%)
Free Educational Material

Educational course Fee (for members who have successfully completed the online Course on Valuation conducted by ICSI):
Rs. 17,700/- (Rs. 15,000 + GST @ 18%)



Registration

As the availability of the seats is limited, the registration for the Course is on First Come First Serve basis and on acceptance of application and receipt of the Course Fee stated above.

Please Note

1. Maximum batch strength will be 20 participants.
2. Subject to registration of a minimum number of 15 valid participants in a batch.
3. Submission of application for Enrolment is not a confirmation for an individual for registration for a course.
4. Registration for the Course is subject to successful Enrolment of the Individual with ICSI RVO.
5. Payment of Course Fee doesn't entitle a participant to attend the course, unless the course registration is confirmed by the ICSI RVO.
6. Course Fee can be carried forward to another batch with the approval of the enrolling ICSI RVO. But the venue of the course may not be same as opted by individual.
7. Participants have to attend the entire duration (50 hours) of the Course to be eligible for Completion Certificate. Any shortfall in attendance will make the participants ineligible for the said certificate.



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ICSI House, 22, Institutional Area, Lodi Road, New Delhi-110 003
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Classroom
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50 Hours

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or Financial Assets'

**Eastern India Regional Council (EIRC),
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- Enhance the knowledge base and refresh the memory of participants on subjects like Macroeconomics, Financial statement analysis, professional ethics and standards, General laws, Financial reporting under Indian Accounting Standards, Valuation and Valuation approaches and valuation applications, Regulations relevant to Financial assets valuation, Judicial pronouncements on valuation and related case studies.
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3. Submission of application for Enrolment is not a confirmation for an individual for registration for a course.
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Articles

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Labour Laws - Past and Present

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Pradeep Kumar Arora and Manupreet Singh Batra

India inherited its labour laws and practices from British Rule. However, the speed of making changes in the labour laws was very slow till liberalization touched Indian boundaries in 1991. After the liberalization efforts, India scaled high and now it is set to become USD 3 trillion economy with its sectoral capabilities like software, information technology, agriculture, manufacturing, services etc. However as evident, manufacturing sector has not contributed in the way as was expected. Though manufacturing sector has played a vital role in the overall growth of Indian economy and contributed approximately 16% in the total GDP of India till FY 2018-19, China attracts greater attention in the global arena, with its USD 13.6 trillion economy in 2018 and its manufacturing/industry sector having contributed around 40% in its total GDP. So, the numbers i.e. USD 3 trillion could be higher if India had achieved some scale in its manufacturing base and it is in this context that the Indian Government wants to increase its manufacturing industry contribution in the total GDP and take it to 25% by 2022. The World Bank in its report "Doing Business 2014" criticised the complexities and lack of flexibility in line with dynamic requirements of Indian economy and called for big reforms on the entire gamut of Indian regulations especially the labour laws. So, whatever may be reasons, of not having bigger contribution from manufacturing sector, labour reforms were always on the key agenda of every Government. Now in line with overall vision of making India a hub of manufacturing base, existing Government has embarked upon the rephrasing and replacing almost the entire set of central labour legislations by 2022. The authors are making an attempt to interpret both the archaic and the future Labour laws impacting the business and other industry through this article.

Internal Audit of Functions and Activities
-Labour, Industrial and Environmental
aspects

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Dr.K S Ravichandran, L Santhanam
and Shilpa Vishwanathan

Prior to coming into force of Section 138 of the Companies Act, 2013, there was no provision other than Companies (Auditors Report) Order, 2003 (earlier MAOCARO, 1975 under Companies Act, 1956) wherein there was requirement for listed companies and other companies having a paid-up capital and free reserves above certain limits (Rs. 25 / Rs. 50 lakhs) to state whether the company has an internal audit that is commensurate with the size of the company and the nature of its business. Section 138 came into the statute book and it altered the scene. Section 138 required a class of companies to which that provision applies to carry out an internal audit of functions and activities. Within the ambit of this audit, anything could be done so long as they pertain to the functions and activities of the company. Since companies that are on the top in terms of their top line or market capitalisation are supposed to be top with respect to their governance practices too, it is time the attention of the regulators turns towards their practices. If an audit of their functions and activities is carried out, with a properly defined scope, it may be possible to understand to what extent such companies have adopted governance and business responsibility principles and to what extent the practices followed by those companies have been aligned with those principles. For instance, on the labour, industrial and environmental laws, these principles offer a lot of guidance and direction. When we say internal audit, in this context, it implies the need for orienting the scope of internal audit to achieving specific purposes. It is intended to elevate levels of governance. It is also intended to improve the practices that a company follows in preserving and protecting the

environment, in treating its work force equitably, and in following the provisions of labour, industrial and environmental laws, and in making everyone working for or dealing with the organisation towards achieving those specific purposes. If a company aims to achieve higher goals, it uplifts a society as after all their workforce constitutes a community. If a company ensures compliance of these laws, and goes beyond such compliances to achieve certain specific goals, resulting in significant enhancement in the way of life of its workforce, creating a sustainable environment for the future generations to live and adopting a responsible business model that promotes ethical practices, it becomes truly a top slot occupier from being a mere occupier of one or more plants under its ownership and control.

Code on Wages, 2019

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Atul H.Mehta

The Code on wages seeks to universalise the provisions of minimum wages and timely payment of wages to all employees irrespective of the sector and wage ceiling. The provisions of both the Minimum Wages Act and the Payment of Wages Act used to apply on workers below a particular wage ceiling working in Scheduled employments only. There were 12 definitions of wages in various labour laws, leading to litigation besides difficulty in its implementation. Under the Code, the definition has been simplified and is expected to reduce litigation and also reduce compliance cost for employers. The Code ensures minimum wages along with timely payment of wages to all the employees and workers. Many unorganized sector workers like agricultural workers, painters, persons working in restaurants and dhabas etc. who were out of the ambit of minimum wages will get legislative protection of minimum wages. The Code on Wages will prove to be a milestone and give respectable life to crores of unorganised sector workers.

Labour Policy Reforms in India – A full
throttle transformation

35

Joseph Cecil Francis Sequeira

The draft Labour Code on Social Security in particular seeks to redress the problems of the fast growing unorganised sector wherein a number of existing and new schemes have been added. The Company Secretaries, as professionals, may expand their advisory role with regard to these labour codes, whether they are in service or full time practice. The author in this article has attempted to focus attention on the awareness of the fast changing scenario of the Labour Policy in India brought in by four Labour Codes which have been drafted to simplify and rationalize large number of Central and State labour laws for the organised sectors of the Indian economy.

Scope of 'Wages' for Contribution under
the Employees' Provident Funds and
Miscellaneous Provisions Act, 1952 and
Draft Code on Social Security Code, 2019
- A Comparative Appraisal

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Dr. Vidhi Madaan Chadda

The article appraises the judicial pronouncements interpreting 'basic wages' for calculating contribution to be made by the employer to the Provident Fund. The recent decision of the Supreme Court in the Regional Provident Fund Commissioner, West Bengal v. Vivekananda Vidyamandir and Ors. is mooted as a landmark judgement as it caused a shift in the manner provident fund contribution is assessed for the purposes of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. In the backdrop of the ensuing labour law reforms in the country, draft Code on Social Security, 2019 has been circulated by the Ministry of Labour and Employment recently. The article examines the scope of 'wages' under the Employees' Provident Fund and Miscellaneous Provisions Act,

1952. A comparison is also drawn with the relevant provision dealing with 'wages' under the draft Code. This comparison is undertaken in order to ascertain if the proposed provision (on wages) under the draft Code be able to achieve the object of simplification and rationalization for determination of 'contribution' to the Provident Fund.

The Wage Code -A great beginning of codification of Labour Laws

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Narendra Singh and Prativa Jena

The 2nd National Commission on Labour set up in October 1999 to, *inter-alia*, suggest rationalisation of existing laws relating to labour in the organised sector; and an umbrella legislation for ensuring a minimum level of protection to the workers in the unorganised sectors. Enactment of the Code on Wages, 2019 intended to lead ease of compliance without compromising wage security and strengthen social security to the workers, covering substantial number of workers; minimum wages to one and all and timely payment of wages to all employees irrespective of the sector of employment. The article highlights on the beginning of a new era of Labour legislations in India.

Maternity Law: Need for a Revamp under the Draft Code

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Safeena Mendiratta

Various news reports published recently have reported that the Labour Ministry will re-work on the Draft Code on Social Security, 2019 as it does not meet the objective of unifying all social security benefits under an umbrella scheme and misses the concept of 'universal social security'. The Draft Code merely proposes to amalgamate provisions pertaining to maternity benefits from The Maternity Benefit Act, 1961 which was last amended vide 2017 amendment. Further, there exists ambiguity with respect to various provisions of the 2017 amendment and accordingly clarity is required on various aspects of the Draft Code which incorporates provisions from the 2017 amendment. The lack of uniformity across various labour laws relating to maternity benefit is also prevalent and must also be resolved. The clarity on the ways and means of funding and provisioning of 'health and maternity benefits' for gig and platform workers is missed and will be welcome. A holistic view of the Maternity Law can be made only when finalised rules under Draft Code are available. A revamp in line with the judicial precedents and the challenges of the modern times is the need of the hour rather than mere consolidation.

Analysis of recent select Labour Laws cases decided by the Supreme Court

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Hem Raj Tuteja

Labour is an important factor of production. The entrepreneur employs and depends upon labour for producing commodities. When the two work as partners and in unanimity, there is peace in the industry and the environment is viable for production and development of the market leading the development of the country. But when differences arise between the both the parties, not only the peace is disturbed but production is hampered leading to unrest, strikes and lockouts. Now conciliation is required and when conciliation fails, the disputes have to be resolved by some judicial body. Here comes the role of judiciary. In India, at the helm of judicial system is the Apex Court. The role of Apex Court (Supreme Court) is to provide judicial education to the High Courts and other lower courts in India. In this connection the Supreme Court has asserted that a dispute between an employer and an individual employee is not an industrial dispute. However, it may become an industrial dispute if the cause is taken up by the union or a number of workmen. This article analyses certain selected judgments pronounced by the Supreme Court during the last one year wherein the Court has laid down certain principles.

Listing of Commercial Papers – An initiative towards broadening investor participation and enhanced disclosures

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Priya R Iyer and Apurva Meghraj

There has been a surge in the issuance of Commercial Papers (CPs) and an increasing dependence of the commercial sector on CPs as a source of fund in the recent past. Investors in CPs majorly comprise of mutual funds. As on March 31, 2019, mutual funds held approximately 60% of the total outstanding CP issuances. With a view to enhance transparency and disclosures with respect to investment in debt and money market instruments by mutual funds, SEBI has amended the SEBI (Mutual Funds) Regulations, 1996 vide Notification dated September 23, 2019 and brought out a Circular dated October 01, 2019 *inter-alia* mandating the mutual fund schemes to invest only in listed debt instruments including CPs effective from January 1, 2020. Pursuant to the foregoing, issuers are expected to seek listing of CPs in large numbers. To enable its listing, SEBI vide Circular dated October 22, 2019 has brought out a framework for listing of CPs whereby certain disclosures have been prescribed which the issuers are required to make to the Stock Exchanges at the time of seeking listing and also on a continuous basis. The disclosure requirements are broadly in line with that of the existing guidelines governing issuances of CPs and that prescribed for listed debt securities under the SEBI (Issue and Listing of Debt Securities) Regulations, 2008 and SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015. Accordingly, in addition to the existing guidelines, the issuers would also need to comply with the SEBI framework, in case they decide to go for listing of CPs. There may be some teething issues in seamless implementation of this new requirement, which is where the role of professionals like company secretaries would be significant. It would also be interesting to see how the regulatory framework evolves in this regard.

Status of “Nominee Director” under the Companies Act, 2013-Some grey areas

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Ramaswami Kalidas

The right of public financial Institutions to appoint a nominee director on the Boards of companies which receive their financial support is enshrined in the special legislations enacted by Parliament for their constitution. These special provisions contemplate that the nominee shall continue as director at the will and pleasure of the Institution. Under the regime of the erstwhile listing regulations, the nominee director was considered as an Independent director. The Companies Act, 2013 as also the SEBI listing regulations provide that the nominee director shall not be considered as an Independent director. This change in the status of the nominee director has raised several questions –whether the Nominee is liable to retire by rotation, whether his appointment should be subject to recommendation of the nominee director. Further, under the Act a director appointed to represent small shareholders is an independent directors. Since the objective associated with the appointment of a Nominee director and small shareholders' director is identical-namely the protection of the interests of their respective constituencies, the question arises-why a nominee director should not be deemed to be Independent whereas the small shareholders representative is considered as Independent. This paradox in the law is also addressed in the article. The author has also discussed the point as to whether the Nominee can be subjected to removal proceedings. The article ends with a submission that MCA should clarify the position of the Nominee Director considering that the special legislations under which they are appointed by the financial institutions override the provisions of any other law which impact the operations of the company receiving support from the institutions.

Exploring Stock Efficiency: A Study on Selected Large Cap Securities

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Dr. Sheeba M.B. and Dr. Feroze P.S.

The study in this article examines multi-period efficiency of selected large cap stocks traded in NSE. Data Envelopment Analysis (DEA) model, using five attributes associated with large cap stocks, is applied to the data in a single window which allows comparison of efficiency of a stock at different times and comparison with the efficiency of stocks at the same and other times. DEA is a multi-criteria decision making technique which measures relative efficiency of individual Decision Making Units (DMUs) from the observed data on inputs and outputs. The results of the study show a surprisingly diverse range of efficiencies, ranging from 0.13 to 1.00 for the selected large cap stocks. Though high overall efficiency is found, there are wide differences in the efficiency of individual stocks over different time periods. The average efficiency score of sample stocks is 0.74. Of the stocks examined only three are found to be DEA-efficient. They are considered as the most desirable stocks for investment. The average inefficiency score of inefficient stocks is 0.26 which indicates that inefficient stocks may become DEA-efficient by augmenting their outputs (benefits) on an average by 26 per cent without increasing the present level of inputs (costs).

Legal World

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- **LMJ 11:11:2019** Where persons issue prospectus and collect moneys from public assuring them that they intend to do business with the public money for their benefit and the benefit of such public, but the real intention is to do no business other than collecting the moneys from the public for their personal gain, such persons are not immune from the provisions of the Penal Code. [SC]
- **LW 79:11:2019** The provisions of the IBC would have an overriding effect over the Tea Act, 1953 and that no prior consent of the Central Government before initiation of the proceedings under Section 7 or Section 9 of the IBC would be required and even without such consent of the Central Government, the insolvency proceedings under Section 7 or Section 9 of the IBC initiated by the operational creditor shall be maintainable. [SC]
- **LW 80:11:2019** We have no hesitation to hold that the withdrawal of the exemption to the pan masala with tobacco and pan masala sans tobacco was in the larger public interest. As such, the doctrine of promissory estoppel could not have been invoked. [SC]
- **LW 81:11:2019** The power of a police officer under Section 102 of the Cr.P.C to seize any property, would not include the power to attach, seize and seal an immovable property. [SC]
- **LW 82:11:2019** A meaningful reading of the plaint shows that the respondent has not sought any re-instatement in service but had claimed that the termination is illegal and hence null and void. [Del]
- **LW 83:11:2019** No complaint is maintainable upon the dishonour of a stale cheque. [Mad]
- **LW 84:11:2019** Request for retirement under VRS could be withdrawn before the effective date of retirement under the scheme. [Del]
- **LW 85:11:2019** Vatika has no dominance in the relevant market, no case to examine alleged abuse of dominance by Vatika in the matter, under the provisions of Section 4 of the Act, remains for determination by the Commission. [CCI]
- **LW 86:11:2019** Commission is of the considered opinion that such allegations do not reveal any competition issues/ concerns which can be examined within the statutory framework as provided in Sections 3 and 4 of the Act. [CCI]

From the Government

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- Notification-Jurisdiction of RD, New Delhi-UT of JK and UT of Ladakh
- Notification-ROC Jammu-Jurisdiction of Adjudication of Penalties-UT of JK and UT of Ladakh
- Notification regarding jurisdiction of UT of Jammu & Kashmir and UT of Ladakh
- 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
- Relaxation of additional fees and extension of last date of filing of form IEPFA-1A and form IEPF-2
- Relaxation of additional fees and extension of last date of filing of CRA-4 (cost audit report) for FY 2018-19 under the Companies Act, 2013
- Data Bank Notification Relating to IICA
- Companies(Accounts) Amendment Rules, 2019
- Companies (Creation and Maintenance of Databank of Independent Directors) Rules, 2019
- Companies (Appointment and Qualification of Directors) Fifth Amendment Rules, 2019
- Companies Incorporation Eighth Amendment Rules, 2019
- Companies (Cost Records and Audit) Amendment Rules, 2019
- Companies (Filing of Documents and Forms in Extensible Business Reporting Language), Amendment Rules, 2019
- Notification for Delegation of powers to Tribunal -Section 458 read with section 418 of the Companies Act 2013
- Companies (Meetings of Board and its Powers) Amendment Rules, 2019
- Disclosure of divergence in the asset classification and provisioning by banks
- Framework for listing of Commercial Paper
- Resignation of statutory auditors from listed entities and their material subsidiaries
- Cyber Security & Cyber Resilience framework for Stock Brokers / Depository Participants - Clarifications
- Cyber Security & Cyber Resilience framework for KYC Registration Agencies
- Cyber Security & Cyber Resilience framework for Qualified Registrars to an Issue / Share Transfer Agents
- Framework for issue of Depository Receipts

Other Highlights

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- ★ CERTIFICATE OF PRACTICE SURRENDERED DURING THE MONTH OF SEPTEMBER 2019
- ★ ATTENTION! MEMBERS
- ★ OBITUARIES
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- ★ THE ICSI ORGANISED FIRST TRAINING OF TRAINERS PROGRAM (T.O.T)

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- INTERNAL AUDIT OF FUNCTIONS AND ACTIVITIES – LABOUR, INDUSTRIAL AND ENVIRONMENTAL ASPECTS
- CODE ON WAGES, 2019
- LABOUR POLICY REFORMS IN INDIA – A FULL THROTTLE TRANSFORMATION
- SCOPE OF 'WAGES' FOR CONTRIBUTION UNDER THE EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS PROVISIONS ACT, 1952 AND DRAFT CODE ON SOCIAL SECURITY CODE, 2019 - A COMPARATIVE APPRAISAL
- THE WAGE CODE: A GREAT BEGINNING OF CODIFICATION OF LABOUR LAWS
- MATERNITY LAW: NEED FOR A REVAMP UNDER THE DRAFT CODE
- ANALYSIS OF RECENT SELECT LABOUR LAWS CASES DECIDED BY THE SUPREME COURT
- LISTING OF COMMERCIAL PAPERS – AN INITIATIVE TOWARDS BROADENING INVESTOR PARTICIPATION AND ENHANCED DISCLOSURES
- STATUS OF "NOMINEE DIRECTOR" UNDER THE COMPANIES ACT, 2013-SOME GREY AREAS
- EXPLORING STOCK EFFICIENCY: A STUDY ON SELECTED LARGE CAP SECURITIES

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Labour Laws - Past and Present

India set to undertake big labour reforms and replace bulk of its existing central labour legislations by adopting four new codes. Though the term “labour reforms” not only includes rephrasing the existing set of laws but also taking effective steps for augmenting production capabilities, employment opportunities, skill enhancement etc, however changing the archaic laws could be considered one of the key constituent of the term labour reforms. The Government plans to legislate four new separate codes replacing its existing forty four central laws and has already taken the first crucial step i.e. passed the Code on Wages, 2019 though this Code has not yet been given effect. The aim is to increase productivity and build required flexibility for the employers keeping in mind the interest of working class engaged in. The Authors are making an attempt to analyse both the past laws and the future laws impacting the business and other industry through this Article.



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BACKGROUND

India is currently ranked 63rd on “Ease of Doing Business Rankings, 2020” issued by the World Bank. Further, India’s ranking, on labour index, stands at 128th as per the Global Competitive Report 2019 issued by World Economic Forum. Therefore, in order to improve its ranking further, attract more foreign investment, augment domestic capital in order to make India a truly manufacturing hub as envisaged in “Make in India” scheme, there is an urgent need to create a conducive environment that can facilitate and nurture industrial and manufacturing set up(s). To achieve this, it is necessary to reform and replace, on top priority basis, its’ old and archaic labour laws, which are often considered to be one of the key bottlenecks in making it a manufacturing power house in the global map.

Existing Central Government looks determined and going aggressively on this front and even set indicative timelines to achieve the same. In furtherance of this, the Central Government has recently passed one of the four key labour code (“Code on Wages, 2019”) set out in the key agenda on reforms in labour laws. The Code on Wages, 2019 (29 of 2019) received the assent of President of India on August 08, 2019 though the Central Government has yet to notify its applicability and enforceability. The other three Codes (as explained below) are also at different stages of legislative process and may soon become the law paving the way for further development and growth through core industrial and manufacturing set up.

NEED OF CONSOLIDATING

In India, the law relating to employees/workmen has always been a complex subject due to various factors whether due to its archaic laws, multiplicity of laws/regulatory authorities, central v/s states legislation and so on. One of the key factors to remember is that labour laws are part of the concurrent list and accordingly both the central and the state government can legislate wherever they feel need for the same. However, instead of bringing clarity, this has created confusion due to overlapping and multiplication. Central Government has passed more than fifty laws till date pertaining to labour and related aspects while various state governments have also passed more than one hundred and fifty laws on similar or the same subject. Secondly, not only the state and central laws clash on the same subject and create confusion but even in central laws also, a single subject has been placed under multiple laws. For instance, the maternity benefits aspect has been provided in more than four legislations. Wages definitions also have been provided in various Acts leading to varying interpretations. Lastly, some of these laws were too old, archaic and not in line with current economic and industrial requirement. Therefore, consolidation and codification of the entire set of labour laws was the urgent need of India and its manufacturing industry in order to scale up further and put its footprint in global manufacturing base.

LABOUR CODE – THE NEW ERA

Ministry of Labour and Employment, Government of India had conveyed its firm intent (including vision document) that forty-four central legislations will be merged and subsumed into four codes. The first Code (i.e. Code on Wages, 2019) has already become the law on August 08, 2019 after receiving assent of President of India though the Government has yet to notify its applicability and enforceability in accordance with the Section 1 (3) of the Code on Wages, 2019 which says that it shall come into force on such date as the Central Government may, by notification in the Official Gazette appoint.

*The views expressed are personal views of the authors.

“In India, the law relating to employees/workmen has always been a complex subject due to various factors whether due to its archaic laws, multiplicity of laws/regulatory authorities, central v/s states legislation and so on. One of the key factors to remember is that labour laws are part of the concurrent list and accordingly both the central and the state government can legislate wherever they feel need for the same.



We will now analyse such key central laws in brief and see how these will be consolidated in different codes and understand the key changes in brief as also how such codes intend to bring about betterment of industry as well as the workers.

CODE 1 - CODE ON WAGES, 2019

Code on Wages, 2019 - First Step in Right Direction

As explained above, this is first Code which has recently become the law. This Code on Wages, 2019 contains total sixty-nine Sections which have been divided into nine Chapters as under:

Chapter	Sections	Heading
1	1 to 4	Preliminary
2	5 to 14	Minimum Wages
3	15 to 25	Payment of Wages
4	26 to 41	Payment of Bonus
5	42 to 42	Advisory Board
6	43 to 50	Payment of Dues, Claims and Audit
7	51 to 51	Inspector-Cum-Facilitator
8	52 to 56	Offences and Penalties
9	57 to 69	Miscellaneous

Code on Wages, 2019 – What Get Subsumed into it

The Preamble of Code on Wages, 2019, states its aim is to *amend and consolidate the laws relating to wages and bonus and matters connected therewith or incidental thereto* and therefore, four laws directly impacting wages and bonus have been submerged and subsumed into one. The first three aspects are minimum wages,

governed by The Minimum Wages Act, 1948, payment of wages, governed by The Payment of Wages Act, 1936, and payment of bonus, governed by The Payment of Bonus Act, 1965. In addition to these, another aspect pertaining to wages (*i.e.* equal remuneration for equal work irrespective of gender of employee in the form of Equal Remuneration Act, 1976) has also got subsumed in the Code on Wages Act pursuant to the Section 69 (Repeal and Savings) of Code on Wages, 2019. The brief of such laws that will be subsumed, once this Code on Wages, 2019 comes into force, are given below for better understanding:

- 1. The Payment of Wages Act, 1936:** This Act was enacted to ensure that the employers make the payment of wages of workers within the time limit prescribed under the Act. The Act also ensures that unnecessary deductions are not deducted from the wages of workers other than those mentioned in Law.
- 2. Minimum Wages Act, 1948:** This is an Act to provide for fixing minimum rates of wages in certain employments. The object is to prevent exploitation of labour/workers and for that purpose it aims at fixation of minimum wages which the employer has to pay.
- 3. Payment of Bonus Act 1965:** This Act is applicable to every factory and to any other establishment in which twenty or more persons are employed on any day during an accounting year. The Act is to provide for the payment of bonus to employees on the basis of profits and loss or on the basis of production or productivity. As per the Act, minimum amount of bonus is obligatory on the Company even if it is incurring losses.
- 4. Equal Remuneration Act, 1976:** This Act provides for the payment of equal remuneration to men and women workers and for the prevention of discrimination, on the ground of gender, against women in the matter of employment and other related aspects.

Code on Wages, 2019 – Stage of Legislative Process

As explained above, the Code on Wages, 2019 has already become the law on August 08, 2019 after receiving assent of President of India though the Government has yet to notify its applicability and enforceability in accordance with the Section 1(3) of the Code on Wages, 2019 which says that it shall come into force on such date as the Central Government may, by notification in the Official Gazette appoint.

Code on Wages, 2019 – Where it Impacts Most

As the laws directly impacting wages have been consolidated under this Code, so various definitions of wages given under such different Act seems to have been aligned in line with overall scheme of the code. Now the base *i.e.* Floor wages would be notified by Central Government. Further, the Act requires that there will be no discrimination between men and women as well as transgenders while getting wages. Instead of 'Inspector' the concept of 'Inspector-cum-Facilitator', has been introduced, who will be having duties to advise employers and employees relating to effective compliance.

CODE 2 - CODE ON OCCUPATIONAL SAFETY, HEALTH AND WORKING CONDITIONS, 2019 (BILL NO. 186 OF 2019)

The Occupational Safety, Health and Working Conditions

Code, 2019 contains one hundred thirty four clauses which have been divided into thirteen Chapters as under:

Chapter	Clauses	Heading
1	1 to 2	Preliminary
2	3 to 5	Registration
3	6 to 15	Duties of Employer and Employees
4	16 to 22	Occupational Safety and Health
5	23 to 23	Health and Working Conditions
6	24 to 24	Welfare Provisions
7	25 to 32	Hours of Work and Annual Leave with Wages
8	33 to 33	Maintenance of registers and records and returns
9	34 to 42	Inspector-Cum-Facilitators and Other Authority
10	43 to 44	Special Provision Relating to Employment of Women
11	45 to 86	Special Provisions for Contract Labour and Inter-State Migrant Worker
12	87 to 107	Offences and Penalties
13	108 to 134	Miscellaneous

Code on Occupational Safety, 2019 - What Get Subsumed into it

The Preamble to the Code on Occupational Safety, 2019 states that a bill *to consolidate and amend the laws regulating the occupational safety, health and working conditions of the persons employed in an establishment and the matters connected therewith or incidental thereto*. Therefore, it intends to consolidate the various laws which deals with occupational safety, health and working conditions of employees for example Factories Act, 1948, Contract Labour (Regulation and Abolition) Act, 1970 etc. Clause 134 (Repeal and Saving) of the Code on Occupational Safety, 2019 clearly mentions the acts which will be repealed once this Code gets the force of law. These acts are: -

- 1. The Factories Act, 1948:** The Act provides for the employers of the factory to ensure that the health, safety and welfare measures are taken properly. The Act is applicable on those premises where ten or twenty workers are working on any day of the preceding twelve months or any part of which a manufacturing process is being carried on with or without the aid of power respectively.
- 2. The Mines Act, 1952:** The purpose of the Act is to regulate the safety and other working conditions of labour in mines. The Act is applicable to any mine or part thereof in which excavation is carried out for the purpose of obtaining minerals and twenty or more persons are employed on any day in connection with such excavation.
- 3. The Dock Workers (Safety, Health and Welfare) Act, 1986:** The Act provides for the safety, health and welfare of the dock workers working in or within the vicinity of any port in connection with the unloading, loading, movement or storage of cargoes into or from ship or other vessel, port, dock, storage place or landing place.
- 4. The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996:** The Act provides for the safety, health and other working conditions for the building and other construction

workers. The Act is applicable to any establishment which employs ten or more building workers in any building or other construction work on any day of the preceding twelve months.

- 5. The Plantations Labour Act, 1951:** The Act regulates the welfare and other working conditions of the labour in plantations. The Act is applicable to the tea, coffee, rubber and cinchona plantations where thirty or more persons are employed on any day of the preceding twelve months.
- 6. Contract Labour (Regulation and Abolition) Act, 1970:** The Act regulates employment of contract labour in an establishment, in which twenty or more workmen are/were employed on any day of the preceding twelve months as contract labour. It also provides for abolition of contract labour in certain circumstances. It requires registration of establishment and licensing of contractor who employs contract labour and cast certain responsibilities on the shoulders of principal employer and contractor towards their employees who are working not as regular employees but as contract labour.
- 7. The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979:** This Act is applicable to every establishment or every contractor which employs five or more inter-state migrant workmen on any day of the preceding twelve months. inter-state migrant workman is a person who is employed by or through a contractor in one State for employment in an establishment in another State. The Act provides the working conditions, payment of wages and other facilities to be provided by every establishment or every contractor employing inter-state migrant workmen.
- 8. The Working Journalist and other News Paper Employees (Conditions of Service and Miscellaneous Provision) Act, 1955:** The Act provides for the working conditions of the persons working as journalists and other persons employed in newspaper establishment. The provisions of Industrial Disputes Act, 1947 shall apply to working journalists as they apply to workmen within the meaning of that Act.
- 9. The Working Journalist (Fixation of Rates of Wages) Act, 1958:** This Act provides for the fixation of rates of wages in respect of the working journalists. The meaning of the term wages shall be derived from Industrial Disputes Act, 1947.
- 10. The Motor Transport Workers Act, 1961:** The Act provides for the health, welfare and other working conditions of motor transport workers. The Act is applicable to every motor transport undertaking employing five or more motor transport workers. Motor transport undertaking is an undertaking engaged in carrying passengers or goods or both by road for hire or reward, and includes a private carrier.
- 11. The Sales Promotion Employees (Conditions of Service) Act, 1976:** The Act contains provisions related to certain conditions of service of sales promotion employees in certain establishment. It shall be applicable to pharmaceutical industry and any other establishment notified by Central Government. The Central Government later on notified few more Industries to whom this Act

shall be applicable. sales promotion employee means any person employed or engaged in any establishment for hire or reward to do any work relating to promotion of sales or business, or both.

12. The Beedi and Cigar Workers (Conditions of Employment) Act, 1966: The Act provides for the welfare and other conditions of the workers working in beedi and cigar establishments. Any person who intends to use or allows to be used any place or premises as industrial premises (for beedi and cigar manufacturing) shall make an application to the competent authority for license to use, or allow the use of such premises as industrial premises.

13. The Cine Workers and Cinema Theatre Workers Act, 1981: The Act provides for the employment conditions of certain cine- workers and cinema theatre workers. Every person employed as a cine- worker in or in connection with the production of any feature film shall enter into an agreement with the producer of the film and the agreement shall be registered by the producer with the competent authority.

Code on Occupational Safety, 2019 – Stage of Legislative Process

The Code on Occupational Safety Bill, 2019 was introduced by the Ministry of Labour and Employment in the Lok Sabha on July 23, 2019 and the same was referred to Standing Committee on October 07, 2019 for examination and their report. The Committee vide communiqué dated October 21, 2019 invited views/suggestions from the public in general and stakeholders within fifteen days¹.

Code on Occupational Safety, 2019 – Where it Impacts Most

The proposed Bill seeks to consolidate thirteen labour laws. Under the Code, an entity needs to take only one registration instead of multiple registrations as required under the existing regime. Similarly, one license and one return will be required under the proposed law for executing projects for five years. Further all establishments hiring ten or more workers will be governed. Therefore, the actual testing on the ground will give the exact impact and results. However, apparently, it really seems that the problem of multiple registration/licenses and multiple returns for similar kind of work/projects will be eliminated. Similarly, employers from different domains or segments need not refer different acts and they will get all legal provisions at one place leading to better interpretation paving the way for proper compliance.

CODE 3 - CODE ON SOCIAL SECURITY, 2019

The Code on Social Security, 2019 contains one hundred and fifty seven clauses in addition to seven schedules. These one hundred and fifty seven clauses have been divided into thirteen Chapters as tabulated under:

Chapter	Clauses	Heading
1	1 to 2A	Preliminary
2	3 to 13	Social Security Organizations
3	14 to 25	Employee Provident Fund
4	26 to 54	Employee State Insurance Corporation

5	55 to 60	Gratuity
6	61 to 73	Maternity Benefits
7	74 to 100	Employee Compensation
8	101 to 105	Building and Other Construction Workers Welfare Cess
9	106 to 110A	Social Security for Unorganized Workers
10	111 to 117	Finance and Accounts
11	118 to 131	Authorities, Assessment, Compliance and Recovery
12	132 to 137	Offences and Penalties
13	138 to 157	Miscellaneous

Code on Social Security, 2019 - What Get Subsumed into it

The Preamble to the Code on Social Security, 2019 states that a bill to amend and consolidate the laws relating to social security of the workers and the matters connected therewith or incidental thereto and therefore it amends and consolidate the aspects relating to PF, ESI, maternity, gratuity, welfare fund aspects in line with the overall scheme of the Code. Clause 157 (Repeal and Savings) of the Code specifies that following Acts (explained in brief) will be repealed once this Code becomes effective.

- 1. Employees' Compensation Act, 1923:** This Act is welfare legislation and its object is that the compensation for injuries or death sustained by the workman in the course of and arising out of employment be paid to him or his family members without any delay.
- 2. Employees' State Insurance Act, 1948:** This Act is an important legislation enacted to provide certain benefits to the employees in the case of sickness, maternity and employment injury. The Act extends to whole of India and applies in the first instance to all the factories, including factories belonging to the government other than the seasonal factories.
- 3. Employees' Provident Fund and Miscellaneous Provisions Act, 1952:** This Act is an important piece of social security legislation which has been enacted to provide for institution of provident, pension fund and deposit linked insurance fund for the employees working in Factories and other establishments.

“The proposed Bill seeks to consolidate thirteen labour laws. Under the Code, an entity needs to take only one registration instead of multiple registrations as required under the existing regime. Similarly, one license and one return will be required under the proposed law for executing projects for five years. Further all establishments hiring ten or more workers will be governed. Therefore, the actual testing on the ground will give the exact impact and results. However, apparently, it really seems that the problem of multiple registration/licenses and multiple returns for similar kind of work/projects will be eliminated.

¹ http://164.100.47.193/lssccommittee/Labour/pr_files/Final%20press%20communique.pdf



4. **Maternity Benefit Act, 1961:** This Act entitles women to take fully paid twenty six weeks' maternity leave out of which eight weeks can be availed prior to the expected delivery date. The Act provides that woman having two or more surviving children shall be entitled to maternity leave of twelve weeks out of which six weeks can be availed prior to the expected delivery date. In addition, the Act also provides for other related aspects such provision of crèches, adoption, commissioning mother, miscarriage, tubectomy operation and medical allowance etc.
5. **Payment of Gratuity Act, 1972:** This Act is to provide for a scheme for the payment of gratuity to employees engaged in factories, mine oilfields, plantation, port and railway, shop and other establishments in which ten or more persons are employed. This Act provides 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 or on his superannuation; or his retirement or resignation; or on his death or disablement due to accident or disease.
6. **The Cine Workers Welfare Fund Act, 1981:** The Act provides for the financing of activities in order to promote the welfare of certain cine-workers who have been employed in connection with five feature films as an artiste or any skilled, unskilled, manual, supervisory, technical and artistic work and their remuneration did not exceed the limits mentioned in the Act.
7. **The Building and Other Construction Workers Cess Act, 1996:** The Act provides for the levy and collection of a cess from every employer at a rate not exceeding two percent and not less than one percent of the cost of construction incurred by employer (rate to be determined by Central Government) in relation to a building or other construction work of a Government or of a public sector undertaking or advance collection through a local authority where an approval of such building or other construction work by such local authority is required.
8. **The Unorganized Workers' Social Security Act, 2008:** The Act provides for the welfare and social security of home-based workers, self-employed workers or a wage worker working in unorganized sector i.e. any enterprise engaged in the production or sale of the goods or providing services of any kind and where the number of workers is less than ten.

Code on Social Security, 2019 – Stage of Legislative Process

The Ministry of Labour and Employment has prepared the preliminary draft of the Code on Social Security, 2019 and issued a communiqué on September 17, 2019 inviting the comments from all stakeholders/public. The draft was also placed by the Ministry on the portal inviting comments from public on or before October 25, 2019. The Ministry will consider suggestions/comments received and accordingly prepare the final draft for further processing.

Code on Social Security, 2019 – Where it Impacts Most

The proposed Bill seeks to consolidate eight labour laws and specifies that if any establishment is already registered under any other enactments for the time being in force then the establishment is not required to register under the proposed law again and the Central Government will allot the same registration number to that establishment. Therefore, it will save the establishments from the hassle of registering again. Since all social security schemes such as ESI, PF, and pension has to be managed by establishments in accordance with a single umbrella code, compliance hassles are expected to be far less compared to the existing regime.

It is also provided that Central Government shall formulate and notify suitable welfare schemes for unorganized workers on matter relating to life and disability cover, health and maternity benefits etc.

CODE 4 - CODE ON INDUSTRIAL RELATIONS

As per the vision document² issued by the Ministry of Labour

² <https://labour.gov.in/vision100/code-on-industrial-relations>



and Employment, the inter-ministerial consultations are done on the Code on Industrial Relations and the Ministry will introduce the bill in the Parliament in 2019-20.

Code on Industrial Relations, 2015 – What Get Subsumed Into it

The Code on Industrial Relations is not yet in public domain. However, an earlier version of 2015 bill on Industrial Relations can give some insight. The earlier version proposed to subsume the following three acts:

1. **The Trade Unions Act, 1926:** As the name suggests this Act aims to provide for the registration of trade unions and other related aspects. Trade union is basically a voluntary organization consisting of workers whether pertaining to a particular trade, industry or a company. The objective of establishing a trade union is to secure fair wages, improve working conditions etc.
2. **Industrial Employment (Standing Orders) Act, 1946:** This Act requires the employers of industrial establishments formally to define conditions of employment with sufficient precision and to make them known to the workmen employed by them.
3. **Industrial Dispute Act, 1947:** The Act provides machinery and procedure for investigation and settlement of industrial disputes. The objectives are mainly to ensure speedier resolution of the industrial disputes by removing procedural delays. The motive is to ensure social justice to both employer and employee and advance the progress of industry by bringing about the existence of harmony and cordial relationship between the parties.

Code on Industrial Relations – Stage of Legislative Process

As explained above, the inter-ministerial consultations are over and presently, the Code is under pre-legislative process.

Code on Industrial Relations – Where it Impacts Most

It may require a greater number of workers to float a trade union as compared to the existing regime where seven or more workers may form a trade union. It may ease norms for retrenchment, lay off etc. Further, it is expected to provide increased compensation for workers in redundancy situations.

CONCLUSION

With an eye on improving India's rankings on Ease of Doing Business, the Central Government is making all-out effort to bring all four Codes into life and in furtherance of same, has already taken a concrete first step (*i.e.* passing Code on Wages). However, it must be noted that these four codes aim to consolidate and subsume only twenty-eight Acts as mentioned above. Rest of the laws (for example, The Limestone and Dolomite Mines Labour Welfare Fund Act, 1972, The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare (Cess) Act, 1976, The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labor Welfare Fund Act, 1976, The Beedi Workers Welfare Cess Act, 1976, The Beedi Workers Welfare Fund Act, 1976 etc.) remains untreated and unconsolidated as on date based on the draft versions available on the portal of Ministry of Labour & Employment, Government of India³. It will be interesting to see how other acts will get treated - either they will be subsumed into these proposed legislations after making some changes or will be given separate treatment. Interestingly, in the draft Labour Code on Social Security 2018, the Code has subsumed seventeen Acts while in its 2019 version, it shows only eight Acts to be repealed pursuant to clause 157 (Repeal and Savings).

Secondly, though the Central Government seems committed and firm to take the process forward and passing all the four codes discussed above, a lot will depend upon the resistance and objections received from key stakeholders especially trade unions as to how these are dealt with. As the proposed codes aim to bring flexibility in the business and lesser compliance, trade unions fear that as a result, workmen may be on the losing side. For example, whether it is a case of relaxing the retrenchment/lay off provisions, giving flexibility to employers on contract labour, increasing the number of employees in a unit to be considered as a factory, or merging of PF, ESI, and other social security benefits under one roof, trade unions fear that the workers may have to suffer ultimately and employers will gain at the cost of employees.

Only time to come will tell whether such mammoth exercise involving huge efforts put in by the Ministry would bear some fruits once these codes are on the ground. However, there is no doubt that the momentum gained by the initiative coupled with intent and overall vision seems to be a right step in the right direction. CS

³ <https://labour.gov.in/labour-reforms>

Internal Audit of Functions and Activities – Labour, Industrial and Environmental aspects

Internal Audit of Functions and Activities was prescribed for specified classes of companies under Section 138 of Companies Act, 2013. However, the legislators of the statute did not think it fit to prescribe any scope for such an audit. As the name implies, Internal Audit must cover all the functions and activities of the company to which this provision applies. The management of a well governed company will definitely strive to map all its functions and activities. A “well established” system will connect each of those functions and activities to a provision of law, domestic or international, a rule or regulation or an order or policy. It is essential to identify which of these functions and activities that are routine and ordinary, extra-ordinary and inevitable, critical and crucial, dangerous and hazardous. A sound risk management system is an integral part of governance in an organization. Risks can be broadly classified into two major heads. Avoidable Risks form the first type. Risks that cannot be avoided but mitigated form the second type. The authors point out that risks from non-compliances could be substantially curtailed or even totally eliminated going forward, if proper systems are established and they are periodically audited as part of the Internal Audit of Functions and Activities. The output of such audit must be classified under found major heads viz., delays; deficiencies; deviations and defaults. These audits can enhance productivity; reduce tensions; remove risks; raise standards; bring rewards and build reputation. Internal audit carried out thus can then act as a mechanism for the Board of Directors and Management Teams to elevate their organization to the next level of governance. This audit could be undertaken by multidisciplinary professionals appointed by the Board of Directors and given the expertise and experience of Company Secretaries, they can play a significant role and improve governance.



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INTRODUCTION

While laudable objectives are stated in the preamble of the Companies Act, 2013 and several provisions are introduced by regulators namely Reserve Bank of India, Securities Exchange Board of India and Ministry of Labour and Employment, for the purpose of improving a culture that promotes good corporate governance, business responsibility and ethical practices, much needs to be done in order to achieve these objectives in a time bound manner at least in relation to top 1000 companies, classification basis may be market capitalisation as at the end of the previous financial year.

Ordinarily every Company tries to prosper and be a market leader in various metrics of success. The ways and means through which a corporate has made it to the top list may not be a relevant point for discussion in this article. The limited purpose of this article is to ensure that those who have reached the top in terms of those numbers are also, in fact, top-class, be it on the basis of numbers or governance or ethical practices.

SECTION 138

Section 138 of the Companies Act, 2013 [henceforth to be referred as “138”] could be ideal too for this purpose. As of now, 138 remains just a statutory provision which the management may use to get some valuable inputs and feedback and aim to improving compliances, controls and processes. It is observed that though as a statutory provision, 138 is made mandatory for only prescribed Classes of Companies, in reality without undertaking audit and review of its functions and activities, no entity can survive with assurance that their business is run in a compliant and responsible manner. Further though this provision as an audit requirement requires the coverage of entire functions and activities of the Company as its scope; in practice; it does not happen in the wholesome manner that it should happen. The reason is, internal audit as a matter of practice for ages was predominantly used as a tool for verifying and reporting adequacy of financial and accounting compliances and controls only. Most internal audits did not even enter the operations and the related control systems. Going into such details as functions and activities which form part of and / are associated with the

“By undertaking Internal Audits of Functions and Activities, with a properly defined scope, there is a possibility of taking governance to next level, focusing on Labour, Industrial and Environmental aspects as well. The moment a company agrees to include certain top-level agenda items within the scope of Section 138, two things become clear. Firstly, the management of such a company is open to audits of a broader scope and in areas where Section 138 has seldom made inroads. Secondly auditors carrying such an audit under Section 138 have to be experienced in delivering the goods and the “gap analysis” thoroughly pointing out the risks and advising the management on risk mitigation measures that have to be taken.

operations, focusing on Labour, Industrial and Environmental aspects appeared to be any way beyond the perceived scope.

It is definitely evident now that this limited scope of internal audits has not brought out the expected outcome for the businesses and regulators and this has been a lacuna which needs to be addressed now. It is found that focus on financial controls do not enable assessment of the status of overall compliance level, adherence to processes and responsible practices of a company or its governance bodies¹. Only when an audit is done at the shop floor (where industrial or any other activity takes place) it is possible to understand that there is also a wide gap between what the documents speak and what the real practices are in a Company.

We are all aware of the National Voluntary guidelines for Corporate Governance issued by the Ministry of Corporate Affairs. We are aware of the OECD principles of Corporate Governance. We are aware of the principles that are part of Business Responsibility Reporting under the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.

Still, 138 is very brief and it simply says “Internal Audit of Functions and Activities”. 138 could have been used as a tool to take the matter to next level. Strangely, Central Government did not think it fit so far to bring into existence any supporting Rules to define the ideal scope for this internal audit nor has any committee been constituted to think about applying 138 to achieve certain results that other provisions have not been able to achieve.

SECTION 138 IS INDEED A TOOL OF ASSURANCE!

By undertaking Internal Audits of Functions and Activities, with a properly defined scope, there is a possibility of taking governance to next level, focusing on Labour, Industrial and Environmental aspects as well. The moment a company agrees to include certain top-level agenda items within the scope of Section 138, two things become clear. Firstly, the management of such a company is open to audits of a broader scope and in

areas where Section 138 has seldom made inroads. Secondly auditors carrying such an audit under Section 138 have to be experienced in delivering the goods in the “gap analysis” thoroughly pointing out the risks and advising the management on risk mitigation measures that have to be taken.

GOVERNANCE LADDER

Level 1 is basic compliance of applicable laws – obviously this includes compliance of all applicable laws including but not limited to labour, industrial and environmental laws. Only when an audit of statutes of compliances of labour and industrial laws of several States is carried out, it could be understood that there are different practices, and several difficulties in ensuring compliances; it is not an exaggeration if we say, laws look one way and regulators look the other way and as a result “laws are there” remains purely as a statement. Apart from this there are various laws that govern specific entities based on their formation and structure and there are sector specific regulations or what we call as “Special Laws” that may apply to an entity specific to their business activity; which would also be covered under the scope of Section 138.

No doubt, the beginning of an audit with a larger scope as aforesaid could be an audit of compliances of labour, environmental and industrial laws as Level 1 and a company that has achieved level 1 in some respects can move to higher levels in those aspects while striving to achieve level 1 in areas where it has complied with the requirements only in the letter of law.

Level 2 refers to adopting principles and ethical policies within the organisation which includes synchronizing the objectives of the organization with every vital organs of the entity so that collectively every such organ works towards achieving those objectives. Further governance must percolate down and the message must be loud and clear.

IMPORTANT PARAMETERS

Some of the important audit parameters for Internal Audit of Functions and Activities include the following:

- Review of infrastructure and facilities
 - Review of work place amenities, safety, health and hygiene
 - Review of environmental hazards
 - Review of labour practices
- Each of the Parameters has a lot of criterion that require auditing.

SAMPLE

Two samples from the actual audit result of an industrial unit:

PARAMETER:- REVIEW OF ENVIRONMENTAL PROTECTION ASPECTS

Gap Analysis: - Hazardous waste consent itself is not available since inception which was the observation even during previous audit. Further there was no process training and education. Handling procedures were not set out in a manual. Workers are exposed to dangers.

Risks: Regulatory risk; penalties and prosecutions; health hazard and dangers

¹ includes the directors and core management team of any entity

PARAMETER:- REVIEW OF PLANT MAINTENANCE PRACTICES

Gap Analysis: Very poor consideration for standard maintenance practices of plant engineering equipment.

Risks: Breakdown of transformer can happen any time due to poor cooling and moisture content in the transformer oil. This will increase in the downtime and cause delivery delays and waste of resources until the same is made serviceable again.

BUSINESS RESPONSIBILITY REPORTING STATUS

It is to be noted that the Business Responsibility Reporting requires the entity to fill up a few questions as listed below; to which entities are not always required to respond in affirmative unless they have truly imbibed these aspects.

Our preliminary research of the data from 10 listed entities based on their financial statements of 2018-19 showed the following:

Sr. No.	Name of Company	Business Responsibility Reporting
1	Reliance Industries Limited	For all Principles it states - The BR policy is evaluated internally. Policies pertaining to health, safety and environment have been reviewed by external agency.
2	Infosys Limited	Yes to all principles.
3	Vardhman Group	Principles like Sustainability in life-cycle of products, Employee Well-being, Promotion of human rights and Environment Protection marked as Yes. Other Principles are marked as No.
4	Piramal Enterprises Limited	Yes to all principles.
5	SRF Limited	Principles like Employee well-being, Promotion of human rights and Environmental protection are marked as Yes. The remaining principles are marked either as No or Not Applicable.
6	Motilal Oswal Financial Services Limited	Yes to all principles except one principle with respect to providing goods and services that are safe and contribute to sustainability where no information is indicated
7	State Bank of India	The working of the BR policy is evaluated internally. Further, the Sustainability Report published for FY 2018-19 discloses information on the Bank's economic, environmental and social performance for the reporting period and has been reviewed and collated in a comprehensive manner
8	Hindustan Unilever Limited	Yes to all principles
9	Larsen & Toubro Limited	Yes to all principles
10	HDFC Bank Limited	Yes, internal evaluation undertaken for the principles – Ethics, Transparency and Accountability, Employee Well Being, Human Rights, Inclusive Growth and Customer Welfare; and the other principles are indicated as No.

Source : Compiled by authors.

DO'S AND DON'TS

Given this background let us review a few core principles [Dos and Don'ts] that the SEBI prescribed Business responsibility reporting expects the corporates to espouse.

DOS	DON'TS
✓ Develop Governance structures	× Child labour or involuntary labour
✓ Create 3Ps - Procedures, Policies, Practices	× Harassment of workmen
✓ Uphold Ethics, Dignity & Human Rights	× Discriminatory practices in employment
✓ Ensure safety and hygiene of workforce	× Ignore work life balance
✓ Employ differently abled people	× Pay below fair living wages
✓ Provide effective Grievance redressal	× Bribery and corruption
✓ Upgrade employee skills	× Ignore grievances, concerns or feedback from stakeholders
✓ Undertake sustainable sourcing and optimal consumption of resources	× Unfair Trade practices or restrict freedom of choice
✓ Design safe products & services without concerns to environment or society	× Abusive or Anti-competitive behaviour
✓ Ensure Customer Satisfaction	× Exercise undue rights at associations or chambers of which the entity is a member
✓ Increase Customer awareness for safe and responsible usage of products/services and mention disadvantages or side effects	× Discourage collective bargaining
✓ Review new technology, deployment and commercialisation	× Cause environmental damage and pollution
✓ Review new technology, deployment and commercialisation	× Over-consumption of natural resources and no replenishment
✓ Conserve natural resources & seek sustainable sources	× Complicity with the actions of any third party that violates any of the principles
✓ Recycle waste	× Violate rights of owners of traditional knowledge or Intellectual Property Rights
✓ Identify the disadvantaged, vulnerable & marginalized stakeholders & give special attention to their needs	× Undertake actions that encourage issue of legal notices by regulators or other stakeholders
✓ Extend healthy business practices to group entities and value chain	× Avoid investment in products, technologies & processes that promote wellbeing of society
✓ Identify and assess potential risks and address them in a timely manner [specially disaster management]	× Ignore development priorities at local & national levels and be insensitive to local concerns
✓ Develop Environment Management Systems	× Avoid resettlement and rehabilitation of communities who have been displaced due to business operations
✓ Introduce protected Whistle-blower mechanism	
✓ Resolve stakeholder difference in equitable manner	

Source : Compiled by authors.



SECTION 138 BENEFITS

Since an audit under Section 138 is not a book audit or an audit at the registered office of the company and as it is an audit at the place where things are happening in the company, it will be useful for the Board of Directors of a Company to issue their statement termed as “Directors Responsibility Statement” under Section 134 of Companies Act, 2013 in a meaningful and confident manner without fear of any non-compliances or regulatory actions or fear of facing penalties for any actions.

Section 138 will enable Independent Directors seated on Boards of mammoth corporates as non-executive directors; only overseeing their affairs and relying predominantly on the executive directors to run the business in a true, fair and transparent manner; to take assurance and fulfil their obligations under Schedule IV read with Section 149 of Companies Act, 2013 and as required by Corporate Governance requirements under the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.

Considering the objective of Section 138, there is definitely a need for the Board of Directors of listed companies to reapply their thought to undertake comprehensive review of functions and activities and remove non-compliances and make them a meaningful legislative instrument towards achieving sustainable environment and a better society.

RESPONSIBLE MANAGEMENT IS THE ANSWER

For instance, when labour practices are good, industrial relations will be better. It does not need a Masters’ Programme in the best of management schools to know that a worker generally comes from a marginalized section of the society and he / she works in any condition to make a living. If work environment is not good also, he / she will work due to economic compulsions. If work place practices are discriminatory or unethical too, he / she will continue to work. When work is in abundance, social security is high, courage will enable aggrieved worker to speak out. But that will not be the case, mostly. They are people who agree to work in any living conditions.

In one of the plants the first of these authors visited, there was a gunny bag of onions and when his hand was inserted inside the bag, he could find that some of the onions were bad. An audit under Section 138 has unlimited scope such as for example.

- One can have a look at onions too while at the same time monitor oxygen ambient air quality inside the plant.

- It can pull up the vendors, management has engaged.
- It can pull up contractors who pay scant regard to compliances under the Contract Labour (Regulation and Abolition) Act, 1970.
- It can pull up workers not keeping the shop floor clean.
- It can pull up management that fails to adhere to avoid hazardous practices.
- It can pull up management for failure to e-Waste disposal Regulations.
- It can pull up management for not fixing responsibility owners for various tasks. For instance, it can pull up management / workers for running vehicles and machines that are faulty.
- It can pull up management / workers for not ensuring that the workers do not wear protection equipment, head gears, goggles, gloves and such things.
- It can pull up management for not adhering to building regulations.
- It can pull up management for not marking emergency exit signs and for not offering training for fire, earthquake and other disaster management drills.

The Institute of Company Secretaries of India may find it necessary to bring up a discussion on the contours of the audit under Section 138, consistent with the provisions of the Companies Act, 2013 and the principles above referred to. Ideally, it is essential to form the basis for defining the scope of Internal Audit of Functions and Activities from the principles that are enunciated in the Business Responsibility Reporting guidelines.

CONCLUSION

For the sake of provoking enthralling thoughts let us look at how the science of “numerology” which is believed to have originated from the Pythagorean theory; links the Angel number 138 to the behaviour of individuals and what do each of these numbers signify. It is believed that when any individual encounters this number, it is a sign from guardian angels that one will soon manifest the material abundance that one seeks by taking the initiative and using creative skills and talents.

Auditing involves application of mind. Application of mind requires knowledge and experience. 138 represents compassion and requires one to use their knowledge and wisdom to interpret the happenings around and use problem-solving abilities diligently to arrive at the best decision. CS

Code on Wages, 2019

The enactment of the Code on Wages, 2019 ('Wage Code') is a long-awaited first step in rationalizing India's labour laws. This is significant from the standpoints of greater compliance and facilitating the ease of doing business. Further, this is a critical reform in an area already in focus post the recent Economic Survey and Union Budget. India's regulatory framework governing labour laws is complex. The proposed creation of four Labour Codes (including the Wage Code), streamlining multiple central labour laws on wages and bonus, occupational health and safety, social security and industrial relations, respectively, is therefore, a much needed step towards consolidation and simplification.



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BACKGROUND

The Wage Code was originally drafted in 2017 to amalgamate and rationalize laws relating to wages and bonus. Its Preamble states its aim is to "amend and consolidate the laws relating to wages and bonus and matters connected therewith or incidental thereto".

An earlier draft was introduced in the Lok Sabha in August, 2017 and referred to the Standing Committee on Labour, which submitted its Report in December, 2018. The Wage Code was approved by the Lok Sabha on 30 July 2019, by the Rajya Sabha on 2 August, 2019 and finally received Presidential assent on 8 August, 2019. Thus, the enactment of the Wage Code represents a significant overhaul of India's labour laws in relation to wages and bonus.

WHY INDIA NEEDS A WAGE CODE?

About 62% of the workforce is made up of casual workers who need a right to minimum wage. Present minimum wage system is complex with states fixing rates of 1,709 schedule employments and centre for 45. The 33% of wage worker were paid less than the indicative minimum wage in 2009-10.

SCOPE AND APPLICABILITY

Payment of Wages Act is applicable to a factory and other identified industrial establishments, whereas Minimum Wage Act is applicable to scheduled employments only. This change with the Code.

The Code, extend the benefits and make the requirements prescribed with respect to payment of wages and minimum wages to all types of establishments irrespective of their nature of business or activities.

Broadly speaking, benefits under the Code extend to all employees – which include people performing skilled, semi-skilled, unskilled, manual, operational, supervisory, managerial, administrative, technical or clerical work. Therefore, the scope & applicability of the benefits that were earlier available under Payment of Wages Act and Minimum Wages Act has been expanded considerably under the Code.

WAGES

The Code proposes a common definition of the term "wages" as opposed to the separate definitions of "wages" provided under each of Payment of Wages Act, Minimum Wages Act and Payment of Bonus Act. This will enable employers to take a consistent and uniform approach and avoid multiple interpretations.

The Code introduces a special methodology for computation of "wages" and in certain circumstances, various components of wages that are ordinarily understood to be excluded from the definition of "wages" will be considered as forming part thereof.

For instance, components like employer's contribution towards pension or provident fund, house rent allowance, overtime allowance, conveyance allowance, commission payable to employee etc. are not conventionally considered as "wages". However, the Code provides that in the event payments made to employees under these identified components exceed 50% of all remuneration payable as "wages" under the Code, such excess amount shall be deemed as remuneration and will be considered as "wages".

This is a unique provision and is seemingly aimed at compensation structures where wages are less than 50% of the total remuneration of the employee. This provision could result in situations where the "wage" of an employee has to be recalculated. For e.g., if the aggregate of commission / sales incentive, house rent allowance and overtime exceeds 50% of the monthly salary for that particular month, there could be a possibility of re-computation of "wages".

In these situations where the "wage" could fluctuate, computation of bonus under the Code or payment of "wages" for overtime work, would also fluctuate and get impacted.

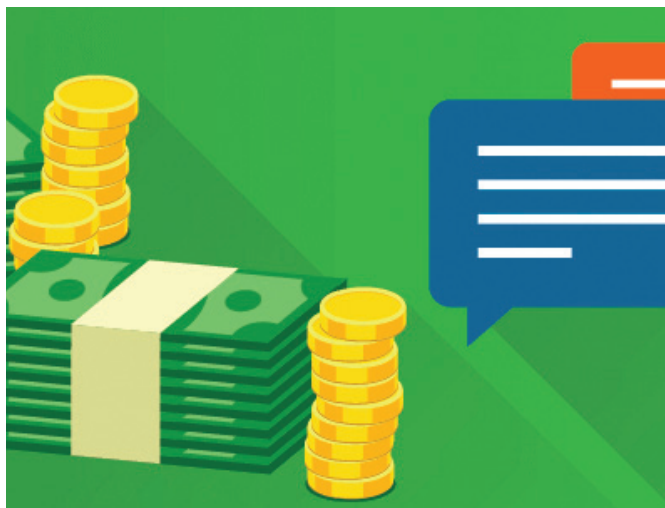
Additionally, this could potentially have a knock-on impact if the proposed labour code on social security relies on the given definition of «wages» under this Code; in which case any pay-outs / contributions (like gratuity, provident fund, retrenchment compensation) that are linked to «wages» would also fluctuate.

FLOOR WAGES AND MINIMUM WAGES

The Code introduces a new concept of "floor wages", which rates will be fixed by the Central Government considering

*Past President, The ICSI

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the minimum living standards of a worker. Once the Code is enacted, the minimum rates of wages fixed by the State Government cannot be less than floor wages as determined by the Central Government.

The Labour Ministry, which is calling the Code nothing short of historic, says the floor wage will be enough to meet the basic need.

It is a wrong notion that the floor wage will be too low. The floor wage will be revised every five years. However, minimum wage must be revised once in three years

DEDUCTIONS

Under the Code, an employee's wages *may be deducted on certain grounds including*

- (a) Deductions for absence from duty.
- (b) Deductions for damage or loss.
- (c) Deductions for services rendered.
- (d) Deductions for recovery of advances.
- (e) Deductions for recovery of loans.
- (f) Deductions for income tax or other statutory levies

These deductions should not exceed 50% of the employee's total wage.

MODE OF PAYMENT

All wages shall be paid in current coin or currency notes or by cheque or by crediting the wages in the bank account of the employee or by the electronic mode. The employer shall fix the wage period for employees either as daily or weekly or fortnightly or monthly.

OVERTIME

The Code has amalgamated the applicable overtime rate across board and prescribes that such rate will not be less than twice the normal rate of wages.

BONUS

Guaranteed bonuses, that are not linked to individual performance, under the Payment of Bonus Act, currently only, extend to employees earning up to Rs 21,000 per month. The Wage Code also refers to stipulation of a wage threshold by the appropriate government, and employees whose wages don't exceed this amount would be entitled to a guaranteed bonus ranging from 8.33 percent to 20 percent, based on the amount of allocable surplus in the organisation.

However, the Wage Code further seems to suggest in Clause 26(2), that employees who earn above this threshold as well, would be entitled to receive a bonus (in the same percentage range) based on their minimum wages or such other wage amount determined by the government whichever is higher.

Effectively, such a provision covers each and every employee of the company, adding significantly to an organisation's cost burden.

It further dilutes meritocracy by guaranteeing bonus payouts irrespective of individual performance, which every organisation in a growing economy wants to avoid, especially for mid to senior level staff.

TIME LIMIT FOR THE PAYMENT OF WAGES

Under the present Payment of Wages Act (PWA), the employer can pay wages to their employees within 10 days after expiry of the wage period, in case the establishment has more than 1000 employees. This will now change.

The Code makes it mandatory for the employer to pay within 7 days from expiry of the wage period, irrespective of the size of the establishment.

The Code also mandates payment of wages, within a period of 2 working days, from the date of the employee's removal, dismissal, retrenchment or resignation from employment. While the current Payment of Wages Act has a similar provision for payment of wages within 2 days from the date of termination of his employment, payment of wages on account of voluntary resignation by employees has been brought within the same time limits. This would imply that companies would have to expeditiously process Full & Final settlements for their exiting employees.

PROHIBITION ON DISCRIMINATION

There shall be no discrimination in an establishment or any unit thereof among employees on the ground of gender in matters relating to wages by the same employer, in respect of the same work or work of a similar nature done by any employee.

No employer shall, —

- (i) For the purposes of complying with the provisions reduce the rate of wages of any employee; and
- (ii) Make any discrimination on the ground of sex while recruiting any employee for the same work or work of similar nature and in the conditions of employment, except

where the employment of women in such work is prohibited or restricted by or under any law for the time being in force.

REGISTER

The Code consolidates the requirement of multiple registers under Payment of Wages Act, Minimum Wages Act and Payment Bonus Act and seeks to provide for a single register containing details with regard to persons employed, muster roll, wages, etc. This may lead to easing out periodical compliances for employers.

INSPECTION

The Code provides for a single authority viz. Inspector-cum-Facilitator who is responsible for inspection of establishments assigned to him / her with respect to all compliances under the Code. The Inspector-cum-Facilitator may also advise the employers and workers relating to compliances under the Code.

The Code provides for the inspection to be carried out on the basis of an inspection scheme, as laid down by the appropriate Government, which may also provide for generation of a web-based inspection and calling of information electronically.

CLAIMS AND OPPORTUNITY TO CURE

Claims under the Code will be adjudicated and determined by an authority appointed by the appropriate Government. An application for adjudication of claim arising under this Code can be filed before the relevant authority within a period of three years from the date on which the claim arises, as against the existing time period varying from few months to a year under the Current Laws. This will provide a longer opportunity to employees to initiate action for their claims.

CENTRAL ADVISORY BOARD

The Central Government shall constitute the Central Advisory Board which shall consist of persons to be nominated by the Central Government—

- (a) Representing employers;
- (b) Representing employees which shall be equal in number of the members
- (c) Independent persons, not exceeding one-third of the total members of the Board; and
- (d) Five representatives of such State Governments as may be nominated by the Central Government. One-third of the members shall be women and a member specified in clause (c) of the said sub-section shall be appointed by the Central Government as the Chairperson of the Board.

The Central Advisory Board shall from time to time advise the Central Government on reference of issues relating to—

- (a) Fixation or revision of minimum wages and other connected matters;
- (b) Providing increasing employment opportunities for women;
- (c) The extent to which women may be employed in such establishments or employments as the Central Government may, by notification, specify in this behalf; and
- (d) Any other matter relating to this Code, and on such advice, the Central Government may issue directions to the State Government as it deems fit in respect of matters relating to issues referred to the Board.

STATE ADVISORY BOARD

The State Advisory Board and each of the committees and sub-committees thereof shall consist of persons—

- (a) Representing employers;



“ The Code also mandates payment of wages, within a period of 2 working days, from the date of the employee’s removal, dismissal, retrenchment or resignation from employment. While the current Payment of Wages Act has a similar provision for payment of wages within 2 days from the date of termination of his employment, payment of wages on account of voluntary resignation by employees has been brought within the same time limits.

- (b) Representing employees which shall be equal in number of the members specified in clause (a); and
- (c) Independent persons, not exceeding one-third of the total members of the Board or committee or sub-committee, as the case may be. One-third of the members shall be women and one among the members specified in clause (c) of the said sub-section shall be (a) appointed by the State Government as the Chairperson of the Board; (b) appointed by the State Advisory Board as the Chairperson of the committee or sub-committee, as the case may be.

The State Government shall constitute a State Advisory Board for advising the State Government—

- (a) In fixation or revision of minimum wages and other connected matters;
- (b) For the purpose of providing increasing employment opportunities for women;
- (c) with regard to the extent to which women may be employed in such establishments or employments as the State Government may, by notification, specify in this behalf; and
- (d) In any other matter relating to this Code, which the State Government may refer from time to time to the Board.

OFFENCES PENALTY AND COMPOUNDING

The Code contemplates 3 kinds of contraventions i.e. (a) payment of an amount that is less than the amount due to the employee under the Code; (b) non-maintenance or improper



“Where an employee has been paid an amount that is lesser than the amount due to the employee under the Code, the employer is punishable with a fine of Rs. 50,000 for the first contravention. If the employer is again convicted for a similar offence within 5 years from the date of commission of the first offence, then on such second or subsequent offence the employer shall be punishable with imprisonment for a term that may extend to 3 months or with a fine of up to Rs. 1 Lakh or with both.

maintenance of records under the Code; and (c) any other contravention of the Code.

Where an employee has been paid an amount that is lesser than the amount due to the employee under the Code, the employer is punishable with a fine of Rs. 50,000 for the first contravention. If the employer is again convicted for a similar offence within 5 years from the date of commission of the first offence, then on such second or subsequent offence the employer shall be punishable with imprisonment for a term that may extend to 3 months or with a fine of up to Rs. 1 Lakh or with both.

For not maintaining proper records, the employer is punishable with a fine of up to Rs. 10,000.

For any other contravention, the employer is punishable with a fine of Rs. 20,000 for the first contravention. If the employer is again convicted for a similar offence within 5 years from the date of commission of the first offence, then on such second or subsequent offence the employer shall be punishable with imprisonment for a term that may extend to 1 month or with a fine of up to Rs. 40,000 or with both.

The Code allows the employer to be given an opportunity to cure his / her first-time contravention of 'certain' provisions of the Code (i.e. offences other than payment of amounts lesser


than amounts due under the Code). In such cases the Code prescribes that the Inspector-cum-Facilitator shall give an opportunity to the employer to comply with the Code within identified time period and if complied with, no prosecution shall be initiated. No such opportunity to cure a breach of the Code shall be granted if violation of similar nature is repeated within a period of 5 years from the date of first violation and a prosecution shall be initiated right away. Such opportunity to cure is not available with respect to offences involving non-payment of the amounts due to an employee as per the provisions of the Code.

The Code also provides for compounding of offences under the Code, at any time before or after initiation of the prosecution. Offences under the Code can be compounded for a sum of 50% of the maximum fine prescribed. However, once compounded, another compounding will not be permitted within a period of 5 years of the commission of a similar offence which was earlier compounded.

CONCLUSION

“You can’t have a Million Dollar Dream with a Minimum wage work ethic”- Stephen C Hogan

The passage of the Wage Code is an important development in India’s labour law framework. Reforms in this sphere, appropriately balancing multiple objectives of labour welfare, ease of compliance and rationalisation have been long overdue, and the proposed Wage Code is certainly a step forward in that direction.

However, on a closer look at the changes introduced by the Wage Code, it is clear that scope for further clarity and simplification still remains. The Wage Code may require its creases to be ironed out significantly, as well as much greater harmonization will be needed coupled with rationalisation with the previous legal regime and other Labour Codes. Thus, the Wage Code will have to be a work in progress for the foreseeable future, to ensure that a nation which was one of the first in the developing world to introduce laws on minimum wages back in 1948, has its present tryst with labour law reforms go right. 

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Labour Policy Reforms in India – A full throttle transformation

The Labour Policy in India is mainly focused on the various Central and State labour laws formulated for the organised sectors of the Indian economy. However, the Central Government has sought to bring about simplification and rationalization of the various labour laws into four Labour Codes on contentious issues like wages, occupational health, welfare, safety and working conditions in both the organised sector and the growing unorganised sector. The benefits introduced by the Unorganised Workers Social Security Act, 2008 have been extended to many more sectors by adding existing and new schemes in the draft Labour Code on Social Security.



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BACKGROUND

The Labour Laws in India before the 1970s were framed mainly to cater to the Manufacturing Sector and do not address the problems of the fast growing Service Sector of the Millennium which today accounts for about 55 per cent of our GDP. The current labour laws relating to wages protect about 40% of the organised workforce by many outdated and inflexible provisions which seriously hamper the employment generating capacity of the organised sector. Most of the 10-12 million youth joining labour force each year are forced to join the informal unorganised sector where both the working conditions and wages are poor.

In a market driven economy like India with rising inflation and competition especially from marketing platforms like Flipkart and Amazon, employers are under constant pressure to cut costs and resort to most competitive pricing and delivery systems to suit the consumers. This is only possible by periodic restructuring, adoption of technology for mass production and distribution and downsizing workforce so that India can avoid losing investments to its neighboring countries.

LEGISLATIVE HISTORY

India's labour policy is mainly based on labour laws. Its labour policy is influenced by the Indian and International Labour Conferences. It is also influenced by the First National Conference on Labour (1969) and the Second National Conference on Labour (2002).

One of the important observations of the First National Conference was the need for a Common Labour Code. Though it was not practicable to bring out a single labour code, it was pointed out that *"In order to bring about a feasible degree of simplification and uniformity in definitions, it should be possible to integrate those enactments which cover subjects having a common objective. This will be a simplification of the existing framework of labour laws."*

The Second National Conference on Labour has two main objectives:

- to suggest rationalization of existing laws relating to labour in the organised sector and
- to suggest umbrella legislation for ensuring the minimum level of protection to the workers in the unorganised sector (Report on of the Working Group on Labour Laws and other Labour Regulations constituted by the Planning Commission in March 2006).

The Conference pointed out the importance of social security and observed that *"Social Security is an essential requirement of each and every person not considering the region of employment in which they work. ... it refers to safeguards extended by the society and the state to its members to allow them to defeat various unforeseen events of life"*.

It therefore advocated a special policy for labour and schemes in the unorganised sectors such as farmers, fishermen, migrant labour, women workers, etc.

As a direct result of these two conferences, the Central Government enacted the first of the Labour Code namely, the Labour Code on Wages, 2019 which came into force from 08.08.2019. Its preamble and objective is *"to amend and consolidate the laws relating to wages and bonus and matters connected therewith or incidental thereto"*.

A notable initiative was taken by the Federation of Indian Chambers of Commerce & Industry (FICCI), New Delhi supported by the All India Organization of Employers (AIOE) to submit a few proposals in 2014 to change some of the existing labour laws to make the Labour Policy conducive to investment and employment. There are about 44 labour laws under the Centre and about 100 laws under State purview. These laws present several practical problems in implementing the required compliances. Further, using different terminologies like 'employee', 'workman', 'wages', 'basic wages', 'salary' referring to the compensation, yet covering different components of compensation in each legislation, have made compliance, cumbersome and opening up a large number of disputes.

As per FICCI, India's growth story is limping along and does not match with the required employment growth. During the period, 2000 to 2009 the Indian economy grew at an average rate of 8 per cent but employment growth was poor as shown in the following table.

Year	Annual GDP Growth Rate	Employment Growth Rate	Unemployment Rate
1999-00	8.00	1.25	7.31
2004-05	7.05	2.62	8.28
2009-10	8.59	0.92	6.53

As per FICCI, India's obsession with its poor labour policy was one of the main reasons keeping investors away, hindering employment growth and making Indian enterprises uncompetitive in world markets. Hence, to circumvent the rigorous labour policies, employers are either shifting their manufacturing bases to foreign countries or turning capital intensive, reducing their manpower needs. Besides swelling unemployment, these measures were also pushing people to the informal sector. FICCI had therefore advised that being a labour surplus country with 47 million unemployed persons below the age of 24 years and 12-13 million young persons joining the labour market every year, India needed labour intensive and labour friendly industries to avoid the growing unemployment.

As the service sector is leading with 55% share in the GDP, the labour laws need to be redressed to meet the emerging needs of the service sector and the new technology intensive manufacturing sector so as to achieve the goals of higher levels of productivity, competitiveness and capital investment. There was a growing need to shift focus and legislation for the unorganised workers as well as to simplify the plethora of labour laws to bring harmony in a growing economy like India.

The Central Government has taken a big initiative to ramp up the pace of growth and development in India by introducing four Labour Codes to consolidate and harmonize the labour laws and ensure the much needed growth in employment and to attract Indian and Foreign Direct Investment in the Country. These Codes are as under:

LABOUR CODE ON WAGES, 2019

FICCI had suggested that there was a genuine need to simplify, consolidate and make less cumbersome the various labour laws under the new Labour Code on Wages. The existing labour laws on wages protect only about 7-8 percent of the workers in the organised sector as against about 93 percent workers in the unorganised sector.

The Central Government, on the basis of the observations and recommendations of the First and Second national Conference on Labour, the various Working Groups on Labour Laws, has now consolidated the laws governing wages namely (a) The Minimum Wages Act, 1948 (b) The Payment of Wages Act, 1936 (c) the Payment of Bonus Act, 1965 and the Equal Remuneration Act, 1976.

The Code applies to all employees (except possibly for payment of bonus) by removing the monthly eligibility ceiling under the Payment of Wages Act, 1936. Under the Code, the Centre may set a minimum statutory wage to benefit over 500 million workers across the Country. By removing the provision relating to 'scheduled employment', the Code makes it mandatory to pay minimum wages across all industries. Another welcome feature is the inclusion of 'contractor' and 'contract labour' in the Wage Code to make contractors also liable to pay wages of contract labour. Another reform is the concept of a 'floor wage' introduced by the Central Government, varying across geographical areas which act as a baseline for State-level minimum wages for review/revision of minimum wages at intervals not exceeding five years. Further, the wage period and time limits for paying wages on daily, weekly and monthly basis has also been stipulated. As regards the provisions for bonus, the Wage Code made several changes regarding the eligibility

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criteria for the payment of bonus and how it is calculated. Further, conviction for sexual harassment is an additional disqualification for the payment of bonus. The term 'Inspector' has been replaced with the term 'Inspector-cum-Facilitator', which has additional duties of guiding and advising employers and employees on effective implementation. Inspections will be web-based inspection with facility for electronic summoning of information, to help compliance. There are adequate provisions for penalties for non-compliances and for compounding of offences for better enforcement.

LABOUR CODE ON INDUSTRIAL RELATIONS BILL, 2019

The Labour Code on Industrial Relations Bill has accepted many of the FICCI suggestions for consolidation of 3 laws governing terms and conditions of employment, namely (a) Industrial Disputes Act, 1947 (b) Industrial Employment (Standing Orders) Act, 1946 and (c) Trade Unions Act, 1926. Further several important changes have been introduced as under:

Firstly, Industrial establishments employing more than 50 but less than 300 workers would not be required to obtain Central

or State Government permission for lay-offs, retrenchments or closure of establishments/factories. Currently, under the Industrial Disputes Act, the Appropriate Government approval is required for industrial establishments employing at least 100 workers for lay-offs, retrenchments or closure. The Government may introduce legislation subsequently for small factories employing upto 50 workers for closure or lay-offs or retrenchment.

Secondly, the Trade Union Act permits a trade union to be registered with just 7 members. The draft Code proposes a minimum of 10% of the workers employed in an establishment to register as a trade union. This will not apply to large employers, where 10% of the workforce represent at least 100 workers. In such a case it will be sufficient if the application is made by 100 workers. In case of small establishments, where 10% of the workforce represents less than 7 workers, a minimum of 7 workers shall be required for registering a trade union. This is a good step to rationalize the process of collective bargaining in India.

Thirdly, the Industrial Disputes Act requires the employer to pay compensation equivalent to 15 days' average pay for each completed year of service, or any part thereof in excess of six months at the time of retrenchment of a worker, if they have at least one year of continuous service. The draft Code on Industrial Relations proposes to increase retrenchment compensation to 45 days' average pay for each completed year of continuous service, or any part thereof in excess of six months. This will place extra financial burden on employers.

DRAFT LABOUR CODE ON OCCUPATIONAL SAFETY, HEALTH AND WORKING CONDITIONS, 2019

The Central Government has done a good job by merging 13 laws relating to welfare in the draft Labour Code on Occupational Safety, Health and Working Conditions namely (a) Factories Act, 1948 (b) Mines Act, 1952 (c) The Dock Workers (Safety, Health and Welfare) Act, 1986 (d) The Building and other Construction Workers (Regulation of Employment & Conditions of Service) Act, 1996 (e) The Plantations Labour Act, 1951 (f) Contract Labour (Regulation & Abolition) Act, 1970 (g) The Inter-State Migrant Workers (Regulation of Employment & Conditions of Service) Act, 1979 (h) The Motor Transport Workers Act, 1961 and other laws covering conditions of service of Journalists, Cinema workers, Beedi workers, Sales promotion employees.

All establishments under the Code will have to be registered. A provision has been made for Advisory Bodies. There are provisions too for duties of employers and rights and duties of employees. Provision is also made for employment of women in the night shift with the approval of the Central/State Governments. There are also adequate provisions for health, safety and welfare of workers. There are deterrent provisions for offenses and penalties like imprisonment in case of death and /or fines for the various offenses.

FICCI had made a good recommendation for revising upwards the limits adopted by the Factories Act, 1948 by amending the definition of 'factory' under section 2(m) of the Factories Act, 1948 to cover a manufacturing unit employing 20 workers if working with the aid of power or employing 40 workers if working without power to protect MSME and family run factories from time consuming paperwork and cumbersome procedures. This needs active consideration.

DRAFT LABOUR CODE ON SOCIAL SECURITY

The workers in the Organised Sector had the protection of several social security laws namely (a) Employees Provident Funds and Miscellaneous Provisions Act, 1952 (b) Employees State Insurance Act, 1948 (c) Payment of Gratuity Act, 1972. There were other laws like the Maternity Benefits Act, the Employees Compensation Act and the Building and Other Construction Workers Welfare Cess for the organised sector.

The Central Government had framed the Unorganised Workers Social Security Act, 2008 and constituted the National Social Security Board to recommend various social security schemes as there was a growing need for life insurance and disability cover, rural and urban health care, pension plans for old age protection, maternity benefits for unorganized workers. Accordingly a number of schemes were introduced over the years for unorganised workers.

The Code on Social Security now seeks to consolidate the laws for the organised and unorganised sectors and has included the various Social Security schemes for the unorganised sectors like farmers, fishermen, handloom weavers and artisans, master craftsmen, etc. Some details of the various schemes are given below:

- (a) **Pradhan Mantri Shram Yogi Manndhan, 2019** – Under this scheme, poor labourers between 18 to 40 years are required to contribute a monthly sum of Rs. 55/- to Rs.200/- and will be entitled to receive a pension of Rs. 3000/- per month on attaining 60 years of age.
- (b) **PM Laghu Vyapari Manndhan Yojana, 2019** – Under this scheme, shopkeepers, self employed persons, workshop owners, rice & oil mill owners, small hotel owners, real estate agents, etc between ages 18 to 40 years with GST turnover of below Rs. 1.50 crore will be required to enroll and contribute monthly under this scheme. The Government will contribute a matching sum to give monthly pension on attaining 60 years of age.
- (c) **The Indira Gandhi National Old Age Pension Scheme, 2007** - Under this scheme, a monthly pension of Rs. 200/- is given to persons above age 65 who are below poverty line.
- (d) **National Family Benefit Scheme, 1998** – Under this scheme, a lump sum benefit of Rs. 20,000/- is given to a family whose primary breadwinner is below poverty line and in the age group between 18 -59 years, who has died.
- (e) **Janani Suraksha Yojana, 2005** – This scheme is under the National Health Mission. A sum of Rs. 1400/- to Rs. 2000/- is given to pregnant women in urban and rural areas in specified low performing states, and Rs. 1000 to Rs. 1300/- in urban and rural areas in specified high performing states for institutional deliveries in specified health centers and hospitals.
- (f) **Handloom Weavers Comprehensive Welfare Scheme** – Under this scheme, good healthcare cover and facilities for pre-existing and new diseases are assured to the handloom weavers and their families from one day old to 80 years.
- (g) **Handicraft Artisans Comprehensive Welfare scheme** – Under this scheme, life insurance protection is given to artisans between 18 to 60 years of age and their families.
- (h) **Pension to Mastercraft persons, 1973-74** – Under this scheme, monthly pension of Rs. 1000/- is paid to craftsmen due to old age.

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- (i) **National Scheme for Welfare of Fishermen, Training and Extension** – Under this scheme, active fishermen who have land and are below poverty line are given preference for house building. They must be members of fishermen cooperative or welfare societies with age limit below 60 years. Provision is also there for training and community projects like building of tube wells, and community halls for fishermen and their families.
- (j) **Janashree Bima Yojana, 2000** - Here the Central Government and LIC have joined to provide life insurance cover to rural and urban persons below and marginally above the poverty line.
- (k) **Rastriya Swasthya Bima Yojana** – This is a government run health insurance scheme to provide health insurance cover to the rural poor below the poverty line.
- (l) **PM Kisan Pension Yojana, 2019** – Under this scheme, small and marginal farmers in the age group of 18 to 40 years will be entitled to a pension of Rs. 3000/- per month after reaching the age of 60 years. The farmer will have to make regular monthly contributions to LIC of about Rs. 55/- to Rs. 200/- to avail this pension benefit.

With the introduction of these schemes, the unorganised sectors now has ready access to life insurance cover at nominal rates, medicare facilities, access to Urban & Rural Health Centres, maternity benefits and protection against hardships caused by death and disability, etc.

The objectives of the Labour Codes are that there must be genuine efforts to ensure ease of doing business in India and that Job Creators and Wealth Creators must be given the 'Red Carpet' and not the 'Red Tape'.

As per provisions of The Unorganised Workers Social Security Act, 2008, every unorganised worker shall be eligible for registration subject to the fulfilment of the two conditions; he or she should have completed fourteen years of age; and a self-declaration by him or her confirming that he or she is an unorganised worker. Every unorganised worker shall be registered by the District Administration. The State Governments are mandated to register the Unorganised Workers and to provide benefits of welfare schemes other than the three basic social security schemes of the Central Government i.e. (i) life and disability cover, (ii) health and maternity benefits, and (iii) old age protection. It has been the constant endeavor of the Central Government to extend coverage of the social security schemes to all the unorganised workers as per their eligibility.

Looking at the sheer volume of beneficiaries under the various schemes, it can be seen as under:


1. Indira Gandhi National Old Age pension- 2,08,33,673 persons.

2. National Family Benefit Scheme -1,75,592 persons.
3. Janani Suraksha Yojana -1,04,16,164 persons
4. National Scheme for Welfare of Fishermen and Training and Extension - 52,34,799 persons
5. Aam Admi Bima Yojana (as on 31.03.2016) - 4,51,07,984 persons
6. Rashtriya Swasthya Bima Yojana - 3,59,28,048 persons
7. Atal Pension Yojana (as on 20.07.2016) - 30,46,055 persons

ROLE & SCOPE FOR COMPANY SECRETARIES UNDER THE NEW REGIME

The Company Secretary in employment has to play an important role in the new regime of labour law. He has to guide the Board of Directors on the new labour codes and devise practical systems and procedures for introducing the social security measures in his organization for registering the unorganised workers in cooperation with the District Administration in his or her State, especially migrant workers. He has to ensure the observance of health, safety, welfare and conditions of service by the professional managers in his organization especially the payment of national minimum wages. For Practising Company Secretaries, there is a need to update the various compliances under the new labour code for wages and other codes as and when they come into effect. He has to update his annual Secretarial Compliance report to the extent applicable. The Institute of Company Secretaries of India must seize this opportunity and be a pathbreaker by seeking recognition for Company Secretaries in practice, among other officials appointed under the social security schemes, to certify the eligibility of workers in the unorganised sectors, for the benefits under the schemes. ICSI also has to act, together with various associations to hold workshops on the new regime of labour laws.

CONCLUSION

The new Labour Code on Wages is the first of 4 major codes in the field of labour laws. The other three codes are in draft stage awaiting public comments. All these codes are expected to bring about dramatic and far reaching changes especially in the areas of rationalization and simplification in the labour law scenario in India wherein Trade & Industry can work at full throttle. 

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Scope of 'Wages' for Contribution under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and Draft Code on Social Security Code, 2019 - A Comparative Appraisal

This article examines the scope of 'wages' under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 in the light of judicial pronouncements. In the backdrop of the ensuing labour law reforms in the country, draft Code on Social Security, 2019 has been circulated by the Ministry of Labour and Employment recently. A comparison is also drawn with the relevant provision dealing with 'wages' under the draft Code. This comparison is undertaken in order to ascertain if the proposed provision on wages under the draft Code will be able to achieve the object of simplification and rationalization for determination of 'contribution' to the Provident Fund.



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INTRODUCTION

On September 17, 2019, the Ministry of Labour and Employment circulated the preliminary draft of the Code on Social Security, 2019 inviting comments from the stakeholders and public at large as a part of pre-legislative consultative process. The same is in furtherance of the ongoing labour law reforms undertaken by the government. The reforms envision to amalgamate and/or replace 44 existing legislations dealing with the matters associated with labour/ employment laws into *four* codes. In the said series, the Code on Wages, 2019 was enacted recently and the Occupational Safety, Health and Working Conditions Code, 2019 has been introduced in Lok Sabha and may become law very soon. Another code dealing with industrial relations is also in the making.

Code on Social Security, 2019 (Code) aims at amalgamating, simplifying and rationalizing regulations dealing with social security of workmen. The Code consolidates eight central legislations viz. Employees' Provident Funds and Miscellaneous Provisions Act, 1952, Employees' State Insurance Act, 1948, Payment of Gratuity Act, 1972, Maternity Benefit Act, 1961, Employees' Compensation Act, 1923, Social Security for Unorganized Workers Act, 2008.

WAGES UNDER THE EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS PROVISIONS ACT, 1952

The mandate under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (Act) requires the contribution

to be made by the employer and employee to the designated fund. The contribution so made by the employer shall be calculated on the basis of the basic wages, dearness allowance and retaining allowance payable to each of his employees. Section 6 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 provides that the contribution which shall be paid by the employer to the Fund shall be ten percent off the basic wages, dearness allowance and retaining allowance, if any, for the time being payable to each of the employees whether employed by him directly or by or through a contractor, and the employees contribution shall be equal to the contribution payable by the employer in respect of him and may, if any employee so desires, be an amount exceeding ten percent of his basic wages, dearness allowance and retaining allowance if any, subject to the condition that the employer shall not be under an obligation to pay any contribution over and above his contribution payable under this section. Here dearness allowance deems to include also the cash value of any food concession allowed to the employee. The retaining allowance means allowance payable for the time being to an employee of any factory or other establishment during any period in which the establishment is not working, for retaining his services.

According to the Act, 'basic wages' means all emoluments which are earned by an employee while on duty or (on leave or on holidays with wages in either case) in accordance with the terms of the contract of employment and which are paid or payable in cash to him, but does not include—

- (i) the cash value of any food concession;
- (ii) any dearness allowance (that is to say, all cash payments by whatever name called paid to an employee on account of a rise in the cost of living), house-rent allowance, overtime allowance, bonus, commission or any other similar allowance payable to the employee in respect of his employment or of work done in such employment.
- (iii) any presents made by the employer;¹

The phrase, 'any other similar allowance payable to the employee in respect of his employment or of work done in such employment' has not been defined under the Act and hence has remained susceptible to numerous interpretations and cause of litigations in the past.

¹ Section 2 (b) Employees' Provident Funds and Miscellaneous Provisions Act, 1952

“There is no doubt that “basic wages” as defined in s. 2(b) means all emoluments which are earned by an employee while on duty or on leave with wages in accordance with the terms of the contract of employment and which are paid or payable in cash. However, if there were no exceptions to this definition, there would have been no difficulty in holding that production bonus whatever be its nature would be included within these terms.

JUDICIAL INTERPRETATION OF 'WAGES'

The term 'basic wage' includes all emoluments which are earned by an employee while on duty or on leave or on holidays with wages in accordance with the terms of the contract of employment, such holidays being weekly holidays, national holidays and festival holidays etc.²

The term 'Wages' went for detailed consideration by the Supreme Court in *Bridge and Roof's* case³ where it was observed that a conjoint reading of sections 2 (b) and 6 of the Employees Provident Fund and Misc. Provisions Act, requires a test of universality, where the wage is universally necessarily and ordinarily paid to all across the board such emoluments are basic wages. Conversely, the payment which available to be specially paid to those who avail the opportunity is not basic wage. Here it was held that overtime allowance though is generally given across all concerns, however, is not earned by all employees of the concern. It is also earned in accordance with the terms of contract of employment, but because it is not earned by all the employees, it is to be excluded from basic wage. On similar lines any special incentive or allowance does not constitute basic wage.⁴

There is no doubt that "basic wages" as defined in s. 2(b) means all emoluments which are earned by an employee while on duty or on leave with wages in accordance with the terms of the contract of employment and which are paid or payable in cash. However, if there were no exceptions to this definition, there would have been no difficulty in holding that production bonus whatever be its nature would be included within these terms. The difficulty, however, arises because the definition also provides that certain things will not be included in the term "basic wages", and these are contained in three clauses. The first clause mentions the cash value of any food concession while the third clause mentions that presents made by the employer. The fact that the exceptions contain even presents made by the employer shows that though the definition mentions all emoluments which are earned in accordance with the terms of the contract of employment, care was taken to exclude presents which would ordinarily not be earned in accordance with the terms of the contract of employment. Similarly, though the definition includes "all emoluments" which are paid or payable in cash, the exception excludes the cash value of any food concession, which in any case was not payable in cash. The exceptions therefore do not seem to follow any logical pattern which would be in consonance with the main definition.⁵

² Manipal Academy of Higher Education v. Provident Fund Commissioner, 2008 (5) SCC 428.

³ Bridge and Roof Co. (India) Ltd. v. Union of India, AIR 1962 SC 1474.

⁴ Ibid. Also see Kichha Sugar Co Ltd. through General Manager v. Tarai Chini Mill Mazdoor Union, Uttarkhand 2014 (4) SCC 37.

⁵ Ibid. Also see Muir Mills Co. Ltd., Kanpur v. Its' Workmen, AIR 1960 SC 985.

It has been time and again reiterated that the Act is a piece of beneficial social welfare legislation and must be interpreted as such.⁶

Recently, the Supreme Court while addressing whether special allowances paid by an establishment to its employees would fall within the expression basic wages under section 2 (b) (2) read with section 6 of the Act for computation of deduction towards provident fund, in *Regional Provident Fund Commissioner, West Bengal v. Vivekananda Vidyamandir and Ors.*⁷ held that such allowances are subject provident fund. It was observed that the employer claiming that a particular amount does not form part of basic wage must demonstrate that the allowances in question being paid to its employees were either variable or were linked to any incentive for production resulting in greater output by an employee and that the allowances in question were not paid across the board to all employees in a particular category or were being paid especially to those who avail the opportunity. In order that the amount goes beyond the basic wages, it has to be shown that the workman concerned had become eligible to get this extra amount beyond the normal work which he was otherwise required to put in. Where it is not possible to ascertain whether extra amounts paid to the workmen were in fact paid for the extra work which had exceeded the normal output prescribed for the workmen the courts shall not interfere with the finding or conclusions of facts.

AFTERMATH OF VIVEKANANDA VIDYAMANDIR CASE

The judgment in Vivekananda Vidyamandir case (supra) has had a far-reaching impact upon the EPF jurisprudence as until now the industrial practice was to include basic wage and dearness allowance as the components for computing provident fund contribution. The addition of allowances to the existing components is expected to significantly raise the financial burden of the establishments, thereby, impacting competitiveness in the industry. The Employees' Provident Fund Organization (EPFO) has tried to intervene and settle the muddle by issuing a circular taking stock of the notices being issued by various field officers in the wake of the judgement of the Supreme Court in Vidyamandir case.⁸ EPFO clarified that there exists no validation in the enquiries so made into the wage structure of the otherwise compliant establishments. EPFO also directed that the investigations and inspections must be undertaken after permission duly sought from Central Analysis and Intelligence Unit and adherence to the administrative guidelines and policy. Further EPFO clarified that the action is required to be taken only in cases where a *prima facie* view is formed on credible basis against an employer indulging in illegal practice of avoiding provident fund liability by splitting up basic wages.⁹

Now that the review petition has also been dismissed by the supreme court, the clarity is being sought by the

⁶ Daily Partap v. The Regional Provident Fund Commissioner, Punjab, Haryana, Himachal Pradesh and Union Territory, Chandigarh (1998) 8 SCC 90

⁷ Civil Appeal No. 6221 of 2011 together with Surya Roshni Ltd. v. Employees' Provident Fund and Others. Civil Appeal No(s). 3965–3966 OF 2013; U-Flex Ltd. v. Employees Provident Fund and Another. Civil Appeal No(s). 3969–3970 of 2013; Montage Enterprises Pvt. Ltd. v. Employees Provident Fund Civil Appeal No(s). 3967–3968 of 2013 and The Management of Saint-Gobain Glass India Ltd. v. The Regional Provident Fund Commissioner, Employees Provident Fund Organisation Transfer Case (C) No(s).19 of 2019 (arising out of T.P.(C)No. 1273 of 2013).

⁸ See Circular No. CI/1(33) 2019 Vivekanand Vidyamandir/717 dated August 28, 2019 available at https://www.epfindia.gov.in/site_docs/PDFs/Circulars/Y2019-2020/Vivekanand_Vidyamandir_717.pdf last visited on October 25, 2019.

⁹ Ibid.



“ Amidst the conundrum, the Ministry of Labour and Employment also came out with the Employees' Provident Funds and Miscellaneous Provisions (Amendment) Bill, 2019 inviting public comments on the same. The said Bill replaces the concept of 'basic wages' with 'wages' making the same in line with that of Code of Wages, 2019.

stakeholders upon the implementation whether prospectively or retrospectively.¹⁰ The perplexity owes as to what would be the fate of such cases where the employer/ employee was covered on the basis of basic wage excluding such allowances which now become inclusive in the definition of basic wage making the basic wage of such employees over and above the threshold limit prescribed for coverage under the Act.

Amidst the conundrum, the Ministry of Labour and Employment also came out with the Employees' Provident Funds and Miscellaneous Provisions (Amendment) Bill, 2019 inviting public comments on the same. The said Bill replaces the concept of 'basic wages' with 'wages' making the same in line with that of Code of Wages, 2019. The present state of affairs directs us to the draft Code on Social Security for possible solutions it has to offer to deal with such situations.

WAGES UNDER CODE ON SOCIAL SECURITY, 2019

The draft Code defines wages under section 2 (xxxxix), to mean all remuneration, whether by way of salaries, allowances or otherwise, expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes:-

- (a) basic pay;
- (b) dearness allowance; and
- (c) retaining allowance, if any; but does not include—
 - (a) any bonus payable under any law for the time being

¹⁰The review petition was dismissed by the Supreme Court vide order dated August, 28 2019.

in force, which does not form part of the remuneration payable under the terms of employment;

- (b) the value of any house-accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the appropriate Government;
- (c) any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;
- (d) any conveyance allowance or the value of any travelling concession;
- (e) any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment;
- (f) house rent allowance;
- (g) remuneration payable under any award or settlement between the parties or order of a court or Tribunal;
- (h) any overtime allowance;
- (i) any commission payable to the employee;
- (j) any gratuity payable on the termination of employment;
- (k) any retrenchment compensation or other retirement benefit payable to the employee or any ex-gratia payment made to him on the termination of employment:

Provided that, for calculating the wages under this clause, if payments made by the employer to the employee under clauses (A) to (I) exceeds one half, or such other per cent. as may be notified by the Central Government, of the all remuneration calculated under this clause, the amount which exceeds such one-half, or the percent so notified, shall be deemed as remuneration and shall be accordingly added in wages under this clause:

Provided further that for the purpose of equal wages to all genders and for the purpose of payment of wages the emoluments specified in clauses (D), (F), (G) and (H) shall be taken for computation of wage.

Explanation— Where an employee is given *in lieu* of the whole or part of the wages payable to him, any remuneration in kind by his employer, the value of such remuneration in kind which does not exceed fifteen per cent. of the total wages payable to him, shall be deemed to form part of the wages of such employee.



The draft Code mandates the creation of a Fund wherein the contribution is to be made by the employer and employee. Section 16 of the draft Code states that the Central Government may, for the purposes of- (a) the Employees' Provident Fund Scheme, establish a fund (hereinafter referred to as Fund) in the manner prescribed by that Government and the contribution which shall be paid by the employer to the Fund shall be twelve per cent. of the wages for the time being payable to each of the employees (whether employed by him directly or by or through a contractor) or such percentage of the wages as may be notified by the Central Government and the employee's contribution therein shall be equal to the contribution payable by the employer in respect of him and may, if any employee so desires, be an amount exceeding twelve per cent. or as so notified of the wages, subject to the condition that the employer shall not be under an obligation to pay any contribution over and above his contribution payable under this sub-section:

Provided that the Central Government, after making such inquiry as it deems fit, may, by notification, specify rates of contributions and the period for which such rates shall apply for any class of employee.

COMPARATIVE APPRAISAL

The biggest challenge before the legislators while drafting of this Code has been and still is to structure definitions in a manner that may suitably fit into the jurisprudence of all the *eight* legislations that are being consolidated into the Code. That is to devise them as 'One Size Fits All'.

The definition of the term 'wages' assumes much importance in view of Article 39 A of the Constitution of India being the driving force behind the enactment of the draft Code of Social Security and present social security legislations in India. It is with this object, the legislature took up the task of not only merging various distinct labour legislations, but also to have universal definitions of various basic terminology common to labour legislations.

In the above backdrop it is pertinent to note that the definition of 'wage' as adopted in the draft Code is in conformity with the definition of 'wage' provided under the Code of Wages, 2019 and also the Employees' Provident Funds and Miscellaneous Provisions (Amendment) Bill, 2019. The definition at the first glance includes everything that is paid or payable to the employee in the course of his employment be it in form of

salary, allowances or otherwise. Thus, the intent is to have an exhaustive definition which may include all such amounts which are paid to a person in lieu of work done by him in the course of employment. The provision further clarifies that the wages includes basic pay, dearness allowance and retaining allowance. The third part of the definition gives an exhaustive list of what is not included in the definition of wages. It is interesting to note that the present definition attempts to address the issue of misuse by the employer in order to avoid liability the Code.

On the other one hand, it attempts to include everything under wages while limiting the scope to a certain extent. However, the first proviso, puts a check on situation where an unscrupulous employer tries to include larger chunk of emoluments under the exclusions. The proviso stipulates that where the employer makes payments under clause a to i of the exclusions which are more than 50 percent of the total emoluments paid or such other percent as may be notified, the said amount has to be excluded while computing wages.

It is anticipated that the said move from 'basic wages' to 'wages' will tremendously reduce the muddle and disputes owing to the interpretation of 'any other allowances' under the present regime.

WAY FORWARD

The legislators aim to provide for a universal definition of 'wages' not only for the Code on Social Security but also across the four Labour Codes on wages, social security, industrial safety and relations. Such streamlining will on one hand benefit the industry and employees for adequate assessment and on the other hand assist the other stakeholders like compliance officers, professionals in proper implementation of the schemes. The Code is hence, set to provide a 'single window mechanism' not only through the streamlining of provident fund but also other social security schemes offered by the Central and State governments.

However, the humungous effort for consolidation of existing labour legislations into Codes is already under censure. Majorly for diluting the initial proposal for providing a universal social security covering all the workers in the country in the third draft of Code on Social Security (2019) which sticks to the threshold based- present regime of social security. It is hoped that some relief is accorded to the stakeholders in terms of simplification and rationalization of procedures aligning with 'ease of doing business' dicta. 15

The Wage Code: A great beginning of codification of Labour Laws

The Code on Wages, 2019 intended to remove multiplicity of definitions, authorities and provide minimum wages along with timely payment of wages to all employees and workers. Under Wage Code, herculean task for the government would be arriving at minimum wage and implementation thereof as it continues to be dynamic due to changing need of the society and variations in different geographical areas of the country.



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INTRODUCTION

“The ability to simplify means to eliminate the unnecessary so that the necessary may speak.”

-Hans Hofmann

The Code on Wages, 2019 ('Wage Code') passed by the Lok Sabha and Rajya Sabha on 30th July, 2019 and 2nd August, 2019 respectively received assent of the President on 8th August, 2019. With this, the laws namely 'The Payment of Wages Act, 1936', 'The Minimum Wages Act, 1948', 'The Payment of Bonus Act, 1965' and 'The Equal Remuneration Act, 1976' are repealed. The codification of the labour laws intended to remove the multiplicity of definitions and authorities leading to ease of compliance without compromising wage security and social security to the workers, while at the same time ensuring coverage of substantial number of workers; minimum wages to one and all and timely payment of wages to all employees irrespective of the sector of employment.

This would ensure 'Right to Sustenance' for every worker and intends to increase the legislative protection of minimum

wage from existing about 40% to 100% workforce. This would ensure that every worker gets minimum wage which will also be accompanied by increase in the purchasing power of the worker thereby giving fillip to growth in the economy¹. The word 'appropriate Government' appears as many as seventy times in 69 sections Wage Code, thus making it a delegated legislation.

RATIONALE FOR THE WAGE CODE

The 2nd National Commission on Labour ('NCL') set up in October 1999 under the Chairmanship of Shri Ravindra Varma to, *inter-alia*, suggested rationalisation of existing laws relating to labour in the organised sector; and an umbrella legislation for ensuring a minimum level of protection to the workers in the unorganised sectors. The NCL submitted its report to the then Prime Minister Shri Atal Bihari Vajpayee on 29th June, 2002. NCL broadly suggested amalgamating labour laws into the groups namely industrial relations; wages; social security; safety; and welfare and working conditions. With this background, 'The Code on Wages, 2017' was introduced in Lok Sabha on 10th August, 2017 and later referred to Standing Committee On Labour² by the Hon'ble Speaker, Lok Sabha for examination and report.

The Committee after considering views of Trade Unions viz. Centre of Indian Trade Unions ('CITU'), All India Trade Union Congress ('AITUC'), Bharatiya Mazdoor Sangh ('BMS') and Hind Mazdoor Sabha ('HMS'), Chamber of Commerce and other organisations/ individuals adopted the Report at their sitting held on 19th November, 2018. Out of 24 recommendations made by Standing Committee, 17 were accepted by the government³. The Committee, under the Chairmanship of Dr. Kirit Somaiya presented its report before Lok Sabha and it was laid before Rajya Sabha on 18th December, 2018.

Due to dissolution of the 16th Lok Sabha, 'The Code on Wages, 2017' lapsed and later on a fresh Bill 'The Code on Wages, 2019' was drafted after considering the recommendations of the Parliamentary Standing Committee and other suggestions of the stakeholders.

In this article, the authors intend to, *inter-alia*, elaborate about the heart and soul of the Wage Code i.e. 'Minimum Wage'; obligation of company secretaries under the Wage Code, etc. as under:-

I. PROHIBITION OF DISCRIMINATION ON GROUND OF GENDER

The concept of gender equality is embedded in the Indian Constitution and aptly covered under its Preamble, Fundamental Rights, Fundamental Duties and Directive Principles of State Policy. The Constitution not only states

1 Press Information Bureau ('PIB') release dated 23rd July, 2019.

2 Report of Standing Committee on Labour

3 PIB release dated 30th July, 2019

“What constitutes the minimum wage; and methodology of determining and periodic adjustment of the wage continued and will continue to be a subject matter of debate. The Minimum Wages Act, 1948, the legislation that has setup the framework for the minimum wage did not provide the exact norms for fixing or quantifying minimum wages statutorily.

that all persons to be treated equally before the law but also mandates that no citizen shall be discriminated on grounds only of religion, caste, gender etc.

The erstwhile law, The Equal Remuneration Act, 1976, which primarily dealt the above, is now enshrined under section 3 of the Wage Code. The said section 3 states that employees shall not be discriminated on the ground of gender in matters relating to wages by the same employer, in respect of the same work or work of a similar nature done by any employee. The employers cannot reduce the rate of wages of any employee; and make any discrimination on the ground of gender while recruiting any employee for the same work or work of similar nature and in the conditions of employment, except where the employment of women in such work is prohibited or restricted by or under any law for the time being in force.

II. MINIMUM WAGE AND PAYMENT OF WAGE

Chapter II and III deals with the heart and soul of the Wage Code. Section 5 states that no employer shall pay to any employee wages less than the minimum rate of wages notified by the appropriate Government. Other important provisions dealing with minimum wages are as under:

A. Fixation of minimum wage for the first time or revision thereof

Process	Actionable
➤ Appoint as many committees as it considers necessary to hold enquiries and recommend in respect of such fixation or revision, as the case may be	Committee to comprise of: <ul style="list-style-type: none"> ➤ Representative of employers ➤ Representatives of employees which shall be equal in number of the members as of employers ➤ independent persons, not exceeding 1/3rd of the total members of the committee.
➤ Alternatively, by publishing notification of its proposals for the information of persons likely to be affected.	<ul style="list-style-type: none"> ➤ Receive representations before the date specified in the notification. ➤ Consult concerned Advisory Board constituted under section 42.
➤ Notification of fixation of minimum rates of wages by appropriate government.	
➤ Appropriate government to review or revise minimum rates of wages ordinarily at an interval not exceeding five years.	

B. Classification of work

Classification of work		Payment time-lines
For piece work	Where employees are employed on piece work, the appropriate government to fix a minimum rate of wages for securing such employees a minimum rate of wages on a time work basis.	<ul style="list-style-type: none"> • Daily basis - at the end of the shift. • Weekly basis - on the last working day of the week. • Fortnightly basis - before the end of the second day after the end of the fortnight. • Monthly basis - before the expiry of the seventh day of the succeeding month.
For time work	May be fixed in accordance with any one or more of the following wage period:- <ul style="list-style-type: none"> • by the hour; or • by the day; or • by the month. 	

Where an employee has been removed or dismissed from service; or retrenched or resigned from service, or became unemployed due to closure of the establishment, then the wages payable to him shall be paid within two working days of his removal, dismissal, retrenchment etc., as the case may be.

Section 18 states that there shall be no deductions from the wages of the employee, except those authorised under Wage Code. Deductions from the wages primarily comprises of deductions such as absence from duty; fines imposed; damage to or loss of goods expressly entrusted to the employee for custody; house-accommodation supplied by the employer; amenities and services supplied; recovery of advances of whatever nature (including advances for travelling allowance or conveyance allowance); loans made from any fund constituted for the welfare of labour; deductions, made with the written authorisation of the employee, for contribution to the Prime Minister's National Relief Fund or to such other fund etc. Nonetheless, the total amount of deductions which may be made from wages of an employee shall not exceed 50% of such wages. Where the total authorised deductions exceed 50% of the wages, the excess may be recovered in such manner, as may be prescribed.

III. EXPERT COMMITTEE ON NATIONAL MINIMUM WAGE⁴

What constitutes the minimum wage; and methodology of determining and periodic adjustment of the wage continued and will continue to be a subject matter of debate. The Minimum Wages Act, 1948, the legislation that has setup the framework for the minimum wage did not provide the exact norms for fixing or quantifying minimum wages statutorily.

In view of the above and post introduction of the Wage Code in the Lok Sabha, on 17th January, 2018, the Government of India constituted an Expert Committee under the Chairmanship of Dr. Anoop Satpathy, Fellow, V. V. Giri National Labour Institute, Noida for fixing National Minimum Wage ('NMW'). The terms of reference of the Committee, *inter-alia*, included:

⁴ Report of the Expert Committee on determining the Methodology for Fixing the National Minimum Wage of January 2019.

- examine and review the current norms for determining the minimum wages and recommending changes in methodology, with a view to fixing need based national and regional minimum wages that are desirable on the basis of available evidence;
- recommend initial base values of the national and regional minimum wages as per the suggested methods; and
- review the norms and process of revising and adjusting minimum wages and recommend any changes required.

Some of the important recommendations of the Expert Committee are as under:-

- The existing norms for fixing minimum wages should be updated in the light of the latest available evidence relating to per household consumption units, food and nutritional requirements, changing consumption pattern and non-food expenditure requirements.
- Considering the overall framework and guiding principles of the Indian Labour Conference (ILC) of 1957 and the Supreme Court (SC) judgment of 1992 in the case of *Workmen v. Reptakos Brett & Co.*, the Committee recommends that the national minimum wage (NMW) should be able to meet a working family's minimum required expenditure on food and non-food, which should be adequate to preserve the efficiency of workers at their job and the health of their families.
- Recognizing that there have been changes in the population's level of activity, implying a reduction in the proportion of workers engaged in heavy work and an increase in the number of workers in moderate and sedentary occupations, the Committee recommends setting the minimum wage at a level that would allow for a minimum recommended intake (per adult person per day) of 2,400 calories, 50 grams of protein and 30 grams of fats.
- Setting the single value of the NMW for India at ₹ 375 per day (or ₹ 9,750 per month)⁵ as of July 2018, irrespective of sectors, skills, occupations and rural-urban locations, and introducing an additional house rent allowance (city compensatory allowance), averaging up to ₹ 55 per day i.e., ₹ 1,430 per month for urban workers over and above the NMW.
- Alternatively, the NMW for five different regions with diverse socio-economic and labour market situations. Four of these five regions may be constituted by using varied socioeconomic and labour market factors, while the fifth group may include all north-eastern states except Assam. A regional NMW calculated in this matter would have the potential to address varying economic situations in different states.
- NMW per day (per month) for Region I, Region II, Region III, Region IV and Region V should be set at ₹ 342 (₹ 8,892); ₹ 380 (₹ 9,880); ₹ 414 (₹ 10,764), ₹ 447 (₹ 11,622) and ₹ 386 (₹ 10,036), respectively, as of July 2018, irrespective of sectors, skills, occupations and rural-urban locations.

- Regions have been bifurcated as under:

Region I	Region II	Region III	Region IV	Region V
Assam, Bihar, Jharkhand, Madhya Pradesh, Odisha, Uttar Pradesh, and West Bengal.	Andhra Pradesh, Telangana, Chhattisgarh, Rajasthan, Jammu & Kashmir, and Uttarakhand	Gujarat, Karnataka, Kerala, Maharashtra, and Tamil Nadu	Delhi, Goa, Haryana, Himachal Pradesh, and Punjab	Arunachal Pradesh, Manipur, Meghalaya, Nagaland, Sikkim, Mizoram and Tripura

- As house rent accounts for a significant proportion of the overall non-food component, the Committee recommends an additional house rent allowance, averaging up to ₹ 55 per day i.e., ₹ 1,430 per month for urban workers over and above the NMW. However, this - city compensatory rent allowance may be allowed to vary in accordance with the type of city and town. The Committee recommends that a separate study should be undertaken to determine the city compensatory rent allowance by type of city and town.

Though some news reports published regarding the fixation of minimum wage at ₹ 18000/- per month by the Central Government, nonetheless, it was later clarified that the Central Government has not fixed or mentioned any amount as "national minimum wage". The minimum wages will vary from place to place depending upon skill required, arduousness of the work assigned and the geographical location.

IV. PAYMENT OF BONUS

Chapter IV of Wage Code deals with payment of bonus. Every employee, drawing wages not exceeding such amount per mensem, as determined by notification by the appropriate government, to be paid bonus, who has put in at least thirty days work in an accounting year, an annual minimum bonus calculated at the rate of eight and one-third percent of the wages earned by the employee or Rs.100, whichever is higher whether or not the employer has any allocable surplus during the previous accounting year.

Section 39 mandates that bonus shall be payable to an employee by crediting it in the bank account of the employee which need to necessarily paid within a period of eight months from the close of the accounting year. Nonetheless, the appropriate government, upon an application made to it by the employer and for sufficient reasons, may order to extend the said period of eight months to such further period which shall not in any case exceed two years.

V. RECORDS, RETURN, NOTICES AND OBLIGATION OF CS

Though the Wage Code subsume four legislations, nonetheless, the requirement of records, return and notices outlined in section 50 are minuscule having wide coverage as briefed hereunder:-

- Maintenance of register containing the details with regard to persons employed, muster roll, wages and prescribed details
- display on the notice board at a prominent place of the establishment containing the abstract of:

⁵ As the workers cannot be expected to work 30 days a month, they need to earn their total monthly consumption expenditure in 26 days a month - considering they take one day off a week.



- the Code;
- category-wise wage rates of employees, wage period, day or date and time of payment of wages; and
- the name and address of the Inspector-cum-Facilitator having jurisdiction.

The provision not to apply in respect of the employer to the extent the employer employs not more than five persons for agriculture or domestic purpose. "Domestic purpose" means the purpose exclusively relating to the home or family affairs of the employer and does not include any affair relating to any establishment, industry, trade, business, manufacture or occupation.

Section 54, deals with penalties, states that

- any employer who pays to any employee less than the amount due to such employee under the provisions of Wage Code shall be punishable with fine which may extend to Rs.50,000; and if the person found guilty of similar offence, within five years from the date of the commission of the first or subsequent offence, he shall, on the second and the subsequent commission of the offence, be punishable with imprisonment for a term which may extend to three months or with fine which may extend to Rs.1,00,000 or with both;
- for contravention of any other provisions or any rule made or order issued thereunder shall be punishable with fine which may extend to Rs.20,000 and if the person found guilty for of similar offence within five years from the date of the commission of the first or subsequent offence, he shall, on the second and the subsequent commission of the offence be punishable with imprisonment for a term which may extend to one month or with fine which may extend to Rs.50,000 or with both.
- for offences of non-maintenance or improper maintenance of records in the establishment, the employer shall be punishable with fine which may extend to Rs.10,000.

Section 55 of the Wage Code deals with offence committed by the company wherein every person who, at the time when offence was committed was in charge of, and responsible for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence. Further, if it is proved that offence has been committed with the consent or connivance of, or is attributable to any neglect on the part

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


In view of the above, it becomes all the more important for the company secretaries to designate head of Human Resource function of the company reporting to directors as 'key managerial person' as stated under sub-clause (v) of section 2(51) of the Companies Act, 2013, thus making him responsible for compliances of all the labour laws. Company Secretary, upon obtaining periodic compliance certificate from head of Human Resource and placing it before the directors at the Board meeting would enable CS to prove that non-compliances, if any, under the Wage Code has not been committed with the consent or connivance of, or is attributable to any neglect on the part of the Company Secretary.

CONCLUSION

"If you can't explain it to a 6-year-old, you don't understand it yourself."

-Albert Einstein

The Code on Wages, 2019 intended to remove multiplicity of definitions, authorities and provide minimum wages along with timely payment of wages to all the employees and workers. The benefits of the Wage Code includes about 50 crore unorganized sector workers like agricultural workers, painters, persons working in restaurants and dhabas, chowkidars etc. who were largely out of the ambit of minimum wages. Though, the Expert Committee on determining the methodology for fixing NMW has elaborately dealt on the Minimum Wage Policy in India, ILO Conventions, International experience with minimum wage systems; and made detailed recommendations and guidelines on minimum wages, determining the methodology for fixing the national minimum wage, nonetheless arriving at minimum wage and implementation thereof would continue to be dynamic due to changing need of the society and disparities in different geographical areas of the country. Penalties for non-compliance, if any, have been substantially increased which would enhance compliances of Wage Code.

Above all, enactment of Wage Code is a swift step towards amalgamating remaining about 40 labours laws into three more Codes which will cover industrial relations, social security and Welfare, health, safety and working conditions. 

Maternity Law: Need for a Revamp under the Draft Code

The recent initiative of the Labour Ministry in consolidating various laws into 'The Code on Social Security, 2019' is a step in the right direction. However, such Draft Code must not be a mere consolidation of varied laws but rather provide novel solutions addressing challenges of the current times and endeavour to eliminate inconsistencies and redundancies existing in the present law. Accordingly, the Labour Ministry must up its ante, manifest its expertise and positively consider the views of the industry obtained through stake holder consultation. It is important to consider that both the industry and the work force have high hopes for security in these tumultuous times and therefore Government must strive to strike a balance between the two competing interests.



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INTRODUCTION

The Government of India, Ministry of Labour and Employment ("Labour Ministry") vide its Notification dated 17th September, 2019 issued 'The Code on Social Security, 2019' ("Draft Code") for public consultation. The Draft Code intends to repeal 8 (eight) enactments namely - The Employees' Compensation Act, 1923, The Employees State Insurance Act, 1948, The Employees Provident Funds and Miscellaneous Provisions Act, 1952, The Payment of Gratuity Act, 1972, The Cine Workers Welfare Fund Act, 1981, The Building and Other Construction Workers Cess Act, 1996, The Unorganized Workers' Social Security Act, 2008 and also The Maternity Benefit Act, 1961.

The legal provisions relating to maternity care and benefit are currently provided in the Maternity Benefit Act, 1961 ("Act"), the Maternity Benefit (Mines and Circus) Rules, 1963 and the respective Rules of the State such as Delhi Maternity Benefit Rules, 1971, Maharashtra Maternity Benefit Rules, 1965, Gujarat Maternity Benefit Rules, 1964, Punjab Maternity Benefit Rules, 1967 etc. ("Existing Maternity Law").

In addition to the Existing Maternity Law, certain other labour laws also provide for provisions relating to maternity such as the Employees State Insurance Act, 1948, Factories Act, 1948, Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955 etc.

EXISTING LEGAL LANDSCAPE ON MATERNITY LAW

(i) Applicability:

The existing Maternity Law besides being applicable to a factory, mine, plantation, establishments where persons are employed for the exhibition of equestrian, acrobatic and other

performances apply to every shop or establishment in which 10 (ten) or more persons are employed or were employed on any day of the preceding twelve (12) months. It regulates employment of women before and after the child birth, provides for maternity leaves, leave for miscarriage/ medical termination of pregnancy/ tubectomy operation, medical bonus, nursing breaks, creche facility, option to work from home etc.

(ii) Restriction:

An employer must not knowingly employ any woman in the establishment during the 6 (six) weeks immediately following the day of her delivery (i.e. birth of a child), miscarriage or medical termination of pregnancy.

Pursuant to a request by a pregnant woman, an employer must also not require any work to be done which is of an arduous nature or which involves long hours of standing or which in any way is likely to interfere with her pregnancy or the normal development of the foetus, or is likely to cause her miscarriage or otherwise to adversely affect her health during the prescribed period. Such prescribed period means a period of one (1) month immediately preceding the period of six (6) weeks, before the date of her Expected Date of Delivery ("EDD") and any period during the period of six (6) weeks for which the pregnant woman does not avail of leave of absence.

(iii) Eligibility:

A woman, whether employed directly or indirectly, is eligible for 'maternity benefit' if she has actually worked for at least 80 (eighty) days in the 12 (twelve) months immediately preceding the EDD. In order to calculate such period, the days on which a woman has actually worked in the establishment, the days for which she is laid off or was on holiday declared under the law to be holiday with wages, during the period of 12 (twelve) months immediately preceding the EDD shall be considered.

'Maternity benefit' means the payment by the employer at the rate of '*average daily wage*' for the period of her actual absence i.e. the period immediately preceding and including the day of her delivery, the actual day of her delivery and any day immediately following that day.

The '*average daily wage*' means the average of the woman's wages payable to her for the days on which on which she has worked during the period of 3 (three) calendar months immediately preceding the date from which she absents herself on account of maternity, the minimum rate of wage

fixed or revised under the Minimum Wages Act, 1948 or ten rupees, whichever is the highest.

Vide the Maternity Benefit (Amendment) Act, 2017 ("2017 Amendment") significant changes were introduced in the Existing Maternity Law and the same were effective from 1st April, 2017 (except for one relating to the provision of creche facility which was effective from 1st July, 2017). The revisions introduced were as under:

(a) Increase in the duration of paid maternity leave:

The maximum period of entitlement of maternity benefit in case of a woman having less than two (2) surviving children was increased from twelve (12) weeks (with not more than six (6) weeks preceding the EDD) to twenty-six (26) weeks (with not more than eight (8) weeks preceding the EDD).

However, the maximum period for entitlement of maternity benefit in case of a woman having two (2) or more than two (2) surviving children, will be twelve (12) weeks of which not more than six (6) weeks shall precede the EDD.

(b) Extension of maternity benefit to adopting and commissioning cases: A woman who legally adopts a child below the age of three (3) months or a 'commissioning mother' shall also be entitled to maternity benefit for a period of twelve (12) weeks from the date the child is handed over to such adopting or commissioning mother respectively. The 'commissioning mother' is defined under Section 3(ba) to mean *a biological mother who uses her egg to create an embryo implanted in any other woman*.

(c) Insertion of work from home option: An option to work from home post the exhaustion of the maternity leave is also provided to the woman. The terms and conditions thereof will have to be mutually agreed between the employer and the woman.

(d) Insertion of provision of crèche facility: Every establishment having fifty (50) or more employees shall have a crèche facility within the prescribed distance, either separately or along with the common facilities. The employer shall allow four (4) visits a day to the creche by the woman, which shall include the interval for rest allowed to her.

Even before the 2017 Amendment, the Act prescribed two nursing breaks in addition to the interval of rest to every woman having delivered a child and who returns to duty after such delivery until the child attains the age of fifteen (15) months.

(e) Electronic intimation of every benefit: Further, every establishment is required to intimate in writing and electronically to every woman at the time of her initial employment regarding every benefit available under the Act.

The existing provisions currently provide that a woman who is entitled to maternity benefit may in her discretion send a written notice in a prescribed form to her employer stipulating that her maternity benefit and any other

amount to which she is entitled may be paid and that she will not work in any establishment during the period for which she receives maternity benefit. Such notice must also specify the date from which she will absent from work, not being a date earlier than six (6) weeks from the EDD. Even if the notice is not given when the woman was pregnant, the same may be given as soon as possible after delivery. The failure to give notice does not in any way disentitle a woman to maternity benefit or any other amount to which she is otherwise entitled to such benefit or amount.

Further, a woman entitled to maternity benefit is also entitled to receive a medical bonus of Rs. 3500/- (Rupees Three Thousand Five Hundred Only) in the event no pre-natal confinement and post-natal care is provided for by the employer free of charge.

(iv) Labour Ministry Clarifications:

(a) First Clarification - General:

The Labour Ministry vide communication reference No. S-36012/03/2015-SS-I dated 12th April, 2017 while addressing the Labour Departments of all States/Union Territories provided certain clarifications to alleviate the existing confusion and ambiguity with respect to various provisions of the 2017 Amendment and the same provided as under:

- The Act applies to all women who are employed in any capacity directly or through any agency i.e. either on contractual or as consultant.
- The enhanced maternity leave benefit shall be available to those women employee who were already on maternity leave as on 1st April, 2017.
- The enhanced maternity leave benefit shall not be available to those women employee who had already availed 12 weeks of maternity leave before 1st April, 2017.
- Under Section 12 (Dismissal during absence of pregnancy) of the Maternity Benefit Act, 1961, any dismissal or discharge of a woman employee during the pregnancy is unlawful and the employer can be punished under Section 21 (Penalty for contravention of Act by employer) of the Act.
- Responding to the question as to whether the benefits of the Act can be extended to the women employed in the unorganized sector, the Labour Ministry clarified that the Act is applicable to all mines, plantations, shops and establishments and factories. Mines, plantations, shop and establishments could be either in organized sector or unorganized sector.

(b) Second Clarification – Re Appropriate Government for Creche Facilities:

On 17th November, 2017, the Labour Ministry issued another clarification with No. F. No. S-36012/03/2015-SS-I clarifying that for effective implementation of creche facilities, it is necessary that rules are framed prescribing amenities and facilities to be provided in the creche. Further, '*the State Governments are appropriate Government under the Act for Establishments other than Mines and Circus*' to frame such rules and therefore '*State Governments may take immediate action to frame and notify Rules for the creche facilities*' considering creche provisions were effective from 1st July, 2017.



“ The existing Maternity Law besides being applicable to a factory, mine, plantation, establishments where persons are employed for the exhibition of equestrian, acrobatic and other performances apply to every shop or establishment in which 10 (ten) or more persons are employed or were employed on any day of the preceding twelve (12) months. It regulates employment of women before and after the child birth, provides for maternity leaves, leave for miscarriage/ medical termination of pregnancy/ tubectomy operation, medical bonus, nursing breaks, creche facility, option to work from home etc.

(v) **Maternity Rules:**

Recently, the State Government of Karnataka became the first state government to issue the creche rules vide Karnataka Maternity Benefit (Amendment) Rules, 2019 which became effective from 8th August, 2019. The State Government of Chandigarh and Haryana (Gurgaon) had also released draft creche rules namely Chandigarh Maternity Benefit (Amendment) Rules, 2019 and Haryana Maternity Benefit (Amendment) Rules, 2019 on 14th February, 2019 and 9th July, 2019 respectively for public consultation.

DRAFT CODE

The Draft Code primarily consolidates provisions relating to maternity benefit from the Act which was last amended vide 2017 Amendment under Chapter VI (Maternity Benefit) of the Draft Code and intends to provide 'separate health and maternity benefits' to unorganised workers, gig workers and platform workers under Chapter IX (Social Security for Unorganised Workers) of the Draft Code. Some pertinent legal observations in respect of provision of 'separate health and maternity benefits' under the Draft Code are stipulated hereunder:

- (i) **Health and maternity benefits for unorganised workers and gig and platform workers:** Under the Draft Code, it is intended that the Central Government will formulate 'health and maternity benefits' for both (i) unorganised workers and (ii) gig workers and platform workers under Chapter IX (Social Security for Unorganised Workers).

It is pertinent to note that the Central Government 'shall' formulate and notify suitable welfare schemes relating to 'health and maternity benefits' for unorganised workers. The funding for the welfare schemes in relation to unorganised workers will in addition to the already specified three categories under the Unorganised Workers' Social Security Act, 2008 (i.e. (i) funding by the Central Government entirely; or (ii) part funding from both Central and State Government; or (iii) part funding from Central Government, State Government and through contributions collected from the beneficiaries or the employers), include a fourth category i.e. funding from any source including Corporate Social Responsibility (CSR) fund.

However, the Central Government 'may' formulate and notify suitable 'social security' schemes relating to 'health and maternity benefits' for gig and platform workers. It seems that the Government is intending to retain discretion in terms of (i) formulating social security schemes for gig and platform workers and (ii) providing of separate health and maternity benefits under Chapter IX of Draft Code. The social security scheme in relation to health and maternity benefit for gig and platform workers 'may' provide for the manner of administration, role of aggregators, source of funding etc. Any attempt by the Government in affixing responsibility over the aggregators and platforms in providing such benefits to gig and platform workers may adversely affect their engagement opportunities. At the moment, such assumed regulation of digital/ internet-based businesses is being resisted and the big corporates are expressing their anxiety over the increased operational costs they may be demanded to bear in the future. Recent news publications have suggested that the Karnataka's Deputy Labour Commissioner is affixed with the responsibility of framing guidelines for the emerging 'gig economy' comprising of ride-hailing, food delivery and e-commerce platforms.

The term 'social security' is defined under the Draft Code and comprises of measures of protection afforded to the workers in order to ensure access to health care and provision of income security especially in case of old age, unemployment, sickness, maternity etc.

(ii) **Definitions of unorganised worker, gig and platform worker:**

The definitions of 'unorganised worker', 'gig worker' and 'platform worker' are provided in the Draft Code. The definition of an 'unorganised worker' is same as provided in the Unorganised Workers' Social Security Act, 2008.

An 'Unorganised worker' means a *home-based worker, self-employed worker or a wage worker* in the *unorganised sector* and includes a worker in the *organised sector* who is not covered by the Industrial Disputes Act, 1947 or Chapter III to VII. An 'Unorganised sector' means an enterprise owned by individuals or self-employed workers and engaged in the production or sale of goods or providing service of any kind whatsoever, and where the enterprise employs workers, the number of such workers is less than ten. An 'Organised sector' means an enterprise which is not an unorganised sector. The definitions of 'home-based worker', 'self-employed worker', 'wage worker' are also provided under the Draft Code.

The terms 'gig worker' and 'platform worker' are newly introduced in the Draft Code.

The term '*Gig worker*' is defined to mean a person who performs work or participates in a work arrangement and earns from such activities outside of traditional employer-employee relationship.

A '*Platform worker*' is a person engaged in or undertaking platform work. The '*Platform Work*' is an employment form in which organisations or individuals use an online platform to access other organisations or individuals to solve specific problems or to provide specific services in exchange for payment.

Accordingly, the Draft Code has attempted to carve a distinction between Gig worker & Platform worker on one hand and Unorganised Worker on the other hand.

- (iii) **Terms absent in The Code on Wages, 2019:** The unorganized workers, gig and platform workers are presently not specifically covered under 'The Code on Wages, 2019' which makes provisions for minimum wages, payment of wages and payment of bonus.

WAY FORWARD

- (i) There exists ambiguity in respect of various provisions of the 2017 Amendment and accordingly clarity is required on various aspects of the Draft Code which incorporates provisions from the 2017 Amendment:
- (a) How will the term "*separately or along with common facilities*" be interpreted? Are these "common facilities" common with respect to the concerned employer's establishment or common with 2-3 other employers sharing the same office complex/floors? In addition, no distance must be prescribed for the creche whether in the Draft Code or the Rules to made thereunder. It is practically not feasible for most of the establishments to establish creche facility with a certain distance and they prefer to avail such services from crèches in the vicinity.
 - (b) Whether the 4 (four) visits to the crèche will be in addition to the 2 (two) Nursing breaks provided under the Act?
 - (c) What will be the specific duration of each of the 4 (four) creche visits (i) upon reaching the crèche; and (ii) for journey to and from the creche? It must be noted that both distance and time are significant factors in respect of visits to the creche such that work is not disrupted. Presently, the Act provides for two (2) Nursing breaks of 15 (fifteen) minutes each in addition to the rest interval until the child attains 15 (fifteen) months. Further, an extra sufficient period, depending on the distance, is allowed for the purpose of journey to and from the creche ranging from minimum 5 (five) minutes up to a maximum of 15 (fifteen) minutes.
 - (d) What is the age until which a child is to be kept in the crèche?
 - (e) Whether the provision of crèche will be mandatory if the woman choose to avail work from home facility?
 - (f) Will the adopting or commissioning mothers be allowed two (2) Nursing breaks until the child attains the age of fifteen (15) months as already existing in the Act/Draft Code?
 - (g) Will establishments exempted from the provisions of specific State Shop and Establishment Act be mandated to provide maternity benefit?
- (ii) In addition, there are several other aspects which must either be deliberated and/or inserted under the Draft Code and which are as under:
- (a) The term '*average daily wage*' will refer to minimum rate of wage fixed or revised under the Code on Wages, 2019 and replace reference to Minimum Wages Act, 1948.
 - (b) The amount of *medical bonus* currently specified is Rs. 3500/- (Rupees Three Thousand Five Hundred Only) which is very nominal. Such amount of medical bonus does not keep up with the times and hence must be revised.
 - (c) The financial responsibility of the employers is increased vide 2017 Amendment. In other countries which provide for extensive child care benefits, the costs are borne/ shared (i) by the government and the employers; or (ii) through social security schemes. According to a recent report of the World Bank (Sept 2019), female participation in the labour force dropped to 23% in 2019 from 30% in 1990¹. It is a fact that many women have been directed to resign or retrenched on flimsy grounds. On account of such significant reduction of women in the labour workforce, government must draft, finalize and implement certain incentive schemes for the industry leading to increased participation and engagement of women in the work force. Presently the Draft Code contemplates funding only for the unorganized workers.
 - (d) In the long run, increased costs for the employer may adversely impact the diversity ratio and possibly create a hostile environment for women. Accordingly, the

“The term 'social security' is defined under the Draft Code and comprises of measures of protection afforded to the workers in order to ensure access to health care and provision of income security especially in case of old age, unemployment, sickness, maternity etc.



¹ <https://data.worldbank.org/indicator/SL.TLF.CACT.FE.ZS>

government may consider allowing paternity leave to restrict impact on adverse diversity workforce ratio. The paternity leave though discussed in the Rajya Sabha was never incorporated in the 2017 Amendment. Certain countries such as Australia, Belgium, France, Finland etc. statutorily provide for paternity leave arrangements ranging from 2 days to 9 weeks. In some countries, paternity leave is transferable between the parents. This concept is worth incorporating and will reflect a progressive reform.

- (e) The lack of uniformity across various labour laws relating to maternity benefit needs to be resolved. For instance, under the Factories Act, 1948 provision of creche is mandatory in case of 30 (thirty) women workers while the Draft Code specifies 50 (fifty) employees. Further, the age of the child for a creche facility is 6 (six) years under the Factories Act while the Draft Code is silent on the same.
- (f) A holistic view of the Maternity Law can be made only when finalized Rules under Draft Code are available for review.
- (h) The clarity on the way and means of funding and provision of 'health and maternity benefits' for gig



“ In the long run, increased costs for the employer may adversely impact the diversity ratio and possibly create a hostile environment for women. Accordingly, the government may consider allowing paternity leave to restrict impact on adverse diversity workforce ratio.

workers and platform workers is missing under the Draft Code and will be a welcome step.


- (i) A provision must be inserted with respect to drafting and posting of a 'Maternity Benefit Policy' at all places where it is applicable besides written electronic intimation at the time of initial employment. Such policy must always be updated and revised in accordance with the amendments to the applicable law from time to time.
- (j) A provision must be inserted to deal with cases in which a woman having availed of the maternity leaves abandons her duties at her workplace or decides not to continue her work with the same employer.
- (k) Under the existing Act, if an employer fails to pay any amount of maternity benefit to a woman who is entitled under the Act or discharges or dismisses her during or on account of her absence from work, he shall be punishable with imprisonment between 3 (three) months and 1 (one) year and with fine between Rs. 2,000/- (Rupees Two Thousand Only) and Rs. 5,000/- (Rupees Five Thousand Only). The Draft Code prescribes that imprisonment may extend to 1 (one) year or with fine which may extend to Rs. 50,000/- (Rupees Fifty Thousand Only) or with both.

Under the existing Act, in respect of contravention of other clauses, the residuary penalty prescribed is imprisonment up to 1 (one) year or with fine up to Rs. 5,000/- (Rupees Five Thousand Only) or both. Under the Draft Code, provision is made for enhanced punishment in certain cases after previous conviction. Further, provisions in respect of offences by companies and compounding of offences are also provided.

REJIG OF THE DRAFT CODE

Recent news items have suggested that the Labour Ministry will re-work on the Draft Code because according to the Prime Minister's Office it does not meet the objective of unifying all social security benefits under an umbrella scheme and misses the concept of 'universal social security'. Recently, the Labour Ministry as part of the pre-legislative consultative process sought comments on the Draft Code for stakeholder consultation which were to be submitted by October 25, 2019.

Presently, the Draft Code merely proposes to amalgamate legislations pertaining to provident fund, pension, medical insurance, maternity benefits, gratuity and compensation. Accordingly, it will be ideal that the Labour Ministry incorporates the rationale of the recent judicial precedents as well as plug the aforesaid loopholes in addition to incorporating other valuable feedback received from stakeholder consultation in the Draft Code to suit it with the need of the times.

A revamp in line with the judicial precedents and the modern times is the need of the hour rather than mere consolidation. Only time and Government rejig will manifest whether this Draft Code shall be pro 'industry security' or 'social and wage security' in the true sense. 

REFERENCES

- The Maternity Benefit Act, 1961
- The Code on Social Security, 2019
- The Code on Wages, 2019
- The World Bank Report, Sept 2019 - <https://data.worldbank.org/indicator/SL.TLF.CACT.FE.ZS>

Analysis of recent select Labour Laws Cases decided by the Supreme Court

Judiciary plays an important role in the growth of industrial jurisprudence with respect to labour related issues. India is a Welfare State and the legislators have passed a number of labour welfare legislations. Time and again, issues have come up for interpretation before the Supreme Court and the Hon'ble Court have upheld the supremacy of fairness in treatment of employees while resolving the individual as well as collective disputes. The attitude of the Apex Court for imparting justice has always been positive. However, the way the Supreme Court would deal with the cases coming up under the new labour law code would determine the way forward with respect to labour related issues and its connection with Ease of Doing Business, where India is making significant strides in its rankings.



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INTRODUCTION

Labour is the fundamental and active factor of production. Entrepreneur depends upon this factor. Without labour industries cannot survive. However, frequent disputes arise between the two. Then labour jurisprudence is required to take decisions. The role of judiciary in the growth of industrial jurisprudence can be judged by analyzing its trends in decided labour related issues and thereby giving clear picture of its contribution towards the evolution of the particular sector in the country. India is a Welfare State and has enforced many labour welfare legislations. Despite this, the Supreme Court of India has to infuse new soul in the legislative skeleton of the Welfare State. This article analyzes some of the recently decided cases wherein the Supreme Court has propounded some principles for the guidance of Corporate World.

CASE NO. I.

WRIT PETITION NO. 1665 of 2015 (DECIDED ON 3RD. JULY 2019)

PRADEEP MANDRAJOG, C.J. & N. JAMDAR., J.
(SUPREME COURT)
Dr. PUJA JIGNESH JOSHI v. THE STATE
MAHARASHTRA & ANOTHER

WHETHER SURROGATE PARENTS ARE ENTITLED TO MATERNITY AND PATERNITY LEAVE FOR SURROGATE CHILD?

HELD: YES

FACTS OF THE CASE

Dr. Mrs. Pooja, the petitioner was an employee of the Government of Maharashtra. She had a son. And she wanted that her son should have a sibling (sister). But she was unable to bear a second child. Therefore, she chose to take the route of surrogacy. The surrogate mother gave a birth to a baby girl on 5th. November, 2012.

Prior to it, in the light of expected date of delivery, the petitioner applied for maternity leave with a view to take care of the surrogate child. However, the Authorities did not sanction the leave on the ground that Leave Rules and the policy governing the rules did not permit maternity leave for a surrogate child. Consequently, the petitioner filed a writ petition No. 220 w. p. 1665/2015. d. o. c.

The High Court heard the parties and passed an order in favor of the petitioner taking reliance on the decision taken by the Court's Division Bench in the case of *Dr. Mrs. Hema Vijay Menon v. State of Maharashtra (Decided on 22nd. July, 2015)*. The court observed that while taking the decision in the above case, the reliance was placed on the decision taken by the Delhi High Court in the case of *Mrs. Rama Pandey v. Union of India (Decided on 17th. July, 2015)* in which it was held that the surrogate mother was entitled to maternity leave for surrogate child.

DECISION

The High Court held that the decision of Division Bench had attained finality and that the petitioner would be entitled to maternity leave for the child born through surrogacy. Even in the case of birth by surrogacy, the parents who have lent their ova and sperm are entitled to maternity and paternity leave.

The Court further held that the petitioner was entitled to the relief sought for in terms of prayer (Clause C); being that the Earned Leave and Half-Pay Leave availed by the petitioner should be entered in the record as maternity leave for the purpose of leave account and that the said leave availed by the petitioner during various intervals be converted into maternity leave.

PRINCIPLE LAID DOWN

Surrogate Parents are entitled to Maternity and Paternity Leave for surrogate child.

CASES REFERRED TO:

1. Rama Pandey v. Union of India (Decided by the High Court of Delhi on 17th. July, 2015)
2. Dr. Mrs. Hema Vijay Menon v. State of Maharashtra (Decided by High Court of Bombay on 22nd. July, 2015)

*The views expressed are personal views of the author.

CASE NO. II

CIVIL APPEAL NO. 5390 OF 2019 (DECIDED ON 11TH. JULY, 2019) ARISING OUT OF SLP NO.: (C) 174 OF 2019

**ASHOK BHUSHAN., J (SUPREME COURT)
CHIEF REGIONAL MANAGER, UNITED INDIA
INSURANCE COMPANY V. SIRAJ UDDIN KHAN**

WHETHER A WORKMAN WHO HAS ABSENTED HIMSELF FROM WORK WITHOUT AUTHORITY, IS ENTITLED TO BACK WAGES ON REINSTATEMENT OF HIS EMPLOYMENT?

HELD: NO

FACTS OF THE CASE

Siraj Juddin Khan, the respondent, was an employee in Appellant Company, the United India Insurance Company Limited. He was transferred from Allahabad Branch of the company to its Jaunpur Branch. However, he did not resume his duties at Jaunpur Branch within assigned date and remained absent from his duties without any permission from the higher authorities for four months in continuation. Consequently, the appellant company conducted disciplinary inquiries against the respondent and passed an order for reduction of basic pay by two steps in May, 2009. Even then, the respondent remained absent from work until 2012 (i.e. from 2009 to 2012). As a consequence of regular and continuous absence from work by the respondent, the appellant company terminated his services. The respondent challenged the order of the appellant company by filing a series of petitions before the Allahabad High Court. The High Court set aside the orders of the appellant company on the ground that there were lapses in the disciplinary procedure adopted by the appellant company.

Since the High Court did not pass any specific order directing the appellant company to pay back wages to the respondent for the period of his absence from 2009 to 2012, therefore, the respondent approached the High Court with a writ petition seeking directions to the appellant company to release the back wages from 2009 to 2012. The High Court directed the appellant company to pay the back wages to respondent along with interest @ 18% p.a. The appellant company challenged the orders of Allahabad High Court through an SLP before the Supreme Court. The SLP was upheld.

DECISION

Setting aside the termination order does not automatically entitle the respondent to the salary for the period from 2009 to 2012. The Bench drawn the attention of the respondent to the case decided by the Supreme Court, itself, namely, *Air Port Authority of India and Others v. Shambhu Nath Dass (2009) 11 SC 498*, wherein it was held that if a person was absent from work without permission of the competent authority or valid justification, he would not be eligible for wages. On the other hand, the Apex Court referred to another case of *Shobha Ram Raturi v. Haryana Vidyut Prasaran Nigam Limited and Ors. (2016) 16 SCC 633*, wherein, the court had held that when an employee has been restrained by the employer from working, then the principle of 'NO WORK, NO PAY' would not apply. On this ground, the Supreme Court partly allowed the appeal and directed the appellant to consider the claim of the respondent and pass appropriate order with reasons.

PRINCIPLE LAID DOWN

The principle of 'no work, no pay' applies only in the instances where the employee has voluntarily absented himself from the work and not where the employer has restrained him from attending to the work.

CASES REFERRED TO

1. *Air Port Authority of India and Others v. Shambhu Nath Dass (2009) 11 SC 498*
2. *Shobha Ram Raturi v. Haryana Vidyut Prasaran Nigam Ltd. and Others (2016) SCC 663*

CASE NO. III

CIVIL APPEAL NO. 7011 OF 2009 (DECIDED ON 26.4.2019)

**L. NAGESHWAR RAO & M.R. SHAH, JJ (SUPREME COURT)
THE STATE BANK OF INDIA & OTHERS V. P.
SOUPRAMANIANE**

WHETHER AN OFFENCE INVOLVING BODILY INJURY CAN BE CATEGORISED AS A CRIME INVOLVING MORAL TURPITUDE?

HELD- NO

WHAT IS MORAL TURPITUDE? EXPLAINED

FACTS OF THE CASE

The respondent was working as a Messenger in the appellant Bank. He was convicted for the offence committed under section 324 of IPC (Assault) and was sentenced for 3 months. Later, the appellate court released him under section 360 of Cr. PC., on probation on the ground that he (respondent) was working as a Messenger in the appellant bank and any sentence of imprisonment would affect his career. However, the Appellant Bank discharged him from the services by the order dated 15th. May, 1986 on the ground that he had committed an offence involving moral turpitude.

The respondent filed appeal against the order of discharge, the appeal was dismissed on 3rd. July, 1986. Later, the Staff Union made a representation on his behalf, the same was also rejected on 4th. May, 1992. Thereafter, the respondent filed a writ petition in the High Court Madras, which was also dismissed by a Single Judge on 7th. June, 2000. The respondent, then filed a Writ Appeal which was allowed by the Division Bench of Madras High Court. The Division Bench set aside the order of discharge of the Respondent from service and directed the Appellant Bank to pay 1/4th. Salary from the date of discharge till the date of reinstatement as back wages. The aggrieved Appellant Bank filed Special Leave Petition before the Supreme Court on 1st. September, 2009. The Supreme Court stayed the orders passed by the Madras High Court granting leave on 19th. October, 2009 and made the Interim Order as absolute. The Court was informed that the Respondent had reached the age of superannuation on 31st. December, 2012.

DECISION

The Supreme Court spelt out its disagreement with the decision of the High Court by setting aside the order of discharge and directing the reinstatement of the Respondent in service. Before removing the Respondent from service, the Appellant

Bank had served show cause notice to him mentioning that he could not continue in the service because he had been convicted for a criminal case involving moral turpitude in view of Section 10(1) (b) (i) of the Banking Regulation Act, 1949. After due consideration of the explanation of the Respondent, the order of discharge was passed. Therefore, the High Court's observation that the Appellant Bank did not give any reason for removing the Respondent from service was wrong. Thus, the High Court had committed an error in holding that the order of discharge be set aside because the order did not contain any provision of law under which the Respondent was discharged. The Supreme Court further observed that the High Court gave another reason for interference with the order of discharge that the criminal court released the Respondent on probation only to permit him to continue in service. The release order under probation did not entitle the Respondent to continue in the service. As per provision of law, the employer is under an obligation to discontinue the services of an employee who is convicted for committing an offence involving moral turpitude. The observations of the criminal court could not bind the employer who has the liberty of dealing with the employees suitably.

Though the Supreme Court did not agree with the decision of High Court regarding reasons given by them for setting aside the order of discharge of the Respondent from service, yet the Court felt it necessary to examine whether Section 10(1) (b) (i) of Banking Regulation Act, 1949 was applicable to the facts of the case. The Court observed that conviction for an offence involving moral turpitude disqualifies a person from continuing in service in a bank. However, the conundrum arises whether the conviction of the Respondent under section 324 of IPC can be said to be for an offence involving moral turpitude.

The Court went in the depth of the issue and observed as under:

"There can be no manner of doubt about certain offences which can straightaway be termed as involving moral turpitude e.g. offences under the Prevention of Corruption Act, NDPS Act, etc. The question that arises for our consideration in this case is whether an offence involving bodily injury can be categorized as a crime involving moral turpitude? In this case, we are concerned with assault. It is very difficult to state that every assault is not an offence involving moral turpitude. Simple assault is different from an aggravated assault. All cases of assault or simple hurt cannot be categorized as crimes involving moral turpitude. On the other hand, the use of a dangerous weapon which can cause the death of the victim may result in an offence involving moral turpitude."

"There was no motive for the Respondent to cause the death of the victims. The criminal courts below found that the injury caused to the victims were simple in nature. On an overall consideration of the facts of the case, we are of the opinion that the crime committed by the Respondent does not involve moral turpitude. As the Respondent is not guilty of offences involving moral turpitude, he is not liable to be discharged from service. The appeal dismissed accordingly."

PRINCIPLE LAID DOWN

All cases of assault or simple hurt cannot be categorized as crimes involving moral turpitude. The use of dangerous weapon which can cause the death of the victim may result in an offence involving moral turpitude.

CASES REFERRED TO

1. Sushil Kumar Singhal v. Punjab National Bank, (2010) 8 SCC 573.
2. Giriraj Prasad Meena v. State of Rajasthan, (2014) 13 SCC 674.
3. Allahbad Bank v. Deepak Kumar Bhola (Non-reportable)
4. Pawan Kumar v. State of Haryana, (1996) 4 SCC 1712
5. Mangali v. Chakkilal, AIR 1963 ALL 527
6. Jorabhai Hirabhai Rabari v. District Development Officer Mehsana AIR 1996 Guj.) 3
7. Cristoval Silva - Trivina, 241 & N Dec. 687 (AG 2008)

CASE NO. IV.

W.P.(C) NO. 3451 OF 2017 (DECIDED ON 28.3.2018)

**VIPIN SANGHI & REKHA PALLI, JJ (SUPREME COURT)
DELHI TRANSPORT CORPORATION V. JASBIR SINGH**

**WHETHER ON REINSTATEMENT OF SERVICE AFTER
TERMINATION PAYMENT OF 50% BACK WAGES IS
JUSTIFIED?**

HELD --NO.

FACTS OF THE CASE

The respondent was appointed as a driver by the Petitioner for driving its buses. While he was on probation period, he caused an accident. The Petitioner served a show cause notice on him. The respondent gave explanation. But Petitioner did not accept the explanation and terminated the services of the respondent. The respondent approached the Central Administration Tribunal (hereinafter called the 'Tribunal') which set aside the show cause notice and directed the Petitioner to reinstate the respondent with 50% back wages. The Petitioner assailed the directions of the Tribunal before the Supreme Court.

DECISION

The Supreme Court partly allowed the petition, observing that in facts and circumstances of the case, the Tribunal was not justified in issuing direction for payment of 50% back wages. Factually speaking the respondent involved himself in an accident while he was on probation and he admitted his guilt. He also compounded the offence by depositing a fine of Rs. 50,000. In the light of facts and circumstances and considering the factual position that the respondent had not actually served after his termination, it was not justified in directing the petitioner to pay 50% back wages.

Thus, the impugned order was set aside with the directions to the petitioner to reinstate the respondent positively within two weeks. In case the directions were not complied with, the respondent would be entitled to wages from the last date fixed for reinstatement.

PRINCIPLE LAID DOWN

Where an employee, who is terminated, but reinstated later on by the court, is not entitled to 50% back wages on the principle of 'No work, no wages'.

CASE NO.V

**CIVIL APEAL NO. 7 OF 2019 (ARISING OUT OF SLP (C)
NO. 17975 OF 2014)**

A.M. SAPRE & INDU MALHOTRA, JJ (DECIDED ON

02.01.2019)

MANAGEMENT OF THE BARARA COOPERATIVE MARKETING-CUM-PROCESSING SOCIETY V. WORKMAN PRATAP SINGH (SUPREME COURT)

WHETHER A WORKMAN WHO HAS ACCEPTED THE COMPENSATION IN LIEU OF HIS RIGHT OF REINSTATEMENT IN SERVICE, CAN SEEK RE-EMPLOYMENT?

HELD--NO

WHETHER SECTION 25(H) OF INDUSTRIAL DISPUTE ACT, 1947 IS APPLICABLE?

HELD--NO

FACTS OF THE CASE

The respondent (workman) was working as a peon in the office of the appellant from 1.7.1973. He was terminated from the services on 1.7.1985. He challenged the termination order before the Labour court. The Labour Court declared the termination order as bad in law and awarded lump sum compensation of Rs.12,500/- in lieu of his right of reinstatement in service of the appellant. However, both the parties felt aggrieved and filed writ petition before the High Court. Both the petitions were dismissed. Thereafter, the respondent accepted the compensation as awarded by the Labour Court.

In the year 1993, the respondent approached the appellant with the request that he was entitled to be re-employed under section 25(H) of Industrial Dispute Act, 1947(hereinafter called the ID Act) in the light of appellant's resolution dated 2.8.1993, by which the services of two other peons were regularized. The appellant turned down his request.

The respondent approached State Government for making a reference to the Labour Court. His request was accepted. The State Government made a reference to the Labour Court. The Labour Court held that the respondent was not entitled for re-employment under section 25(H) of the ID Act. Aggrieved, respondent filed writ petition before the High Court. The Single Judge by order dated 26.11.2009 set aside the order of Labour Court directing the appellant to re-employ the respondent on the post of a Peon. The appellant challenged the order of Single Judge. The Division Bench affirmed the order of the Single Judge. Thereafter, the appellant filed a Special Leave Petition before the Supreme Court.

DECISION

Supreme Court set aside the order of High Court and restored the award of the Labour Court. The Court observed that when the respondent had accepted the compensation awarded by the Labour Court in lieu of his right of re-employment in service, he had ended the issue. Moreover, Section 25(H) of the I.D. Act was applicable in a situation, wherein the following conditions are satisfied. Firstly, the workman must have been retrenched and Secondly, the ex-employer has decided to fill up vacancies in his set up to enable the retrenched employee to claim his right of re-employment seeking his preference over other applicants for seeking employment for such vacancies. The employer would consider the right of retrenched employees under section 25(H) of the ID Act.

However, none of the conditions are satisfied in the case at hand. The respondent was terminated and against his right of reinstatement he accepted lump sum compensation of Rs.12500/- In full and final satisfaction. Hence, this is not a case of retrenchment so as to attract the provisions of



section 25(H) of the I.D. Act. The Court further observed that the employees whose service was regularized were already in service of the appellant. There is difference between the expression 'employment' and 'regularization'. The expression 'employment' signifies fresh employment to fill up vacancies, whereas the expression 'regularization' of service signifies that the employee who is already in service his services are regularized as per regulations.

The Labour Court was justified by holding that Section 25(H) of the I.D. Act had no applicability to the facts of the case. The High Court (Single Judge and the Division Bench) was not right in allowing the prayer of the respondent by directing the appellant to give him re-employment in the post of a Peon.

The appeal allowed. The order of the High Court set aside. The Labour Court's award restored.

PRINCIPLES LAID DOWN

- (1) Once a workman on termination of his service accepts lump sum compensation in lieu of his right of reinstatement in service, he later cannot claim for re-employment in the service of ex-employer.
- (2) Section 25(H) of the Industrial Dispute Act, 1947 has no application, where a work man on termination of his service accepts lump sum compensation in lieu of his right of reinstatement and seeks re-employment in service against vacancies to be filled up by his ex-employer.

CONCLUSION

From the foregoing discussion of the case laws it can be inferred that the Supreme Court is infusing new soul in the industrial jurisprudence by propounding the principles of law by making judicious interpretation of the provisions of various enactments passed by the Legislature. It has been noticed that generally, the decided cases over the last many years are more than fair to the labour / employee. The attitude of the Apex Court for imparting justice has always been positive as this is evident from the judgment of the Supreme Court in the case of *Workmen of M/s Firestone Tyres v. Management & Others* 1973 AIR 1227 SCR (3) 583, wherein the Apex Court set example by solving the problems of labourers who were unnecessarily laid off by the management of the respondent company. Moreover, with the emphasis of the Government on Ease of Doing Business, which also includes ease for regulating labour and also for closure of unviable business, significant efforts are already on for having in place a progressive code of labour laws, which are in line with global standards and are enterprise friendly to the extent of (in some cases) causing discomfort to labour. The way the judiciary is going to deal with new cases under the emerging framework will determine how effective would India's path be on progressive labour law reforms.

Listing of Commercial Papers – An initiative towards broadening investor participation and enhanced disclosures

SEBI has recently mandated the mutual fund schemes to invest only in listed debt instruments including commercial papers effective from January 1, 2020. To enable listing of commercial papers and ensure investor protection, SEBI has brought out a framework for listing of commercial papers covering the disclosure requirements by issuers at the time of listing and other on-going disclosures. This article attempts to give an overview of the commercial papers and the applicable regulations for issuance of commercial papers and also discusses in detail about the disclosure framework for listing of CPs vis-à-vis the existing guidelines with respect to issuance of CPs.



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BACKGROUND

In a move to enhance transparency and disclosure for investment in debt and money market instruments by mutual funds, SEBI amended the Mutual Fund Regulations vide Notification dated September 23, 2019¹ and also brought out a Circular dated October 01, 2019² whereby it is inter-alia prescribed that a mutual fund scheme shall not invest in unlisted

¹ Securities and Exchange Board of India (Mutual Funds) (Second Amendment) Regulations, 2019 vide Notification No. SEBI/LAD-NRO/GN/2019/37 dated September 23, 2019

² SEBI Circular Ref No. SEBI/HO/IMD/DF2/CIR/P/2019/104 dated October 01, 2019



debt instruments including commercial papers other than (a) government securities, (b) other money market instruments, (c) derivative products such as Interest Rate Swaps (IRS), Interest Rate Futures (IRF), etc. and (iv) unlisted Non-Convertible Debentures (NCDs) not exceeding 10% of the debt portfolio.

SEBI vide the aforesaid Circular has also laid down the timelines for compliance of the above norms by Mutual Funds with respect to investment in listed Commercial papers as follows:

"All fresh investments by mutual fund schemes in Commercial papers (CPs) would be made only in CPs which are listed or to be listed with effect from one month from the date of operationalization of framework for listing of CPs or January 01, 2020, whichever is later."

SEBI has now brought out a framework for listing of CPs vide Circular dated October 22, 2019³.

Thus, it is now clear that mutual fund schemes need to comply with the aforesaid norms with respect to investment in commercial papers mandatorily with effect from January 1, 2020. In other words, from January 1, 2020 onwards, mutual fund schemes cannot invest in any fresh commercial papers, which are unlisted or not proposed to be listed.

³ SEBI Circular Ref. No. SEBI/HO/DDHS/DDHS/CIR/P/2019/115 dated October 22, 2019

*The views expressed are personal views of the authors

As on March 31, 2019, Mutual Funds held approximately 60% of the total outstanding CP issuances. Further, in the month of September 2019, the share of CP constituted 25.14% of the total funds deployed by all Mutual Funds in debt instruments (details given below):

Deployment of Funds by all Mutual Funds for the month of September - 2019											
Asset Type	Sector	Less than 90 days		90 days to 182 days		182 days to 1 year		1 year and above		Total	
		Amount (in Crores)	%	Amount (in Crores)	%	Amount (in Crores)	%	Amount (in Crores)	%	Amount (in Crores)	%
Commercial Paper	Real Estate	842.77	0.14	97.08	0.07	0	0.00	0	0.00	939.85	0.07
	NBFC	75564.68	12.52	11903.46	8.14	4647.02	3.24	0	0.00	92115.15	6.76
	Others	210644.6	34.90	31054.49	21.23	7768.67	5.42	0	0.00	249467.76	18.31

Source: SEBI

Considering the new requirement and the volume of investments by Mutual Funds, CPs are expected to be listed in large numbers.

Before getting into the details with respect to the framework on listing of CPs, let us have a brief overview of CPs and the regulations governing the issuances thereof.

ABOUT COMMERCIAL PAPERS

CP is an unsecured money market instrument issued under Section 45W of the Reserve Bank of India Act having maturity between 7 days to one year. It was introduced in India in 1990 with a view to enable corporate borrowers to diversify their sources of short-term borrowings and also to provide an additional instrument to investors. Subsequently, primary dealers and all-India financial institutions were also permitted to issue CP to enable them to meet their short-term funding requirements for their operations.

CP issues are a popular mechanism of borrowing for corporates and act as an alternate to short-term bank borrowings. Due to its short-term nature, the proceeds are usually used to meet working capital requirements of the issuer.

CPs can be presently issued by:

- Companies
- Non-Banking Finance Companies (NBFCs)
- All India Financial Institutions (AIFIs)
- Other entities with a net worth of Rs. 100 Crore or higher viz.
 - Co-operative societies / Unions
 - Government entities
 - Trusts
 - Limited Liability Partnerships
 - Any other body corporate having presence in India
- Any other entity specifically permitted by the Reserve Bank of India (RBI).

ISSUE OF COMMERCIAL PAPERS – APPLICABLE REGULATIONS

Issue of CPs are currently governed by RBI's Commercial Paper Directions, 2017. Through these directions, RBI has mandated the issuers, investors and other parties involved to follow the standard procedures and documentation viz. Operational Guidelines on CPs prescribed by Fixed Income Money Market and Derivatives Association of India (FIMMDA) for operational flexibility and smooth functioning of CP market.

Key Provisions:

- All the CPs must be issued by way of private placements only
- CPs shall be issued at a discount to the face value and in Dematerialised form

“Due to complexity of legal framework and in order to protect the interest of various market players / participants for ensuring smooth flow of the transactions in the CP market, the issuer is required to appoint Issuing and Paying Agent (“IPA”) for issuance of CPs. Only scheduled Banks can act as an IPA. The IPA acts as a custodian to the issue and receives the proceeds of CP and also credit of securities into CP securities A/c maintained at their end, which is transferred to the issuer and investors respectively only after ensuring compliance with RBI/FIMMDA guidelines and completion of the necessary formalities.

- Minimum Denomination /marketable lot for CP will be Rs. 5 lakh, and multiples thereof.
- Options (call/put) are not permitted on a CP
- The CP programme / tranche issued must be completed within a period of two weeks from the date of commencement of the issue.
- All fund-based facility(ies) availed of by Issuer from bank(s) and/or financial institutions should be classified as standard asset by the financing banks/institutions at the time of issue.
- Issuers defaulted on a CP shall not be allowed to access the CP market for six months from the date of repayment of the defaulted obligation.
- No person can invest in CPs issued by related parties either in the primary or secondary market. Related parties here mean, related parties as defined in section 2 (76) of the Companies Act, 2013
- If CPs are being issued with Credit Enhancement (including any credit backstop facility) from a Scheduled Bank or an All India Financial Institution, then the Issuer shall ensure that a distinctive ISIN code is given to CPs having such Credit Enhancement facility and a Trustee is appointed
- Re-issuance of CPs may be done under existing ISINs.
- CPs may also be bought back, subject to the condition that that the buyback offer may not be made before 30 days from the date of issue.

Due to complexity of legal framework and in order to protect the interest of various market players / participants for ensuring smooth flow of the transactions in the CP market, the issuer is required to appoint Issuing and Paying Agent (“IPA”) for issuance of CPs. Only scheduled Banks can act as an IPA. The IPA acts as a custodian to the issue and receives the proceeds of CP

and also credit of securities into CP securities A/c maintained at their end, which is transferred to the issuer and investors respectively only after ensuring compliance with RBI/FIMMDA guidelines and completion of the necessary formalities.

Besides the above, since CPs are short-term borrowings raised through private placement route, Section 42, 179, 180 of the Companies Act, 2013 inter-alia needs to be complied with, if the Issuer is a body corporate incorporated under the Companies Act. Issuances by regulated financial sector entities are also subject to such conditions as the concerned regulator may impose.

RATING REQUIREMENT OF COMMERCIAL PAPERS

RBI/FIMMDA Guidelines lays down elaborate requirement with respect to rating of CPs. The minimum credit rating for a CP shall be 'A3' as per rating symbol and definition prescribed by SEBI. The maturity date of the CP should fall within the validity period of rating. Further, the amounts sought to be raised under the CP should be within the limits approved by Board of directors of the issuer or within the ceiling stipulated by Credit Rating Agency whichever is lower.

Issuers, whose total CP issuance during a calendar year is Rs. 1000 crore or more, shall obtain credit rating for issuance of CPs from at least two Credit Rating Agencies (CRAs) registered with SEBI. If an issuer expects total CP issuance of Rs. 1000 crore or more during a calendar year, he should obtain two ratings from the beginning of the calendar year. An issuer who started CP issuance with a single credit rating cannot issue CPs of Rs 1000 crore or more even by obtaining a second rating letter subsequently during the calendar year.

If the CP issue has been rated by more than one rating Agency: (i) Where the ratings are different, the lower of the two ratings along with the amount specified against the rating should be adopted. (ii) Where the ratings are the same but the amounts are different, the rating with the lower amount should be adopted.

FRAMEWORK FOR LISTING OF COMMERCIAL PAPERS

To enable listing of CPs and to ensure investor protection, SEBI felt the need for appropriate disclosures at the time of listing and on a continuous basis by the issuers. Accordingly, based on the recommendation of Corporate Bonds and Securitization Advisory Committee (CoBoSAC), chaired by Shri H. R. Khan and set up for making recommendations to SEBI on developing the market for corporate bonds and securitized debt instruments, SEBI vide Circular dated October 22, 2019 brought out a disclosure framework applicable for listing of CPs.

The Circular broadly covers:

- Disclosures required to be made by the issuers along with the application for Listing of Commercial paper
- Continuous obligations and disclosure requirements for listed Commercial papers

The disclosures so made shall be hosted by the concerned stock exchange(s) on its website.

The Circular has also advised the Stock exchange(s) to put in place necessary systems and procedures for monitoring of disclosures as specified and also a framework for imposition of fine, in case of non-compliance and/ or inappropriate disclosures by issuers.

a) Disclosures required to be made by the issuers along with the application for Listing of CPs:

The RBI/FIMMDA prescribes certain disclosures to be made at the time of issuance of CPs in the Letter of Offer. SEBI has prescribed certain additional disclosures to be made at the time of listing, broadly in line with that of listed debt securities under SEBI (Issue and Listing of debt Securities) Regulations, 2008 (ILDS Regulations). Some such additional disclosures are as follows:

- Details of Directors, Statutory Auditors and Change therein in the current year and last three financial years
- Top 10 equity share holders/debenture holders/CP holders
- Unaccepted ratings, ratings not older than one month from the issue opening date
- Audited Financial Statements / Unaudited Financial Statements with Limited review Report, which are not older than 6 months from the date of offer document
- Asset Liability Management (ALM) related disclosures for NBFCs

A comparative analysis of SEBI disclosure requirement at the time of listing vis-à-vis disclosure requirement by RBI/FIMMDA is as follows:

Sr. No	Disclosures prescribed by RBI/FIMMDA at the time of issue	Disclosures prescribed by SEBI along with listing application	Remarks
A. Issuer details			
1.	<ul style="list-style-type: none"> Name And Address of Issuer Line of Business Chief Executive (Managing Director/ President/ CEO / CFO/ Top Most Executive Group Affiliation (If Any) 	<ul style="list-style-type: none"> Name & Address, CIN, PAN, Line of Business, Chief Executive (Managing Director / President/ CEO / CFO) and Group affiliation (if any) 	CIN and PAN to be provided additionally
2.	-	<ul style="list-style-type: none"> Details of the directors Details of change in directors in current year and last 3 financial years List of top 10 equity share holders as on date or the latest quarter end Details of the statutory auditor Details of change in statutory auditors in current year and last 3 financial years List of top 10 debt securities holders and top 10 CP holders (as on) 	<p>Requirements broadly in line with that of listed debt securities under ILDS Regulations</p> <p>The period of disclosure of top 10 debt and CP holders not specified; however the disclosure as on latest quarter end may be given in line with ILDS Regulations</p>

B. Material Information			
3.	Material litigation and regulatory strictures	Ongoing and/or outstanding material litigation and regulatory strictures, if any	No major change.
4.	Details of default of CPs or any other borrowings for past 3 years <ul style="list-style-type: none"> Including Technical Delay in Redemption during Past 3 years Delay in redemption of any other borrowing 	Details of all default/s and/or delay in payments of interest and principal of CPs, (including technical delay), debt securities, term loans, external commercial borrowings and other financial indebtedness including corporate guarantee issued in the past 5 financial years including in the current financial year.	Time period of disclosure extended to past 5 years in line with ILDS Regulations.
5.	-	Any material event/ development or change having implications on the financials/credit quality including any material regulatory proceedings against the Issuer/ promoters, tax litigations resulting in material liabilities, corporate restructuring event etc. at the time of issue which may affect the issue or the investor's decision to invest / continue to invest in the CP.	Requirements made in line with that of listed debt securities under ILDS Regulations
C. Borrowing Information			
6.	<ul style="list-style-type: none"> Total CP O/s as on date Details of outstanding CPs and other debt instruments as on date of issuance Details of CPs issued during the last 15 months 	<ul style="list-style-type: none"> Details of debt securities and CPs as on the latest quarter end. Details of CP issued during the last 15 months 	<p>Requirements made in line with that of listed debt securities under ILDS Regulations</p> <p>There is some difference in the reporting period of disclosures. The issuer would be required to comply with both.</p>

7.	Bank fund based facilities from banks/ Financial institutions, if any	Details of secured/ unsecured loan facilities/ bank fund based facilities/ rest of the borrowing, if any, including hybrid debt like foreign currency convertible bonds (FCCB), optionally convertible debentures / preference shares from banks/financial institutions/ financial creditors, as on last quarter end	Requirement extended to cover all borrowings with break-up and period of disclosure clarified Requirement made in line with that of listed debt securities under ILDS Regulations
8.	-	The amount of corporate guarantee or letter of comfort issued by the issuer along with name of the counterparty on behalf of whom it has been issued, contingent liability including debt service reserve account (DSRA) guarantees/ any put option etc.	Requirement made in line with that of listed debt securities under ILDS Regulations
D. Issue Information – Current Tranche			
9.	<ul style="list-style-type: none"> ISIN Amount Proposed Date of Issue Maturity Date Current credit rating, Name of credit rating agency, Validity period of Rating Details of IPA 	<ul style="list-style-type: none"> ISIN Amount Date of issue Maturity Date All ratings including unaccepted rating to be disclosed. Credit rating letter issued (not older than one month on the date of opening of the issue) by the rating agencies Details of IPA and other conditions, if any 	Disclosure of all ratings including unaccepted ratings has to be made. Further, the rating should be recent. This is in line with the requirement for listed debt securities under ILDS Regulations
10.	CP Borrowing Limit & supporting board resolution for CP borrowing, date of resolution	CP borrowing limit, supporting board resolution for CP borrowing	No change
11.	End-use of funds	End-use of funds	No change
12.	Credit Support (If Any)	Credit Support/ enhancement (if any)	No change

E. Financial Information			
13.	Audited Financial Summary of Last quarter end/half year end and of last three years or if the issuer has not been in existence for three years, available audited financials, material litigation and regulatory stricturesw	<ul style="list-style-type: none"> Audited/ Limited review half yearly Consolidated/ Standalone Financial Information (Profit & Loss statement, Balance Sheet and Cash Flow statement) along with auditor qualifications, if any for last three years along with latest available financial results. Latest available quarterly financial results if the issuer prepares financial results for the purpose of consolidated financial results in terms of Regulation 33 of LODR Regulations The Audited financials should not be older than six months from the date of offer document. <p>Provided that listed issuers, who have already listed their specified securities and/ or NCDs and/ or NCRPS, may disclose unaudited financials with limited review for such period in the current financial year, subject to making necessary disclosures in this regard including risk factors.</p>	<p>Financial statements to be provided instead of financial summary.</p> <p>Requirements brought in line with disclosure requirement for listed debt securities under ILDS Regulations.</p> <p>Further, an issuer of CP, the holding company of which is having its equity shares listed, is required to prepare financial results on quarterly basis for preparation of consolidated financial results of the holding company. Therefore, disclosure of such quarterly financial results would be required to be made</p>

F. ALM related disclosures for NBFCs:		
14.	-	<p>NBFCs seeking to list their CPs shall make disclosures as specified in SEBI Circular nos. CIR/IMD/DF/ 12 /2014, dated June 17, 2014 and CIR/ IMD/DF/ 6 /2015, dated September 15, 2015, as revised from time to time. Similarly, HFCs shall make disclosures as specified for NBFCs in SEBI Circular no. CIR/IMD/DF/ 6 /2015, dated September 15, 2015, as amended from time to time</p> <p>Disclosures prescribed to be made in terms of existing SEBI Circulars since NBFCs/ HFCs are frequent issuers of CPs</p>

b) Continuous obligations and disclosure requirements for listed CPs:

SEBI has prescribed the on-going disclosure requirement for issuers of CPs taking into consideration the below 3 categories of issuers of debt instruments as follows:

- Issuers who have listed their specified securities and have outstanding listed CPs
- Issuers who have listed their Non-convertible Debentures (NCDs)/Non- Convertible Redeemable Preference Shares (NCRPS)/both and have outstanding listed CPs
- Issuers who only have outstanding listed CPs

The details of on-going disclosure framework are as follows:

Sr. No.	Title	Provisions	Remarks
1.	Financial results	<ul style="list-style-type: none"> Issuers who have listed their specified securities and have outstanding listed CPs – Financial results in terms of Regulation 33 of LODR regulations and line items as per Regulation 52 of LODR needs to be submitted Issuers who have listed their NCDs/ NCRPS/both and have outstanding listed CPs or only have outstanding CPs – Financial results in terms of Regulation 52 of LODR Regulations. However, if such issuer is required to prepare financial results for the purpose of consolidated financial results in terms of Regulation 33 of SEBI LODR Regulations, then such issuers, shall prepare and submit financial results in terms of above 	<p>SEBI has clearly prescribed the disclosure requirement for issuers of CPs taking into consideration the 3 categories of issuers of debt instruments.</p> <p>Further, an issuer of CP, the holding company of which is having its equity listed, is required to prepare financial results on quarterly basis for preparation of consolidated financial results of the holding company. Therefore, disclosure of such quarterly financial results would be required to be made</p>

2.	Material information	Material information by the issuer within 24 hours from occurrence. <ul style="list-style-type: none"> Details such as expected default/ delay/ default in timely fulfilment of its payment obligations for any of the debt instrument; Any action that shall affect adversely fulfilment of its payment obligations in respect of CPs; Any revision in the rating; 	Requirement made in line with requirement for listed debt securities under SEBI LODR Regulations.
3.	Fulfillment of Payment obligations	A certificate confirming fulfilment of its payment obligations, within 2 days of payment becoming due.	Requirement made in line with requirement for listed debt securities under SEBI LODR Regulations.
4.	Use of proceeds	A certificate from the CEO/CFO to the recognized stock exchange(s) on quarterly basis certifying that CP proceeds are used for disclosed purposes, and adherence to other conditions of the offer document and other applicable regulatory provisions for CPs.	Requirement specified in line with the current requirement under RBI/ FIMMDA guidelines Timelines not specified. However, RBI / FIMMDA guidelines requires the same to be provided within 15 days from the close of the quarter. Simultaneously, the same may also be submitted to stock exchanges.
5.	Asset Liability Management (ALM)	Certificate from the CEO/ CFO to the recognized stock exchange(s) on quarterly basis certifying that CP proceeds are used for disclosed purposes, and adherence to other listing conditions	Requirement specified in line with the current requirement under RBI/ NHB guidelines for submission of ALM.

ROLE OF COMPANY SECRETARIES

The initiative of listing of CPs has opened up a plethora of opportunities for professionals like Company Secretaries, both in employment and in practice. Some of the areas, where company secretaries can play a key role is as follows:

1. Advise the issuers on the need and process of listing of CPs
2. Advise the issuers with respect to rating requirements of CPs

“The RBI/FIMMDA prescribes certain disclosures to be made at the time of issuance of CPs in the Letter of Offer. SEBI has prescribed certain additional disclosures to be made at the time of listing, broadly in line with that of listed debt securities under SEBI (Issue and Listing of debt Securities) Regulations, 2008 (ILDS Regulations).



3. Advising on/ ensuring adequate and proper disclosures are made to the Exchanges at the time of seeking listing of CPs
4. Ensure that the financial results are prepared and audited within the prescribed timelines so that the same can be disclosed appropriately in the disclosure document and on timely basis to the exchange
5. Ensure that all on-going disclosures are properly made within the prescribed timelines including material information/price-sensitive information which are to be disclosed to the Exchanges within 24 hours of its occurrence
6. Advising/ ensuring adherence to other conditions of the offer document and other applicable regulatory provisions for CPs
7. Address the queries / concerns of the issuers especially with respect to exclusively CP listed companies on the various aspects of listing and on-going compliances
8. Advice mutual funds with respect to the investment norms by mutual funds in CPs/or any other instruments

CONCLUSION

As is the case with any initiative, there may be some teething issues faced by the industry in the seamless implementation of this requirement. It is here that the role of professionals like company secretaries would be vital. It will also be interesting to see how the regulatory framework evolves in this regard. With all the guidelines in place, one can be confident that the industry, market and the professionals would be geared up for achieving the goal of broadening investor participation and enhanced disclosures envisaged by the regulator. 15

Status of “Nominee Director” under the Companies Act, 2013-Some grey areas

The authority to appoint Nominee Directors in the assisted companies by public financial Institutions is expressly provided in the Special legislations in terms of which these Institutions have been constituted. The Nominees so appointed enjoy a stint at the will and pleasure of the Institution and are not subject to retirement by rotation. The Companies Act 2013 provides that a Nominee Director would be considered as a non-independent director, a position which is contrary to the erstwhile provisions of the Listing agreement. The above position in the law leads to a potential conflict between the Act and the special provisions under which the Nominees are appointed on the point whether they are subject to retirement by rotation. Further as the Nominee represents the interests of the appointing Institution thus making him non-independent, by the same yardstick, a person who is appointed director to represent the interests of small shareholders under Section 151 of the Act is deemed independent. This is a paradox in the law. The author deals with the above aspects and other related issues which give rise to the need for further clarity on the subject.



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LEGAL BACKDROP

It is customary for any financial institution or any other creditor who has a substantial stake in a company, either by agreement or an arrangement to be bestowed with the right to appoint one or more directors on the Board of the company as its Nominees to protect its interests. In fact by specific provisions in Enactments in terms of which some of the public financial Institutions have been constituted, the power to appoint nominees on Company Boards has been institutionalized. Under Section 25 of the Industrial Finance Corporation Act, 1948, as amended by the Amendment Act, 1972, the Corporation is empowered, for protecting its interests and to ensure that the financial accommodation granted by it is put to the best use by the Industrial concern, to appoint under sub-section(2) one or more directors on such Undertakings as its Nominees, in case it is considered expedient to do so. The sub-section further clarifies that the power to make such appointments shall be valid and enforceable notwithstanding anything to the contrary contained in the Company's Memorandum and Articles or in any other law impacting the operation of the industrial concern.

Under sub-section (3) any person appointed as nominee on the board pursuant to sub-section (2) shall-

- a) hold office during the pleasure of the Corporation and may be removed or substituted by any person by order of the Corporation.

- b) he shall not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the discharge of his duties as director.

- c) he shall not be liable to retirement by rotation and he shall not be taken into consideration in determining the number of directors liable to such retirement.

Provisions similar to the above are also contained in Section 30A of the Industrial Development Bank of India Act, Section 27 of the State Financial Corporation Act, Section 6A of the Life Insurance Corporation Act, Section 19A of the Unit Trust of India Act, Section 35A of the State Bank of India Act, 1955 and Section 10A of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970.

Apart from the above, the Government had also framed Guidelines vide its Press Note dated 2.3.1984 relating to the appointment as also the role that is expected from the Nominees appointed by the financial Institutions of the assisted companies.

The common thread that runs through all the aforesaid Enactments is that the directors appointed are not required to hold any qualification shares in the company and are exempted from the requirement of being liable to retire by rotation. They were also not to be taken into account for determining retirements by rotation pursuant to Section 255 of the erstwhile Companies Act, 1956.

NOMINEE DIRECTOR AN INDEPENDENT DIRECTOR UNDER THE ERSTWHILE LISTING AGREEMENTS WITH STOCK EXCHANGES

It is pertinent to note that in terms of the provisions of the erstwhile listing agreements with the Stock Exchanges, under clause 49 a Nominee Director was considered as an Independent Director.

NOMINEE DIRECTOR UNDER THE COMPANIES ACT, 2013

We have considered it appropriate to provide above the necessary legal backdrop to bring to the fore the nuances in the new legislation in so far as the status of the Nominee director is concerned.

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The 1956 Act did not provide a definition to the term "Nominee Director". By contrast, the Companies Act, 2013 (hereinafter "The Act") does provide a restricted definition of a Nominee Director. Explanation under sub-section (7) under Section 149 defines a Nominee director thus:

"For the purposes of this Section , "Nominee Director" means a director nominated by any financial Institution in pursuance of the provisions of any law for the time being in force , or of any agreement or appointed by any Govt. or any other person to represent its interests".

The above definition which is restricted in application only to Section 149 identifies a Nominee director as one who is nominated by any financial Institution pursuant to the provisions of any law or any agreement. It also includes one who is appointed by any other person by agreement essentially to represent their interests.

NOMINEE DIRECTOR IS NOT INDEPENDENT DIRECTOR

In a major shift to the settled position in the law, sub-section (6) under Section 149 of the Act, clarifies that a Nominee Director is not an independent director. The provocation for the conceptual change could perhaps be the fact that in as much as a Nominee director is appointed to protect the interests of the constituency he represents , namely the financial institution , his independence could be vitiated due to the allegiance he would owe to the appointing Institution. There could arise situations which may give rise to conflict of interest as between the company and the Institution that he represents.

It may be noted that under the SEBI (LODR) Regulations, 2015, a Nominee director is considered as non-independent in line with the definition given to an Independent director under Regulation 16(1)(b).The SEBI Regulations therefore echo the same sentiments as expressed by the 2013 Act in so far as the status of a Nominee is concerned

NOMINEE DIRECTOR IS LIABLE TO RETIRE BY ROTATION-SECTION 152(6)

Given his status as a non-executive and non-independent director under the Act, it follows that in terms of Section 152(6), a Nominee director shall be liable for retirement by rotation. This gives rise to an anomalous position particularly in respect of those who are appointed as Nominees on the strength of the special legislations which we have referred to above .Since these legislations shall have an overriding effect over the Act, the appointees shall continue to hold office at the will and pleasure of the Institutions appointing them.

Hence although theoretically they become liable to retire by rotation under the Act, the overriding force of the special legislations under which they are appointed would be such that they shall have an uninterrupted stint in office as long as the appointing Institution deems it appropriate to persist with them as their nominees.

The issue as to whether the nominee shall be liable to retire also becomes vexed when one considers that the Explanation under sub-section(6) of Section 152 , clarifies that the number of directors liable to retire by rotation shall not include Independent directors whether appointed under the Act or under any other law which is in force.

“ It may be noted that under the SEBI (LODR) Regulations, 2015, a Nominee director is considered as non-independent in line with the definition given to an Independent director under Regulation 16(1)(b).The SEBI Regulations therefore echo the same sentiments as expressed by the 2013 Act in so far as the status of a Nominee is concerned.

Thus the moot question that arises is whether their appointments should be considered rotational in nature, given the above dichotomy between the Special legislations referred to above and the Act.

It is a settled legal principle that when there is an apparent conflict between two independent provisions in the law as between two legislations, the special legislation should prevail. (*UOI v India Fisheries P Ltd(1965)35 Comp Cas 669(SC)*).

Further as has been pointed out, under the special enactments referred to above, the power to make appointments of Nominee directors shall be valid and enforceable notwithstanding anything to the contrary contained in the Company's Memorandum and Articles or in any other law impacting the operations of the assisted industrial concern.

In view of the above, our considered view would be not to treat the nominee as one liable to retire by rotation. This could, however, lead to a distortion in board structures , given the requirements under the SEBI (LODR) Regulations that the Company shall ensure a Board which has an optimum balance as between independent and non-independent directors.

WHETHER NOMINEE DIRECTOR'S APPOINTMENT IS SUBJECT TO REVIEW BY THE NOMINATION AND REMUNERATION COMMITTEE (NRC) UNDER SECTION 178

The status of the Nominee under the Act as a non-independent director also gives rise to another related issue - whether the candidature of the Nominee director has to be subjected to review by the Nomination and Remuneration committee of the Board where such a Committee needs to be constituted under Section 178.

It is pertinent to reiterate that the authority to appoint a Nominee in the Board lies with the financial Institution and it is independent of the internal procedures that guide the appointment of a director under the Act. When the public financial Institution announces its intention to appoint a Nominee , the question is should the appointment be deferred until such time the candidature goes through the scrutiny of the NRC .The answer would be an emphatic "No" given that the Enactments on the strength of which the appointment is proposed will prevail over the provisions of the Act. The appointment takes immediate effect and it is a *fiat accompli*, the moment the financial Institution communicates its intention to the company to make the appointment. In our view, the company on whose Board the Nominee is appointed has to merely take note of the communication relating to the appointment and welcome the incumbent with open arms, whilst awaiting completion of the rudimentary formalities for the appointment.

DOES NOMINEE DIRECTOR ENJOY PROTECTION UNDER SECTION 149 (12)?

It has already been stated that under the special legislations in terms of which a Nominee is appointed, he shall not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the discharge of his duties as director.

The same position shall hold under sub-section (12) of section 149 considering that the Nominee director under the Act is a non-executive director, not being either a promoter or key managerial personnel. He shall therefore be liable only for such acts of omission or commission which have occurred with his knowledge, attributable through Board processes, and with his consent or connivance or where he had not acted diligently.

Under Regulation 25(5) of the SEBI (LODR) Regulations, 2015, an Independent director shall be liable only in respect of such acts of omission or commission which have occurred with his knowledge attributable through Board processes and with his consent or connivance or where he had not acted diligently with respect to the provisions contained in the Regulations. Thus the above Regulation is substantially the mirror image of Section 149(12) except for the fact it affords protection only to independent directors. Therefore as a nominee is not an independent director as per the Regulations also, no protection is available to him under the Regulations even under the circumstances stated above.

There is a clear disconnect on this point between Section 149(12) and Regulation 25(5). The disconnect could be explained away as a drafting anomaly. Notwithstanding the above, the special legislations on the back of which the Nominee is appointed shall prevail and he should get the benefit of insulation provided he has acted under the circumstances contemplated in the special legislations.

IS A NOMINEE DIRECTOR LIABLE TO REMOVAL PROCEEDINGS UNDER SECTION 169?

Section 169 sets out the procedural law which guides the process of removal of a director. Section 169(1) provides, inter alia, that every director other than a director appointed under Section 242 by the Tribunal shall be liable to retire. Only a person appointed by the Tribunal based on an application made to it under Section 241 in cases of oppression where the continuance of the incumbent is prejudicial to public interest is exempt from the application of Section 169. Considering that the Nominee holds office at the will and pleasure of the Institution appointing him, the question arises whether Section 169 applies to him. The Institution certainly has the right to make a substitution against the person previously nominated but whether the members can seek removal of the Nominee under Section 169 considering the overriding nature of the special legislations under which he is appointed over the Act is a matter of debate and intrigue. Our view on this is consistent—that an application for removal of a Nominee director would not be sustainable under the law.

POSITION OF DIRECTOR APPOINTED TO REPRESENT SMALL SHAREHOLDERS UNDER SECTION 151

Under Section 151 read with Rule 7 of the companies (Appointment and qualification of Directors) Rules, 2014 based



on a requisition by the required number of small shareholders and other compliances as laid down in the above Rules, one director may be elected by the small shareholders in the listed company. Rule 7(4) of the above Rules provides that the person so appointed shall be considered as an Independent director subject to his fulfilling the criteria for independence under sub-section (6) of section 149. He is therefore not liable to retire by rotation and shall hold office unlike any other independent director for a term of three years and shall not be eligible for a second term.

SMALL SHAREHOLDERS' DIRECTOR IS INDEPENDENT BUT NOT A NOMINEE DIRECTOR-PARADOX IN THE LAW

It is pertinent to note that the objective behind the appointment of a Nominee director and a small shareholders' director is identical. Both are appointed to protect and safeguard the interests of their respective constituencies—namely the financial Institution and the small shareholder. Both are like two sides of the same coin. Yet the Act gives the small shareholders' representative the exalted status of being an Independent director whereas the Nominee Director emerges as a lesser mortal in that he is relegated to the status of a non-independent director. This is a paradoxical position in the Statute, given that the provocation for both the appointments is identical. As they say, "What is sauce for the goose is sauce for the gander too"! Both appointees should have been on the same pedestal. The difference in status between the Nominee director and Small shareholders' representative gives rise to a position in the Act which is logically indefensible.

CONCLUSION

Some intriguing questions have been thrown up for recapitulation primarily from the perspective of the Nominee Director as a non-independent director under the Companies Act, 2013. Can there be any reason which renders him incapable of being considered as independent, given that by the same breath, a small shareholder director is an Independent director, albeit with a reduced stint of three years in office? It is important also to resolve whether the nominee should be liable to retire by rotation, whether the appointment has to pass muster with the Nomination Committee, given the overriding nature of the special legislations on the strength of which such appointments are made. The MCA also has to address the inherent contradiction in treating the Nominee director and small shareholders' representative differently.

15

Exploring Stock Efficiency: A Study on Selected Large Cap Securities

The motivation for this research is not simply to help investors in selecting the most efficient stocks but to show how DEA can be used to run single window analysis where data for stocks for multi-periods are included in the analysis together by treating them as different stocks. DEA is a multi-criteria decision making technique which measures relative efficiency of individual stocks from the observed attributes of the stocks as inputs and outputs. The results reveal a wide range of efficiencies, ranging from 0.13 to 1.00 for the selected large cap stocks. The average efficiency score of sample stocks has increased from 43.50% in 2008-09 to 74.09% in 2017-18. Of the stocks evaluated only three are found to be DEA-efficient in 2017-18. These stocks are Maruti Suzuki India, Hindustan Unilever and Eicher Motors. Maruti Suzuki India appearing in the reference set for inefficient stocks most times is the best stock in the sample. Among the bottom six stocks of large cap stocks in the sample, Tata Motors and Titan company are the most inefficient stocks in the sample.



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INTRODUCTION

Stock selection poses a big challenge to investors as it involves evaluation of several attributes. Two traditional methods widely used by investors for selecting stocks are fundamental analysis and technical analysis. Fundamental analysis is based on the assumption that every stock has intrinsic or true value. It begins with the analysis of economy and overall security market, and then proceeds to an analysis of the industry and end up with an analysis of the company. The data derived from the fundamental analysis are used to derive estimates of future earnings and dividends. Once the future estimates of earnings and dividends are available an appropriate valuation model is applied to obtain intrinsic value or true value of a stock. In contrast, the basic assumption behind technical analysis is that the price of a stock is a function of supply and demand conditions prevailing in the market. It determines the changes in prices of stock based on price and volume data and technical indicators. But in a tumultuous stock market it is quite difficult for investors to estimate true value of stocks or to predict stock prices.

The mean-variance model for portfolio selection developed by Markowitz (1952) has been central to research activities in the field of portfolio management. Markowitz model is essentially a portfolio optimisation model based on expected return and risk of the portfolio. Since the seminal work of Markowitz, many variants of this model have been suggested to simplify the process of estimation of the variance and co-variance matrix. While many variants of this approach have been proposed over the years, the fact remains that a universe of securities must be pre-selected prior to running a portfolio optimisation model to determine portfolio weights (Edirisinghe and Zhang, 2007). Edirisinghe and Zhang (2007) developed a generalised data envelopment analysis (DEA) model to analyze firm's financial statements over time in order to determine a relative financial strength indicator (RFSI) that is predictive of firm's stock price returns.

Powers and McMullen (2000) used DEA as multi-criteria decision making tool to evaluate the efficiency of 185 largest market cap stocks with eight attributes and estimated their relative efficiency scores. Of the 185 stocks analysed 14 were found to be most desirable (referred to as efficient), and an additional 4 were found to be somewhat desirable. Of these 14 efficient stocks, several displayed robustness to unfavourable changes, while others did not.

Sahoo and Meera (2008) empirically examined the different variants of data envelopment analysis (DEA) models to select the large cap market securities in India in both constant and variable returns to scale environments. The results of the study revealed that: First, there is a fall in average efficiency score across models from $D_0(x,y)$ to (Slack based measure) $SBM_0(x,y)$ to $SBM(x,y)$, but accompanied by a rise in coefficient of variation in both types of returns to scale environments, thus suggesting a wider range

*The views expressed are personal views of the authors

of variation in efficiency scores in SBM (x,y). Second, the top and bottom 19 companies are found from the diversified industries, and optimisation from this small efficient set becomes more readily acceptable. Third, the large computer software companies, though being very well known for their growth, did not appear in the list of top performers.

The motivation for this research is not simply to help investors in selecting the most efficient stocks but to show how DEA can be used to run single window analysis where data for stocks for multi-periods are included in the analysis together by treating them as different stocks. The objective of this study is to estimate multi-period efficiency of selected large cap securities in the NSE.

THE DEA MODEL FOR STOCK SELECTION

DEA is a multi-criteria decision making technique that can select the most favorable or desirable alternatives from a large set when it is necessary to consider several attributes given, of course, the utility function of the decision maker. DEA also helps to minimize the complexity of analysis by simultaneously evaluating the attributes of interest and presenting a single, composite score, referred to as efficiency. An alternative is deemed DEA-efficient if its costs (inputs) are offset by its benefits (outputs). Otherwise an alternative is classified as DEA-inefficient (Powers and McMullen, 2000). The DEA score is a value ranging from 0 to 1.00. A DEA score of 0 means that DMU (Decision Making Units) is maximally inefficient compared to all other DMUs in the sample. A DEA score of 1.00 means that DMU is 100 percent efficient.

DEA measures the technical efficiency of a given stock by estimating an efficiency ratio equal to a weighted sum of outputs over a weighted sum of inputs. For each stock these weights are derived by solving an optimization problem which involves the maximization of the efficiency ratio for that stock subject to the constraint that the efficiency ratios for every stock in the set is less than or equal to 1. Thus DEA assigns mathematically optimal weights to all input and output variables rather than requiring a priori determination of weights by the management (Sijo et.al.2013).

DEA determines the weights to be assigned to the various input-output variables in the sample by assigning maximum weight to those variables for which an individual stock compares most favourably and minimum weights to those variables for which an individual stock compares least favourably. Mathematically, this is as follows:

Suppose there are N decision making units under consideration. Our aim is to maximise the efficiency of the stocks subject to the condition that the efficiency of all other N-1 stocks must be less than or equal to 1. The efficiency of a stock means the ratio of weighted outputs to weighted inputs for that stock. Suppose there are m inputs and n outputs having weights v_i and u_j respectively. Hence our problem will be

$$\begin{aligned} &\text{Maximise } e^\theta = \frac{\sum_{j=1}^n u_j y_{j\theta}}{\sum_{i=1}^m v_i x_{i\theta}} \\ &\text{Subject to } \frac{\sum_{j=1}^n u_j y_{jr}}{\sum_{i=1}^m v_i x_{ir}} \leq 1 \quad (r=1,2 \dots N) \\ &\quad u_j \geq 0, j=1,2,\dots, n \\ &\quad v_i \geq 0, i=1,2,\dots, m \end{aligned}$$

where y_{jr} and x_{ir} are positive known outputs and inputs of the r^{th} stock and u_j, v_i are the variable weights of outputs and inputs respectively to be determined by solving the above problem. The stock indexed by θ is referred as the base stock. If the efficiency score $e^\theta=1$, stock θ satisfies the necessary condition to be DEA efficient, otherwise inefficient. The objective being non-linear and fractional, it is difficult to solve the above problem. Therefore the above non-linear problem transforms into a linear programming problem as follows:

$$\begin{aligned} &\text{Maximise } h^\theta = \sum_{j=1}^n u_j y_{j\theta} \\ &\text{Subject to } \sum_{i=1}^m v_i x_{i\theta} = 1 \\ &\quad \sum_{j=1}^n u_j y_{jr} - \sum_{i=1}^m v_i x_{ir} \leq 0 \quad (r=1,2,\dots,N) \\ &\quad u_j \geq \varepsilon, j=1,2,\dots, n \\ &\quad v_i \geq \varepsilon, i=1,2,\dots, m \end{aligned}$$

DATA AND METHODOLOGY

The study is designed as descriptive one based on secondary data. Secondary data relating to the study have been collected from the websites of NSE and Moneycontrol. The sample consists of 15 large cap stocks selected at random from 100 large cap stocks traded in the NSE.

The study uses DEA methodology to measure the efficiency of the selected stocks. Output variables include one year return and earnings per share, while the input variables include price earnings ratio, beta and sigma. Outputs imply benefits associated with owning a specific stock, and inputs indicate costs associated with owning a specific stock.

Constant returns-to-scale (CRS) and variable returns-to-scale (VRS) are two popular models of DEA. CRS model generates technical efficiency scores under the assumption of constant returns to scale. CRS efficiency score is a measure of technical efficiency. VRS model provides efficiency scores under the assumption of variable returns to scale. There are two directions for DEA models – either an input orientation or an output orientation. An input orientation aims at reducing inputs (costs) as much as possible while keeping at least the present output (benefits) levels, while an output orientation aims at maximizing the output (benefit) levels without increasing the use of inputs (costs).

This study makes an attempt to estimate efficiency scores using CRS model of DEA with output orientation. DEA is employed to run single window analysis where data for the 15 stocks for 10 years are included in the analysis together by treating them as 150 different stocks. This method offers comparison of stock's efficiency at different times and with the efficiency of other stocks at the same and other times. The study uses the DEA methodology developed by Cooper et al. (2000).

Table 1. Description of Variables used in the study

Variables	Classification	Definition
1- Year return	Output	Average of daily returns for one year.
Earnings Per Share	Output	Ratio of earnings to the number of shares held.
Sigma	Input	One year standard deviation of returns.
Price earnings ratio	Input	Average stock price divided by earnings per share.
Beta	Input	Relationship of return to the rest of market.

Source : Compiled by authors

RESULTS AND DISCUSSION

The results of DEA analysis for ten year period from 2008 to 2018 are summarised in Table 2. Table 3 presents the average scores for each stock over the ten year period along with their ranks. The results in Table 2 show a remarkable improvement in efficiency of stocks during the period 2008-2018. The average efficiency of stocks has increased from 43.50% in 2008-09 to 74.09% in 2017-18 with a significant decrease in 2015-16 to 61.50%. The average efficiency scores of individual stocks range from 50.80% to 81.70%. During the time period 2008-2018 seven stocks appear to be DEA-efficient. These stocks are GAIL, Asain Paints, Sun Pharma, Dr. Reddy's, Eicher Motors, Maruti, and Hindustan Unilever. Among these stocks, Eicher Motors and Sun Pharma appear to be efficient in 2 years.

Table 2. Average Efficiency score for the period 2008-2018

Name of the Stock	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	Average
Maruti Suzuki India Limited	0.436	0.689	0.682	0.657	0.671	0.720	0.993	0.731	0.961	1.000	0.754
Eicher Motors Limited	0.472	0.704	0.634	0.781	0.748	0.996	1.000	0.915	0.915	1.000	0.817
Tata Motors Limited	0.198	0.556	0.578	0.143	0.428	0.556	0.808	0.467	0.666	0.696	0.510
HCL Technologies Limited	0.229	0.575	0.708	0.589	0.986	0.991	0.336	0.590	0.868	0.978	0.685
Infosys Limited	0.525	0.734	0.864	0.664	0.711	0.825	0.434	0.318	0.800	0.902	0.678
Wipro Limited	0.308	0.744	0.379	0.662	0.774	0.850	0.825	0.842	0.961	0.440	0.679
GAIL (India) Limited	0.295	1.00	0.853	0.720	0.726	0.820	0.636	0.547	0.575	0.518	0.669
Oil&Natural Gas Corporation Limited	0.422	0.628	0.188	0.702	0.841	0.627	0.574	0.513	0.494	0.851	0.584
Bharat Petroleum Corporation Limited	0.408	0.631	0.607	0.718	0.380	0.602	0.743	0.812	0.387	0.435	0.572
Asian Paints Limited	0.615	1.000	0.811	0.884	0.906	0.128	0.676	0.628	0.719	0.879	0.725
Hindustan Unilever Limited	0.573	0.636	0.877	0.864	0.860	0.664	0.829	0.710	0.918	1.000	0.793
Titan Company Limited	0.330	0.681	0.717	0.162	0.621	0.481	0.643	0.553	0.653	0.604	0.545
Sun Pharmaceutical Industries Limited	0.649	0.563	0.171	0.778	1.000	0.415	1.000	0.551	0.801	0.597	0.653
Cipla Limited	0.541	0.674	0.733	0.776	0.905	0.799	0.824	0.545	0.790	0.693	0.728
Dr.Reddy's Laboratories Limited	0.545	0.839	0.814	0.825	1.000	0.929	0.806	0.503	0.698	0.520	0.748
Average	0.436	0.710	0.641	0.662	0.770	0.694	0.742	0.615	0.747	0.741	

Source: Computed from the data sourced from NSE and Moneycontrol

When we examine the results in Table 2 we find that while 7 stocks have improved their efficiencies, 5 stocks have experienced sharp decline in their efficiencies. The stocks which have experienced sharp decline include Sun Pharma, Dr.Reddy's and GAIL. It may be noted that of the 6 stocks with average efficiency score more than 70%, 2 stocks have market capitalisation of more than ₹ 2.5 lakh crores, 3 stocks have market capitalisation less than ₹ 0.70 lakh crores and 1 has market capitalisation of more than ₹ 1 lakh crores. While Eicher Motors (DEA-efficient stock in 2016-17 and 2017-18) with market capitalisation less than ₹ 0.70 lakh crores gets first rank in average efficiency with a score of 81.70%, Hindustan Unilever (DEA-efficient stock in 2017-18), 4th largest large cap stock in India with market capitalisation more than ₹ 3.50 lakh crores obtains second rank with a score of 79.30%. Maruti (a DEA-efficient stock in 2017-18) with average efficiency score of 75.40% is ranked as 3rd best stock. Of the 3 DEA efficient stocks, Maruti which appears in the reference set for inefficient stocks most times is a highly robust stock of the best stocks.

Table 3. Average efficiency and Ranks of the stock for the period 2008-2018

Name of the Stock	Average	Rank
Maruti Suzuki India Limited	0.754	3
Eicher Motors Limited	0.817	1
Tata Motors Limited	0.508	15
HCL Technologies Limited	0.685	7
Infosys Limited	0.678	8
Wipro Limited	0.673	9
GAIL (India) Limited	0.669	10
Oil&Natural Gas Corporation Limited	0.584	12
Bharat Petroleum Corporation Limited	0.572	13
Asian Paints Limited	0.725	6
Hindustan Unilever Limited	0.793	2
Titan Company Limited	0.545	14
Sun Pharmaceutical Industries Limited	0.653	11
Cipla Limited	0.728	5
Dr.Reddy's Laboratories Limited	0.748	4

Source : Compiled by authors

Dr.Reddy's (a DEA-efficient stock in 2012-13) has an average efficiency score of 74.80%. It is ranked as 4th best stock. Cipla, (a stock which never appeared on the efficiency frontier) maintains more than 70% efficiency in 6 times, achieves 5th position with average efficiency score of 72.80%. Asian Paints (DEA-efficient in 2009-10) a stock which attained more than 70% efficiency in 6 times, is ranked as 6th best stock. These 6 stocks may be considered as desirable stocks for investment. It is interesting to note that HCL Technologies and INFY, two large cap computer software stocks are not found among the DEA-efficient stocks. This finding supports the findings in the previous studies that the very large computer software companies, though being very well known for their growth, did not appear in the list of top performers (Sahoo and Meera, 2007).

Among the bottom 6 stocks of large cap stocks, Tata Motors and Titan have the lowest average efficiency score of 50.80% and 54.50% respectively and they may be considered as poor performers. The average inefficiency score of inefficient stocks is 0.26 which indicates that inefficient stocks may become DEA-efficient by augmenting their outputs (benefits) on an average by 26 per cent without increasing the present level of inputs (costs).

CONCLUSION

This study examines multi-period efficiency of selected large cap securities traded in NSE. The study employs DEA methodology for selecting efficient large cap stocks. The results of the study show a surprisingly diverse range of efficiencies, ranging from 0.13 to 1.00 for the selected large cap stocks. The sample large cap stocks show remarkable improvement in efficiency during the period 2008-2018. Though high overall efficiency is found, there are wide differences in the efficiency of individual stocks over different time periods. The average efficiency score of sample stocks is 0.74. Of the stocks examined only three are found to be DEA-efficient. These stocks are Maruti, Hindustan Unilever and Eicher Motors. They are considered as the most desirable stocks for investment. Maruti appearing in the reference set for inefficient stocks most times is the best stock in the sample. Dr.Reddy's, Cipla and Asian Paints, three stocks which achieve average efficiency score more than 70%, are also considered as desirable stocks for investment. The most inefficient stocks in the sample are Tata Motors and Titan. The average inefficiency score of inefficient stocks is 0.26 which indicates that inefficient stocks may become DEA-efficient by augmenting their outputs (benefits) on an average by 26 per cent without increasing the present level of inputs (costs).

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2

LEGAL WORLD



- RADHEY SHYAM KHEMKA & ANR v. STATE OF BIHAR & ANR [SC]
- DUNCANS INDUSTRIES LTD v. A.J. AGROCHEM [SC]
- UNION OF INDIA & ORS v. M/s.UNICORN INDUSTRIES [SC]
- NEVADA PROPERTIES PVT LTD v. THE STATE OF
- INTERTEK INDIA PVT LTD v. PRIYANKA MOHAN [DEL]
- M.MEERAN MOHIDEEN v. B.VJAYAKUMAR [MAD]
- POONAM GARG v. IFCI VENTURE CAPITAL FUNDS LTD & ORS [DEL]
- SURESH CHANDER GUPTA v. VATIKA LIMITED [CCI]
- ASHOK SUCHDE v. PERNOD RICARD INDIA PVT LTD [CCI]



Corporate Laws

LMJ 11:11:2019

RADHEY SHYAM KHEMKA & ANR v. STATE OF BIHAR & ANR [SC]

Criminal Appeal Nos. 375 & 376 of 1985.

A.S. Anand & N.P. Singh, JJ. [Decided on 28/03/1993]

Equivalent citations: 1993 SCR (2) 699; 1993 SCC (3) 54; JT 1993 (2) 523; 1993 SCALE (2) 266; (1993) 77 Comp Cas 356.

Companies Act, 1956- offences and punishment- misstatement in prospect- prosecution initiated under IPC- petitioners' contended that they should be punishable under the companies Act only - whether correct- Held, No.

Brief facts:

The appellants as managing director and directors issued prospectus inviting public subscriptions. It was given out by the appellants to the investors that application was being made to the Calcutta Stock Exchange for enlisting the shares of the company for official quotation. Such application which was made on behalf of the company was rejected by the stock exchange. In spite of the rejection the share money collected from different investors was held by the appellants and none of the share-holders were either informed or were repaid. That money lying in the bank, on account of the share applications, were also transferred to another account of the Company.

A case was instituted by the CBI against the appellants and others under sections 409 read with section 405 of the Penal Code. The Special Judicial Magistrate took cognizance of the offences, against which the appellants moved the High Court under section 482 of the Cr.P.C., which was also dismissed by the High Court. Hence the present appeals before the Supreme Court.

Decision: Appeals dismissed.

Reason:

The criminal proceeding pending against the appellants has been challenged saying that it amounted to an abuse of the process of court because instead of invoking the different provisions of the Companies Act which are meant to cover such situations and to protect the interest of share-holders, a prosecution has been launched against the appellants before a Criminal Court for offences under the Penal Code.

It is true that the Companies Act contains provisions

regarding the issuance of prospectus, applications for shares and allotment thereof and provides different checks over the misuse of the fund collected from the public for issuance of shares or debentures. But can it be said that where persons issue prospectus and collect moneys from public assuring them that they intend to do business with the public money for their benefit and the benefit of such public, but the real intention is to do no business other than collecting the moneys from the public for their personal gain, still such persons are immune from the provisions of the Penal Code?

In the facts of the present case itself, the prosecution has to prove that the appellants as promoters or directors, had dishonest intention since very beginning while collecting the moneys from the applicants for the shares and debentures or that having collected such moneys they dishonestly misappropriated the same. The ingredients of the different offenses under the Penal Code need not be proved only by direct evidence; they can be shown from the circumstances of a particular case that the intention of the promoters or the directors was dishonest since very inception or that they developed such intention at some stage, for their wrongful gain and causing wrongful loss to the investors. All the circumstances and the materials to prove such a charge have to be collected during investigation and enquiry and ultimately have to be produced before the court at the stage of trial for a verdict as to whether the ingredients of offence in question have been established on behalf of the prosecution. The complaint made by the Deputy Secretary to the Government of India to the CBI mentions different circumstances to show that the appellants did not intend to carry on any business. In spite of the rejection of the application by the Stock Exchange, Calcutta, they retained the share moneys of the applicants with dishonest intention. Those allegations were investigated by the CBI and ultimately charge sheet has been submitted. On basis of that charge sheet cognizance has been taken.

In such a situation the quashing of the prosecution pending against the appellants only on the ground that it was open to the applicants for shares to take recourse to the provisions of the Companies Act, cannot be accepted. It is a futile attempt on the part of the appellants, to close the chapter before it has unfolded itself. It will be for the trial court to examine whether on the materials produced on behalf of the prosecution it is established that the appellants had issued the prospectus inviting applications in respect of shares of the Company aforesaid with a dishonest intention, or having received the moneys from the applicants they had dishonestly retained or misappropriated the same. That exercise cannot be performed either by the High Court or by this Court. If accepting the allegations made and charges levelled on their face value, the Court had come to conclusion that no offence under the Penal Code was disclosed the matter would have been different. This court has repeatedly pointed out that the High Court should not while exercising power under section 482 of the Code usurp the jurisdiction of the trial court. The power under section 482 of the Code has been vested in the High Court to quash a prosecution which amounts to abuse of the process of the court. But that power

cannot be exercised by the High Court to hold a parallel trial, only on basis of the statements and documents collected during investigation or enquiry, for purpose of expressing an opinion whether the accused concerned is likely to be punished if the trial is allowed to proceed. The appeals are accordingly dismissed.

LW 79:11:2019

DUNCANS INDUSTRIES LTD v.A.J.AGROCHEM [SC]

Civil Appeal No. 5120 of 2019

Arun Misra, M.R. Shah & B.R.Gavai, JJ. [Decided on 04/10/2019]

Sections 7,9 and 283 of the Insolvency and Bankruptcy Code,2016 read with section 16E and 16G of the Tea Act,1953 – takeover of tea gardens of corporate debtor by the Central Government under Tea Act- operational creditor filing application under the IBC- whether maintainable-Held, Yes.

Brief facts:

The appellant Corporate Debtor is a company which owns and manages 14 tea gardens. Out of which, the Central Government has taken over the control of 7 tea gardens under the Tea Act, 1953. The respondent is an operational creditor of the appellant, used to supply pesticides, insecticides, herbicides etc. to the appellant. The respondent initiated the proceedings against the appellant corporate debtor before the NCLT under Section 9 of the IBC. NCLT dismissed the application as not maintainable as the consent of the Central Government was not obtained. However, the appeal preferred by the operational creditor was allowed by the NCLAT. Hence the present appeal by the corporate debtor.

Decision: Appeal dismissed.

Reason:

The short question which is posed for consideration of this Court is whether before initiation of the proceedings under Section 9 of the IBC, a consent of the Central Government as provided under Section 16G (1) (c) of the Tea Act, 1953 is required and/or whether in absence of any such consent of the Central Government the proceedings initiated by the respondent operational creditor under Section 9 of the IBC would be maintainable or not?

In the present case the Division Bench of the High Court of Calcutta has permitted the appellant corporate debtor to continue with the management of the said tea estates. Therefore, in the facts and circumstances of the case, and more particularly when, despite the notification under Section 16E of the Tea Act, the appellant corporate debtor is continued to be in management and control of the tea gardens/units and are running the tea gardens as if the notification dated under Section 16E has not been issued, Section 16G of the Tea Act, more particularly Section 16G (1) (c), shall not be applicable at all.

Now, so far as the main issue is concerned, at the outset, it is required to be noted that the IBC is a complete Code in itself. Section 16G (1) (c) of the Tea Act refers to the proceeding for winding up of such company or for the appointment of receiver in respect thereof. Therefore, as such, the proceedings under Section 9 of the IBC shall not be limited and/or restricted to winding up and/or appointment of receiver only. The winding up/ liquidation of the company shall be the last resort and only on an eventuality when the corporate insolvency resolution process fails. Therefore, the entire “corporate insolvency resolution process” as such cannot be equated with “winding up proceedings”.

Therefore, considering Section 238 of the IBC, which is a subsequent Act to the Tea Act, 1953, shall be applicable and the provisions of the IBC shall have an overriding effect over the Tea Act, 1953. Any other view would frustrate the object and purpose of the IBC. If the submission on behalf of the appellant that before initiation of proceedings under Section 9 of the IBC, the consent of the Central Government as provided under Section 16G (1) (c) of the Tea Act is to be obtained, in that case, the main object and purpose of the IBC, namely, to complete the “corporate insolvency resolution process” in a time bound manner, shall be frustrated. The sum and substance of the above discussion would be that the provisions of the IBC would have an overriding effect over the Tea Act, 1953 and that no prior consent of the Central Government before initiation of the proceedings under Section 7 or Section 9 of the IBC would be required and even without such consent of the Central Government, the insolvency proceedings under Section 7 or Section 9 of the IBC initiated by the operational creditor shall be maintainable.

In view of the above and for the reasons stated above, the present appeal fails and the same deserves to be dismissed and is accordingly dismissed.



LW 80:11:2019

UNION OF INDIA & ORS v. M/s.UNICORN INDUSTRIES [SC]

Civil Appeal No. 7432 of 2019 [@ S.L.P (C) No. 36926 of 2012] with two connected appeals

Arun Mishra, M.R. Shah & B.R. Gavai, JJ. [Decided on 24/09/2019]

Excise law- tobacco products- withdrawal of duty exemption in public interest- whether tenable - Held,

Yes. Whether principles of promissory estoppel apply- Held, No.

Brief facts:

The question of law that arises for consideration in these appeals is, 'as to whether, by invoking the doctrine of promissory estoppel, can the Union of India be estopped from withdrawing the exemption from payment of Excise Duty in respect of certain products, which exemption is granted by an earlier notification; when the Union of India finds that such a withdrawal is necessary in the public interest.'

Material facts are that the respondents are manufacturers of tobacco products i.e. pan masala. Initially, the product pan masala was exempted from duty under notification issued in 1999. Later, in 2007 this exemption was removed and the products were made liable to payment of duty.

Appellants succeeded before the respective High Courts which ruled that exemption cannot be revoked and doctrine of promissory estoppel applies. Aggrieved by this rulings, Revenue is before the Supreme Court in the present appeals.

Decision: Appeals allowed.

Reason:

The issue raised in these appeals is no more *res integra*. This Court in a catena of decisions has considered the issue with regard to inapplicability of the doctrine of promissory estoppel, when the larger public interest demands so.

It could thus be seen that, this Court has clearly held that the doctrine of promissory estoppel cannot be invoked in the abstract and the courts are bound to see all aspects including the objective to be achieved and the public good at large. It has been held that while considering the applicability of the doctrine, the courts have to do equity and the fundamental principle of equity must forever be present in the mind of the Court while considering the applicability of the doctrine. It has been held that the doctrine of promissory estoppel must yield when the equity so demands and when it can be shown having regard to the facts and circumstances of the case, that it would be inequitable to hold the Government or the public authority to its promise, assurance or representation.

It could thus be seen that, it has been held by this Court that an exemption notification does not make the items which are subject to levy of customs duty etc. as items not leviable to such duty. It only suspends the levy and collection of customs duty etc. subject to such conditions as may be laid down in the "public interest". It has further been held that, such an exemption by its very nature is susceptible of being revoked or modified or subjected to other conditions. It has been held that the supersession or revocation of an exemption notification in the public

interest is an exercise of the statutory power by the State under the law itself. It has further been held that under the General Clauses Act an authority which has the power to issue a notification has the undoubted power to rescind or modify the notification in a like manner.

It has been observed, that the withdrawal of exemption in public interest is a matter of policy and the courts would not bind the Government to its policy decisions for all times to come, irrespective of the satisfaction of the Government that a change in the policy was necessary in the public interest. It has been held that, where the Government acts in public interest and neither any fraud or lack of bona fides is alleged much less established, it would not be appropriate for this Court to interfere with the same.

It could thus be seen that this Court observed that once public interest is accepted as a superior equity which can override an individual equity, the same principle should be applicable in such cases where the period is prescribed.

It could thus be seen that, it is more than well settled that the exemption granted, even when the notification granting exemption prescribes a particular period till which it is available, can be withdrawn by the State, if it is found that such a withdrawal is in the public interest. In such a case, the larger public interest would outweigh the individual interest, if any. In such a case, even the doctrine of promissory estoppel would not come to the rescue of the persons claiming exemptions and compel the State not to resale from its promise, if the act of the State is found to be in public interest to do so.

It could thus be seen that, by a scientific research conducted by Experts in the field, it has been found that the consumption of pan masala with tobacco as well as pan masala sans tobacco is hazardous to health. It has further been found that, the percentage of teenagers consuming the hazardous product was very high and as such exposing a large chunk of young population of this Country to the risk of oral cancer. Taking into consideration this aspect, if the State has decided to withdraw the exemption granted for manufacture of such products, we fail to understand as to how it can be said to be not in the public interest.

As already discussed hereinabove, we have no hesitation to hold that the withdrawal of the exemption to the pan masala with tobacco and pan masala sans tobacco is in the larger public interest. As such, the doctrine of promissory estoppel could not have been invoked in the present matter. The State could not be compelled to continue the exemption, though it was satisfied that it was not in the public interest to do so. The larger public interest would outweigh an individual loss, if any. In that view of the matter we find that the appeals deserve to be allowed.



General Laws

LW 81:11:2019

NEVADA PROPERTIES PVT LTD v. THE STATE OF MAHARASHTRA [SC]

Criminal Appeal No.1481 of 2019 [@ S L P (CRL) No. 1513 of 2011]

Ranjan Gogoi, Deepak Gupta & Sanjeev Khanna, JJ. [Decided on 24/09/2019]

Criminal Procedure Code, 1973- section 102- police officer's power of seizure- whether extends to immovable property- Held, No.S

Brief facts:

Section 102 of the Cr.P.C. provides for power of police officer to seize certain property. Whether the term 'any property' includes immovable property also was answered affirmatively by some High courts and negatively by some. A Division Bench of Supreme Court, vide order dated November 18, 2014, noticing that the issues that arise have far reaching and serious consequences, had referred the aforesaid appeals to be heard by a Bench of at least three Judges. After obtaining appropriate directions from Hon'ble the Chief Justice, these appeals have been listed before the present Bench.

Decision & Reason:

Having held and elucidated on the power of the Criminal Court, we find good ground and reason to hold that the expression 'any property' appearing in Section 102 of the Code would not include immovable property. We would elucidate and explain.

Section 102 postulates seizure of the property. Immovable property cannot, in its strict sense, be seized, though documents of title, etc. relating to immovable property can be seized, taken into custody and produced. Immovable property can be attached and also locked/sealed. It could be argued that the word 'seize' would include such action of attachment and sealing. Seizure of immovable property in this sense and manner would in law require dispossession of the person in occupation/possession of the immovable property, unless there are no claimants, which would be rare.

Language of Section 102 of the Code does not support the interpretation that the police officer has the power to dispossess a person in occupation and take possession of an immovable property in order to seize it. In the absence of the Legislature conferring this express or implied power under Section 102 of the Code to the police officer, we would hesitate and not hold that this power should be inferred and is implicit in the power to effect seizure. Equally important, for the purpose of interpretation is the scope and object

of Section 102 of the Code, which is to help and assist investigation and to enable the police officer to collect and collate evidence to be produced to prove the charge complained of and set up in the charge sheet.

The Section is a part of the provisions concerning investigation undertaken by the police officer. After the charge sheet is filed, the prosecution leads and produces evidence to secure conviction. Section 102 is not, per se, an enabling provision by which the police officer acts to seize the property to do justice and to hand over the property to a person whom the police officer feels is the rightful and true owner. This is clear from the objective behind Section 102, use of the words in the Section and the scope and ambit of the power conferred on the Criminal Court vide Sections 451 to 459 of the Code. The expression 'circumstances which create suspicion of the commission of any offence' in Section 102 does not refer to a firm opinion or an adjudication/finding by a police officer to ascertain whether or not 'any property' is required to be seized.

The word 'suspicion' is a weaker and a broader expression than 'reasonable belief' or 'satisfaction'. The police officer is an investigator and not an adjudicator or a decision maker. This is the reason why the Ordinance was enacted to deal with attachment of money and immovable properties in cases of scheduled offences. In case and if we allow the police officer to 'seize' immovable property on a mere 'suspicion of the commission of any offence', it would mean and imply giving a drastic and extreme power to dispossess etc. to the police officer on a mere conjecture and surmise, that is, on suspicion, which has hitherto not been exercised.

We have hardly come across any case where immovable property was seized vide an attachment order that was treated as a seizure order by police officer under Section 102 of the Code. The reason is obvious. Disputes relating to title, possession, etc., of immovable property are civil disputes which have to be decided and adjudicated in Civil Courts. We must discourage and stall any attempt to convert civil disputes into criminal cases to put pressure on the other side. Thus, it will not be proper to hold that Section 102 of the Code empowers a police officer to seize immovable property, land, plots, residential houses, streets or similar properties. Given the nature of criminal litigation, such seizure of an immovable property by the police officer in the form of an attachment and dispossession would not facilitate investigation to collect evidence/material to be produced during inquiry and trial.

As far as possession of the immovable property is concerned, specific provisions in the form of Sections 145 and 146 of the Code can be invoked as per and in accordance with law. Section 102 of the Code is not a general provision which enables and authorises the police officer to seize immovable property for being able to be produced in the Criminal Court during trial. This, however, would not bar or prohibit the police officer from seizing documents/ papers of title relating to immovable property, as it is distinct and different from seizure of immovable property. Disputes and matters relating to the physical and legal possession and title of the property must be adjudicated upon by a Civil Court.

In view of the aforesaid discussion, the Reference is answered by holding that the power of a police officer under Section 102 of the Code to seize any property, which

may be found under circumstances that create suspicion of the commission of any offence, would not include the power to attach, seize and seal an immovable property.

LW 82:11:2019

INTERTEK INDIA PVT LTD v. PRIYANKA MOHAN [DEL]

C.R.P.No. 215 of 2019

Sanjeev Sachdeva, J. [Decided on 27/10/2019]

Civil procedure code, 1908- suit for declaration and damages- termination of employee- employer moved application for rejection of suit-whether sustainable-Held, No.

Brief facts:

Respondent/Plaintiff is an ex-employee of the Petitioner/ defendant and was employed as a Business Development Manager with the petitioner-company. Her services were terminated and being aggrieved, she filed the subject suit, inter-alia, claiming a declaration that termination of her services was null and void and further sought a decree of damages on account of mental harassment, loss of reputation, etc. Petitioner/Defendant filed application under Order 7 Rule 11 (d) of the CPC contending that the contract of services being a terminable contract, no suit would lie for re-instatement of services. The trial court by the impugned order dismissed the application. Hence the present petition before the High Court.

Decision: Petition dismissed.

Reason:

I am unable to accept the contention of learned counsel for the petitioner. Respondent had filed the subject Suit claiming that termination is illegal. In paragraph 1 of the plaint respondent had described herself as an ex-employee which indicates that respondent had accepted that she is no longer in services. The respondent throughout the plaint has made averment that her services were terminated illegally. Reference in particular may be had to paragraphs 1, 24 and 27 where she has categorically stated that the notice of termination is illegal.

No doubt, the expression 'null and void' would imply non-est, however, if prayer (a) were to be interpreted in the manner in which learned counsel for the petitioner contends, the same would imply that the termination is non est and respondent/plaintiff continues in services, but that is not what the Respondents seeks.

A meaningful reading of the Plaint shows that the respondent has not sought any re-instatement in service but had claimed that the termination is illegal and hence null and void. Learned counsel for the respondent before the trial court categorically stated that the respondent did not seek any re- instatement. Even if prayer (a), as framed, could not be granted, respondent could claim damages etc. for wrongful termination in case respondent is able to establish that the termination is illegal or contrary to any settled principles and that is what the respondent has sought in prayers (b) to (d).

In case the contentions of learned counsel for the petitioner were to be accepted, then respondent/plaintiff would be left

remediless. On the one hand, as an employee, she cannot claim the relief of reinstatement and on the other hand the employee she is stated to be barred from claiming any damages. That can never be the intention of the law.

Further contention of the learned counsel for the petitioner is that trial court has erred in holding that all reliefs, claimed by the respondent are maintainable and as such prejudice is likely to be caused to the petitioner at the final stage. The apprehension expressed by learned counsel for the petitioner is misplaced. The Advocate for the respondent has very categorically made a statement, as is recorded by the Trial Court, that respondent has not sought a contract for personal service, i.e., re-employment in the petitioner company. In view of the above, I find no merit in the petition. The petition is accordingly dismissed.

LW 83:11:2019

M.MEERAN MOHIDEEN v. B.VIJAYAKUMAR [MAD]

CrI.O.P (MD) No.3848 of 2018

G.K.Ilanthiraiyan, J. [Decided on 18/09/2019]

Negotiable Instruments Act, 1882- section 138- dishonour of cheque- stale cheque-whether action maintainable-Held, No.

Brief facts:

The respondent instituted the proceeding under Section 138 of the Negotiable Instrument Act on the allegation that the petitioner issued a cheque dated 10.03.2017 and when the same was presented for collection the same was dishonoured with an endorsement "Overwriting". Subsequently, the petitioner requested the respondent to wait for six months to settle the amount. Even then, the petitioner did not settle the amount as promised by him. Therefore, again, the cheque was represented for collection through the bank on 26.09.2017 and the same was returned for the reason "Instrument out dated stale" on 27.09.2017. Immediately, he sent a statutory notice on 07.10.2017 to the petitioner and the same was also served to the petitioner on 10.10.2017. Even within 15 days, he did not settle the amount and hence, he initiated the proceedings under the negotiable instrument Act.

Decision: Petition allowed.

Reason:

Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent and perused the materials available on record.

The petitioner is the sole accused and the proceedings under challenge in this petition is that the respondent lodged a complaint under Section 138 of the Negotiable Instrument Act as against the petitioner alleging that the petitioner issued a cheque on 10.03.2017 for a sum of Rs.3 lakhs towards repayment of the loan borrowed by him. The said cheque was initially presented for collection on 21.03.2017 and the same was returned on 22.03.2017 with an endorsement "Overwriting". Again, the cheque was presented only on 26.09.2017 and the same was again returned for the reason that instrument out dated stale. Therefore, admittedly, the cheque was presented after a period of 6 months. In view of the same, the instrument viz., the Cheque is valid

only for a period of 6 months from the date of issuance of the same. In the case on hand, admittedly, the cheque was presented only after the period of 6 months viz., 26.09.2017. Therefore, the cheque dated 10.03.2017 become invalid and hence, the entire proceedings has been vitiated and the learned Judicial Magistrate without even considering the said fact, mechanically taken cognizance and issued summons to the petitioner. Therefore, this Court is of the view that the proceedings under Section 138 of the Negotiable Instrument is liable to be quashed.



Labour Law

LW 84:11:2019

POONAM GARG v. IFCI VENTURE CAPITAL FUNDS LTD & ORS [DEL]

W.P.(C) No. 9304 of 2019

Rekha Palli, J. [Decided on 27/09/2019]

Voluntary Retirement Scheme- employee applied for the same – retirement to be effective from future date- before the effective date employee sought to withdraw the application- employer rejected it- whether correct- Held, No.

Brief facts:

The Respondent Company floated a voluntary retirement scheme (VRS) and the Petitioner applied for the same on 07/06/2019, which was alleged to have been accepted by the Respondent on 08/06/2019. The Petitioner sought to retire with effect from 07/09/2019. However, she withdrew her VRS application on 13/06/2019 which was refused by the Respondent on 04.07.2019 stating that while her request for voluntary retirement had been accepted by the Competent Authority, her letter dated 13.06.2019 seeking withdrawal of her request for voluntary retirement had not been considered favourably and that, resultantly, she would be relieved from service on 06.09.2019. In these circumstances apprehending she may be relieved from her services, Petitioner has challenged the refusal before the High Court.

Decision: Petition allowed.

Reason:

In the light of the submissions made by the parties, it is apparent that the basic facts are undisputed and the short question arising for my consideration is as to whether the petitioner could have withdrawn her application seeking voluntary retirement from service before the same actually became effective, considering the respondents' claim that her application was accepted by the respondent no.3, even before her request for withdrawal was received.

From a perusal of these communications, the fact that the petitioner, while submitting her application seeking voluntary retirement, had specifically requested that the same be accepted w.e.f. 07.09.2019 is evident and undisputed. The Petitioner's request for voluntary retirement was not as per any particular temporary scheme floated by the Company but was in accordance with its Regulations and is akin to a request for resignation; even the mandatory notice period of 90 days to be served by a retiring employee, as prescribed by the Regulations, stood fulfilled by the petitioner on her effective date of retirement, i.e., 07.09.2019.

The respondents, while not denying this position that the petitioner had intended her voluntary retirement to take effect from 07.09.2019, have claimed that since the petitioner's request was accepted by the company on 08.06.2019 itself, her subsequent request for withdrawal on 13.06.2019 could not be accepted.

I also find merit in the petitioner's contention that even if the respondent's plea that her request for voluntary retirement made on 07.06.2019 had been accepted on 08.06.2019 is taken on its face value, the same itself clearly records that her retirement was to be effective from 06.09.2019 (07.09.2019 being a holiday) and, therefore, she was entitled to withdraw the same before the effective date mentioned in the alleged acceptance order dated 10.06.2019. The Apex Court has reiterated that it is open for an employee to withdraw his resignation at any time until the same becomes effective. This right, no doubt, is subject to there being a specific bar in the regulations or upon the employer demonstrating that it had made alternative arrangements after accepting the employee's request for voluntary retirement. In the present case, neither has any provision in the Regulations prohibiting such withdrawal been pointed out nor have the respondents been able to demonstrate that they had appointed any other employee in place of the petitioner.

There is also merit in the petitioner's contention that the mere acceptance, if any, of her voluntary retirement by the respondents on 08.06.2019 was inchoate till the time it was communicated to her as absolutely nothing has been placed on record to show that the same was in fact communicated to her at any time prior to 04.07.2019. The mere fact that the petitioner was holding the post of General Manager would not lead to the presumption that she was privy to all board resolutions or orders passed by senior officers of the Company.

I may now deal with the respondent's final contention that the general principles relating to withdrawal of resignation or voluntary retirement would not be applicable to the present case as the relationship between the petitioner and the respondent was purely contractual and a contract for personal service is not specifically enforceable. It is pertinent to note at this stage that the petitioner is not seeking the specific performance of any contract.

For the aforesaid reasons the writ petition is entitled to succeed. Consequently, the impugned order dated 04.07.2019 rejecting the petitioner's request for withdrawal of her application for voluntary retirement is quashed.



Competition Laws

LW 85:11:2019

SURESH CHANDER GUPTA v. VATIKA LIMITED [CCI]

Case No. 26 of 2019

A.K.Gupta, Sangeeta Verma & B.S.Bishnoi. [Decided on 03/10/2019]

Competition Act, 2002- sections 3&4- complaint relating to termination of service agreement - whether competition issue arises-Held, No.

Brief facts:

The Informant has alleged that there is selling of property through unfair means by nexus between Vatika and property dealers. The Informant has also alleged that Vatika has not taken appropriate action to promote 'Vatika Town Square' and is probably diverting funds collected from Block-D for other projects. The Informant has further alleged that the BBA is completely silent on its obligation to inform buyers and take mitigating measures to minimize adverse impact of force majeure event.

The Informant has, inter-alia, sought to conduct an enquiry into the anti-competitive conduct on the part of Vatika and refund of advance payment and suitable compensation for mental harassment

Decision: dismissed.

Reason:

The Commission observes that the provisions of Section 3 of the Act have no application to the present case as the Informant is a consumer and agreement with a consumer does not fall within the ambit of the Section 3 of the Act.

With regard to Section 4 of the Act, the Commission observes that the matter relates to sale of commercial units in a project developed by Vatika which was booked by the Informant and an advance was paid by him. The relevant product market for the purposes of the present case is the "provision of services for development and sale of commercial space" and the relevant geographic market in the instant case would be 'Gurugram'. Thus, the relevant market would be the market of "provision of services for development and sale of commercial space in Gurugram".

It is observed that apart from Vatika, there are many players such as Unitech Limited, Ansal Housing, DLF Limited, Paras Buildtech, Emaar- MGF, Vipul Infrastructure Developers limited., Parsvnath Developers limited, Spaze Towers Private. Limited, Raheja Developers Limited etc. which are operating in the relevant market and providing services of development and sale of commercial space in Gurugram. These players are providing same or similar service and these services act as competitive constraints on the services provided by Vatika. Further, it is observed that the

Commission has already analysed the dominance of Vatika in a similar case of *Shri Dominic Da'Silva vs. M/s Vatika Group (Case 101 of 2014)*, decided on 01.04.2015, wherein it was held that since there was no information available on record and in the public domain to show the position of strength of the Opposite Party which enables it to operate independently of competitive forces prevailing in the relevant market, prima facie, the Opposite Party does not appear to be in a dominant position in the relevant market. Thus, the Commission observes that Vatika cannot be said to be dominant in the relevant market as delineated above.

In view of the above finding that Vatika has no dominance in the relevant market, no case to examine alleged abuse of dominance by Vatika in the matter, under the provisions of Section 4 of the Act, remains for determination by the Commission.

LW 86:11:2019

ASHOK SUCHDE v. PERNOD RICARD INDIA PVT LTD [CCI]

Case No. 25 of 2019

A.K.Gupta, Sangeeta Verma & B.S.Bishnoi. [Decided on 16/10/2019]

Competition Act, 2002- sections 3&4- complaint relating to flat buyers agreement- whether competition issue arises-Held, No.

Brief facts:

The main grievance of the Informant emanates out of the alleged unilateral termination by the OP of the Agreement and the subsequent appointment of ZK Marketing in its place.

Decision: Dismissed.

Reason:

At the outset, it is observed that post-termination of the Agreement, the OP and Vyn Marketing had reached a settlement agreement in January, 2018, whereby compensation towards notice period, pending service charges etc. were paid to the Informant by the OP. Be that as it may, the Commission proceeds to examine the allegations levelled by the Informant under the statutory scheme of the Act.

On perusal of the Information, it is seen that the allegations made by the Informant against the OP essentially pertain to termination of the Agreement without giving 90 days' advance notice as per the Agreement, appointment of ZK Marketing as service provider by the OP in place of the Informant, due to ZK Marketing having political influence etc. The Informant has also alleged illegal grant of L2 licenses to ZK Marketing in 2015 and renewal thereof in 2016 despite the stated policy of the Excise Department, Dadra and Nagra Haveli, vide notification dated 02.04.2012, for not granting fresh licenses.

A bare perusal of the allegations made by the Informant indicates that the gravamen of the Informant pertains to appointment of ZK Marketing as its new service provider mainly due to its political and bureaucratic connections, alleged quid pro quo, corruption in government department, violation of French law and Code of Conduct by the OP etc. In this regard, the Commission is of the considered opinion that such allegations do not reveal any competition issues/ concerns which can be examined within the statutory framework as provided in Sections 3 and 4 of the Act.

3

FROM THE GOVERNMENT



- NOTIFICATION-JURISDICTION OF RD, NEW DELHI-UT OF JK AND UT OF LADAKH
- NOTIFICATION-ROC JAMMU-JURISDICTION OF ADJUDICATION OF PENALTIES-UT OF JK AND UT OF LADAKH
- NOTIFICATION REGARDING JURISDICTION OF UT OF JAMMU & KASHMIR AND UT OF LADAKH
- 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
- RELAXATION OF ADDITIONAL FEES AND EXTENSION OF LAST DATE OF FILING OF FORM IEPA-1A AND FORM IEPF-2
- RELAXATION OF ADDITIONAL FEES AND EXTENSION OF LAST DATE OF FILING OF CRA-4 (COST AUDIT REPORT) FOR FY 2018-19 UNDER THE COMPANIES ACT, 2013
- DATA BANK NOTIFICATION RELATING TO IICA
- COMPANIES (ACCOUNTS) AMENDMENT RULES, 2019
- COMPANIES (CREATION AND MAINTENANCE OF DATABANK OF INDEPENDENT DIRECTORS) RULES, 2019
- COMPANIES (APPOINTMENT AND QUALIFICATION OF DIRECTORS) FIFTH AMENDMENT RULES, 2019
- COMPANIES INCORPORATION EIGHTH AMENDMENT RULES, 2019
- COMPANIES (COST RECORDS AND AUDIT) AMENDMENT RULES, 2019
- COMPANIES (FILING OF DOCUMENTS AND FORMS IN EXTENSIBLE BUSINESS REPORTING LANGUAGE), AMENDMENT RULES, 2019
- NOTIFICATION FOR DELEGATION OF POWERS TO TRIBUNAL -SECTION 458 READ WITH SECTION 418 OF THE COMPANIES ACT 2013
- COMPANIES (MEETINGS OF BOARD AND ITS POWERS) AMENDMENT RULES, 2019
- DISCLOSURE OF DIVERGENCE IN THE ASSET CLASSIFICATION AND PROVISIONING BY BANKS
- FRAMEWORK FOR LISTING OF COMMERCIAL PAPER
- RESIGNATION OF STATUTORY AUDITORS FROM LISTED ENTITIES AND THEIR MATERIAL SUBSIDIARIES
- CYBER SECURITY & CYBER RESILIENCE FRAMEWORK FOR STOCK BROKERS / DEPOSITORY PARTICIPANTS - CLARIFICATIONS
- CYBER SECURITY & CYBER RESILIENCE FRAMEWORK FOR KYC REGISTRATION AGENCIES
- CYBER SECURITY & CYBER RESILIENCE FRAMEWORK FOR QUALIFIED REGISTRARS TO AN ISSUE / SHARE TRANSFER AGENTS
- FRAMEWORK FOR ISSUE OF DEPOSITORY RECEIPTS



Corporate Laws

01 Notification-Jurisdiction of RD, New Delhi-UT of JK and UT of Ladakh

[Issued by the Ministry of Corporate Affairs vide F. No.5/20/2019-C-CL- V dated 30.10.2019. To be published in the Gazette of India Extraordinary, Part - II, Section - 3, Sub Section (iii)]

- In exercise of the powers conferred by sub-section (1) of section 396 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following further amendment in the notification of the Government of India in the Ministry of Corporate Affairs, published vide number G.S.R 832(E), dated the 3rd November, 2015, in the said notification, against serial number (1), in column (2), for the entry, the following entry shall be substituted, namely:-

"States of Haryana, Punjab, Himachal Pradesh, Uttar Pradesh, Uttarakhand and Union territories of Chandigarh, Jammu and Kashmir, Ladakh and National Capital territory of Delhi."

- This notification shall come into force with effect from 31st October, 2019.

K. V. R. MURTY
Joint Secretary

02 Notification-ROC Jammu-Jurisdiction of Adjudication of Penalties-UT of JK and UT of Ladakh

[Issued by the Ministry of Corporate Affairs vide F. No. 5/20/2019-B-CL-V dated 30.10.2019. To be published in the Gazette of India Extraordinary, Part - II, Section - 3, Sub Section (iii)]

- In exercise of the powers conferred by section 454 of the Companies Act, 2013 (18 of 2013) read with the Companies (Adjudication of Penalties) Rules, 2014, the Central Government hereby makes the following further amendment in the notification of the Government of India in the Ministry of Corporate Affairs, published vide number S.O.831 (E), dated the 24th March, 2015, namely:-
In the said notification, in the Table, against serial number 5 for the entries, the following entries shall be substituted, namely,-

5	"Registrar of Companies-cum- Official Liquidator, Jammu	Union territory of Jammu and Kashmir and Union territory of Ladakh"
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- This notification shall come into force with effect from 31st October, 2019.

K. V. R. MURTY
Joint Secretary

03 Notification regarding jurisdiction of UT of Jammu & Kashmir and UT of Ladakh

[Issued by the Ministry of Corporate Affairs vide F. No.5/20/2019-A-CL-V dated 30.10.2019. To be published in the Gazette of India Extraordinary, Part - II, Section - 3, Sub Section (iii)]

- In exercise of the powers conferred by sub-sections (1) and (2) of section 396 of the Companies Act, 2013 (18 of 2013), the Registrar of Companies shall have jurisdiction in respect of Union territory of Jammu and Kashmir and Union territory of Ladakh, for the purpose of registration of companies and discharging the functions under the aforesaid Act.
- This notification shall come into force with effect from 31st October, 2019.

K. V. R. MURTY
Joint Secretary

04 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

[Issued by the Ministry of Corporate Affairs vide F. No. 1/34/ 2013-CL-V dated 29.10.2019.]

- Keeping in view the requests received from various stakeholders seeking extension of time for filing of financial statements for the financial year ended 31.03.2019 on account of various factors, it has been decided to extend the due date for filing of e-forms AOC-4, AOC-4 (CFS) AOC-4 XBRL upto 30.11.2019 and e-form MGT-7 upto 31.12.2019, by companies without levy of additional fee.
- This issues with the approval of the competent authority.

K. M. S. NARAYANAN
Assistant Director

05 Relaxation of additional fees and extension of last date of filing of form IEPFA-1A and form IEPF-2

[Issued by the Ministry of Corporate Affairs vide F. No. 16/01/2018-IEPFA dated 25.10.2019]

- Keeping in view the requests received from various stakeholders seeking extension of time on account of various factors for filing form IEPF-1A and form IEPF-2, it has been decided to relax the additional fee payable by companies on filing form IEPF-1A upto 31.12.2019 and form IEPF-2(for the purpose of filing Statement of unclaimed and unpaid amounts) upto 30.11.2019. After expiry of due date, the additional fee shall be payable.
- This issues with the approval of the competent authority.

NAVNEET CHOUHAN
General Manager

06 Relaxation of additional fees and extension of last date of filing of CRA-4 (cost audit report) for FY 2018-19 under the Companies Act, 2013

[Issued by the Ministry of Corporate Affairs vide F. No. 01/40/2013-CL-V dated 24.10.2019]

1. With reference to subject cited above, an advisory was hosted on the website of the Ministry that:-

"Costing Taxonomy 2019 to cater to the annual filing of CRA-4 (cost audit report) for FY 2018-19 is under development. The companies which are required to file CRA-4 (cost audit report) for FY 2018-19 are required to use Costing Taxonomy 2019 only. Those who have already filed CRA-4 (cost audit report) using the existing Costing Taxonomy 2015 for FY 2018-19 are NOT required to file afresh. However, those companies which are yet to file their Cost Audit Reports are requested to await deployment of Costing Taxonomy 2019 on MCA21 portal. Once the Costing Taxonomy 2019 is deployed, sufficient time would be given for filing CRA-4 without levying additional fee. Stakeholders may kindly take note and plan accordingly."

2. In this regard, it is hereby informed that the Companies (cost records and audit) Amendment Rules, 2019 and Companies (Filing of Documents and Forms in Extensible Business Reporting Language), Amendment Rules, 2019 have been notified on 15.10.2019 and simultaneously the work of deployment of costing taxonomy 2019 is under process.
3. In view of above and the difficulties expressed by various stakeholders for extending the last date of filing of CRA-4 (cost audit report), it has been decided to extend the last date for filing of CRA-4 (cost audit report) for all eligible companies for the FY 2018-19, without payment of additional fee till 31st December, 2019.
4. It may be noted that the said extension is being given for the entire process starting from 'preparation of Annexures to the Cost Audit Report' to 'submission of Cost Audit Report by the Cost Auditor to the Company' and finally 'filing of Cost Audit Report by the Company with the Central Government'.
5. This issues with the approval of competent authority.

ATMA SAH
Deputy Director

07 Data Bank Notification Relating to IICA

[Issued by the Ministry of Corporate Affairs vide F. No. F. No. 8/4/2018-CL-I-Part-I dated 22.10.2019. Published in the Gazette of India Extraordinary, Part - II, Section - 3, Sub Section (ii)]

1. In exercise of the powers conferred by sub-section (1) of section 150 of the Companies Act, 2013 (18 of 2013), the Central Government hereby notifies the Indian Institute of Corporate Affairs at Manesar (Haryana), as an institute to create and maintain a data bank containing names, addresses and qualifications of persons who are eligible and willing to act as independent directors, for the use of the company making

the appointment of such directors.

2. This notification shall come into force with effect from the 1st day of December, 2019.

K. V. R. MURTY
Joint Secretary

08 Companies (Accounts) Amendment Rules, 2019

[Issued by the Ministry of Corporate Affairs vide F. No. 1/19/2013-CL-V-Part dated 22.10.2019. Published in the Gazette of India Extraordinary, Part - II, Section - 3, Sub Section (i)]

In exercise of the powers conferred by section 134 read with section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Accounts) Rules, 2014, namely:—

1. (1) These rules may be called the Companies (Accounts) Amendment Rules, 2019.
(2) They shall come into force with effect from the 1st day of December, 2019.
2. In the Companies (Accounts) Rules, 2014, in rule 8, in sub-rule (5), after clause (iii), the following clause shall be inserted namely:—

“(iia) a statement regarding opinion of the Board with regard to integrity, expertise and experience (including the proficiency) of the independent directors appointed during the year”.

Explanation—For the purposes of this clause, the expression “proficiency” means the proficiency of the independent director as ascertained from the online proficiency self-assessment test conducted by the institute notified under sub-section (1) of section 150.

K. V. R. MURTY
Joint Secretary

09 Companies (Creation and Maintenance of Databank of Independent Directors) Rules, 2019

[Issued by the Ministry of Corporate Affairs vide F. No. 8/4/2018-CL-I dated 22.10.2019. Published in the Gazette of India Extraordinary, Part - II, Section - 3, Sub Section (i)]

In exercise of the powers conferred by section 150 read with section 469 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 (Creation and Maintenance of databank of Independent Directors) Rules, 2019.
(2) The provisions of these rules, other than rule 2 and 5, shall come into force with effect from the 1st day of December, 2019.
(3) The provisions of rule 2 and 5 shall come into force on the date of publication of this notification in the Official Gazette.
2. **Definitions.**— (1) In these rules, unless the context otherwise requires, —

- (a) "Act" means the Companies Act, 2013 (18 of 2013);
- (b) "institute" means the 'Indian Institute of Corporate Affairs' notified under sub-section (1) of section 150 of the Companies Act, 2013.

(2) Words and expressions used and not defined in these rules but defined in the Act shall have the same meanings as respectively assigned to them in the Act.

3. Creation and maintenance of data bank.- (1) The institute shall create and maintain a databank of persons willing and eligible to be appointed as independent directors, and such databank shall be an online databank which shall be placed on the website of the institute.

(2) The data bank referred to in sub-rule (1) shall contain the following details in respect of each person included in the data bank to be eligible and willing to be appointed as independent director—

- (a) DIN (Director Identification Number), if applicable;
- (b) Income Tax PAN;
- (c) the name and surname in full;
- (d) the father's name;
- (e) the date of Birth;
- (f) gender;
- (g) the nationality;
- (h) the occupation;
- (i) full Address with PIN Code (present and permanent);
- (j) phone number;
- (k) e-mail id;
- (l) the educational and professional qualifications;
- (m) experience or expertise, if any;
- (n) any pending criminal proceedings as specified in clause (d) of sub-section (1) of section 164;
- (o) the list of limited liability partnerships in which he is or was a designated partner along with—
 - (i) the name of the limited liability partnership;
 - (ii) the nature of industry; and
 - (iii) the duration- with dates;
- (p) the list of companies in which he is or was director along with—
 - (i) the name of the company;
 - (ii) the nature of industry;
 - (iii) the nature of directorship—Executive or Non-executive or Managing Director or Independent Director or Nominee Director; and
 - (iv) duration – with dates.

(3) The information available in the data bank shall be provided only to companies required to appoint independent director after paying a reasonable fees to the institute.

(4) A person whose name is included in the data bank, may restrict his personal information to the institute, to be disclosed in the data bank.

(5) Any individual whose name appears in the data bank, shall make changes in his particulars within thirty days of such change through web based framework made available by the institute for this purpose.

(6) A disclaimer shall be conspicuously displayed on the website hosting the data bank that a company must carry out its own due diligence before appointment of any person as an independent director.

(7) The institute, shall with the prior approval of the Central Government, fix a reasonable fee to be charged from :—

- (a) individuals for inclusion of their names in the data bank of independent directors; and
- (b) companies for providing the information on independent directors available on the data bank.

Explanation:- For the purpose of this rule, the expression "persons willing and eligible to be appointed as independent director" shall include individuals already serving as independent directors on the Board of companies.

4. Duties of the institute.- (1) The institute shall comply with the following, in respect of individuals referred to in sub- rule (1) of rule 6 of the Companies (Appointment and Qualification of Directors) Rules, 2014 , namely:—

- (a) conduct an online proficiency self-assessment test covering companies law, securities law, basic accountancy, and such other areas relevant to the functioning of an individual acting as an independent director;
- (b) prepare a basic study material, online lessons, including audio-visuals for easy reference of individuals taking the online proficiency self-assessment test;
- (c) provide an option for individuals to take advanced tests in the areas specified in clause (a) and prepare the necessary advanced study material in this respect:

Provided that no separate fees shall be charged by the institute in respect of clauses (a), (b) and (c).

(2) The institute shall daily, share with the Central Government, a cumulative list of all individuals—

- (a) whose names have been included in the data bank along with the date of inclusion and their Income Tax PAN or Passport number in case of foreign director (not required to have Income-Tax PAN);
- (b) whose applications for inclusion in the data bank have been rejected along with grounds and the dates of such rejection; and
- (c) whose names have been removed from the data bank along with grounds and the dates of such removal.

5. Panel.—(1) There shall be a panel of not more than ten members nominated by the Central Government, for the purpose of approving the outline of the courses and study material prepared by the institute.

(2) Panel referred to in sub-rule (1) shall consist of:—

- (a) Secretary, Ministry of Corporate Affairs or his nominee;
- (b) Director General and Chief Executive Officer of the institute or his nominee;
- (c) one member nominated by the Department of Economic Affairs;
- (d) one member nominated by the Department of Public Enterprises;
- (e) one member nominated by the Securities and Exchange Board of India;
- (f) at-least one representative from the stock exchange nominated by the Central Government;
- (g) at-least one representative from the industry nominated by the Central Government; and
- (h) at-least one representative from the academia nominated by the Central Government.

K. V. R. MURTY

Joint Secretary

10

Companies (Appointment and Qualification of Directors) Fifth Amendment Rules, 2019

[Issued by the Ministry of Corporate Affairs vide E. No. 8/4/2018-CL-I- Part II dated 22.10.2019. Published in the Gazette of India Extraordinary, Part - II, Section - 3, Sub Section (i)]

In exercise of the powers conferred by section 149 read with section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Appointment and Qualification of Directors) Rules, 2014, namely:-

1. (1) These rules may be called the Companies (Appointment and Qualification of Directors) Fifth Amendment Rules, 2019.
(2) They shall come into force with effect from the 1st day of December, 2019.
2. In the Companies (Appointment and Qualification of Directors) Rules, 2014 (hereinafter referred to as the principal rules), for rule 6, the following rule shall be substituted, namely: -

“6. Compliances required by a person eligible and willing to be appointed as an independent director.-

- (1) Every individual -
 - (a) who has been appointed as an independent director in a company, on the date of commencement of the Companies (Appointment and Qualification of Directors) Fifth Amendment Rules, 2019, shall within a period of three months from such commencement; or
 - (b) who intends to get appointed as an independent director in a company after such commencement, shall before such appointment, apply online to the institute for inclusion of his name in the data bank for a period of one year or five years or for his life-time, and from time to time take steps as specified in sub-rule (2), till he continues to hold the office of an independent director in any company:
Provided that any individual, including an individual not having DIN, may voluntarily apply to the institute for inclusion of his name in the data bank.
- (2) Every individual whose name has been so included in the data bank shall file an application for renewal for a further period of one year or five years or for his life-time, within a period of thirty days from the date of expiry of the period upto which the name of the individual was applied for inclusion in the data bank, failing which, the name of such individual shall stand removed from the data bank of the institute:

Provided that no application for renewal shall be filed by an individual who has paid life-time fees for inclusion of his name in the data bank.

- (3) Every independent director shall submit a declaration of compliance of sub-rule (1) and sub-rule (2) to the Board, each time he submits the declaration required under sub-section (7) of section 149 of the Act.
- (4) Every individual whose name is so included in the data bank under sub-rule (1) shall pass an online proficiency self-assessment test conducted by the institute within a period of one year from the date of inclusion of his name in the data bank, failing which, his name shall stand removed from the databank of the institute:

Provided that the individual who has served for a period of not less than ten years as on the date of inclusion of his name in the databank as director or key managerial personnel in a listed public company or in an unlisted public company having a paid-up share capital of rupees ten crore or more shall not be required to pass the online proficiency self-assessment test:

Provided further that for the purpose of calculation of the period of ten years referred to in the first proviso, any period during which an individual was acting as a director or as a key managerial personnel in two or more companies at the same time shall be counted only once.

Explanation: For the purposes of this rule,-

- (a) the expression “institute” means the ‘Indian Institute of Corporate Affairs at Manesar’ notified under sub-section (1) of section 150 of the Companies Act, 2013 as the institute for the creation and maintenance of data bank of Independent Directors;
- (b) an individual who has obtained a score of not less than sixty percent. in aggregate in the online proficiency self-assessment test shall be deemed to have passed such test;
- (c) there shall be no limit on the number of attempts an individual may take for passing the online proficiency self-assessment test.”

K. V. R. MURTY
Joint Secretary

11

Companies Incorporation Eighth Amendment Rules, 2019

[Issued by the Ministry of Corporate Affairs vide E. No. 1/13/2013 CL-V, Vol.IV dated 16.10.2019. Published in the Gazette of India Extraordinary, Part - II, Section - 3, Sub Section (i)]

In exercise of the powers conferred by sub-sections (1) and (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 (Incorporation) Rules, 2014, namely: -

1. **Short title and Commencement.-** (1) These rules may be called the Companies (Incorporation) Eighth Amendment Rules, 2019.
(2) They shall come into force from the date of publication in the Official Gazette.
2. In the Companies (Incorporation) Rules, 2014 (herein after referred to as the said rules),
 - I. in rule 8A, in sub-rule(1), in clause (b), the words and figure “or applicant for registration,” shall be omitted.
 - II. in rule 25A,-
in sub-rule (1), in the fourth proviso, for the item (iii), the following shall be substituted, namely.-
“(iii) DIR-12 (changes in Director except in case of:
(a) cessation of any director or
(b) appointment of directors in such company where the total number of directors are less than the minimum number provided in clause (a) of sub-section (1) of

- section 149 on account of disqualification of all or any of the director under section 164.
- (c) appointment of any director in such company where DINs of all or any its director(s) have been deactivated.
 - (d) appointment of director(s) for implementation of the order passed by the Court or Tribunal or Appellate Tribunal under the provisions of this Act or under the Insolvency and Bankruptcy Code, 2016).”.

III. In the said rule 28, after sub-rule (1), the following rules shall be inserted, namely:-

- “(2) The Regional Director shall examine the application referred to in sub-rule (1) and the application may be put up for orders without hearing and the order either approving or rejecting the application shall be passed within fifteen days of the receipt of application complete in all respects.
- (3) The certified copy of order of the Regional Director, approving the alternation of memorandum for transfer of registered office company within the same State, shall be filed in Form No.INC-28 along with fee with the Registrar of State within thirty days from the date of receipt of certified copy of the order.”

K. V. R. MURTY

Joint Secretary

12 Companies (Cost Records and Audit) Amendment Rules, 2019

[Issued by the Ministry of Corporate Affairs vide E. No. 1/40/2013-CL-V Part 1 dated 15.10.2019. Published in the Gazette of India Extraordinary, Part - II, Section - 3, Sub Section (i)]

In exercise of the powers conferred by sub-sections (1) and (2) of section 469 and section 148 of the Companies Act, 2013 (18 of 2013) (hereinafter referred as the Act), the Central Government hereby makes the following rules further to amend the Companies (cost records and audit) Rules, 2014, namely:-

1. (1) These rules may be called the Companies (cost records and audit) Amendment Rules, 2019.
- (2) These rules shall be deemed to come into force on the 1st day of April, 2018.
- (3) The companies who have already filed their Cost Audit Report in form CRA-4 for the financial year 2018-19 with the Central Government before the publication of this notification are not required to file their Cost Audit Report for the said financial year.
2. In the Companies (cost records and audit) Rules, 2014, in the Annexure,-
 - (a) in Form CRA-1,-
 - (i) in paragraph 7. Overheads, for sub-paragraphs (m), (q), (r) and (s), the following sub-paragraphs shall respectively be substituted, namely:-

“(m) Overheads shall be classified according to functions, viz., works, administration, selling and distribution. Works overheads, also known as Production Overheads, Operation Overheads, Factory Overheads or Manufacturing Overheads, shall be the indirect costs involved in the production of a product or in

providing service. Administrative overheads shall be the aggregate of cost of resources consumed in activities relating to general management and administration of an organisation. Selling and Distribution overheads shall be the aggregate of cost of resources consumed in the selling and distribution activities of the organization.”;

“(q) In case of leased assets, if the lease is an operating lease, the entire rentals shall be included in the respective overheads. If the lease is a financial lease, the finance cost portion shall be segregated and treated as part of finance costs.”;

“(r) Selling and Distribution Overheads, the benefits of which are expected to be derived over a long period, shall be amortized on a rational basis.”;

“(s) Any demurrage or detention charges or penalty levied by the transportation or other authorities in respect of distribution activity shall not form part of Selling and Distribution Overheads.”;

(ii) the paragraph 8. Administrative Overheads, shall be omitted;

(iii) in paragraph 9. Transportation Cost, for sub-paragraph (k), the following shall be substituted, namely:-

“(k) Records for transportation costs for exempted goods, taxable goods cleared for export shall be maintained separately.”;

(iv) in paragraph 28. Cost Statements, for sub-paragraphs (a) and (c), the following shall respectively be substituted, namely:-

“(a) Cost statements (monthly, quarterly and annually) showing quantitative information in respect of each goods or service under reference shall be prepared showing details of available capacity, actual production, production as per excise records, production as per GST records, capacity utilisation (in-house), stock purchased for trading, stock and other adjustments, quantity available for sale, wastage and actual sale, total quantity of outward supplies as per cost records and total outward supplies as per GST records during current financial year and previous year.”;

“(c) Cost statements (monthly, quarterly and annually) in respect of reconciliation of indirect taxes showing details of total clearances of goods or services, assessable value/ taxable value, duties or taxes paid, CENVAT or VAT or Service Tax or GST Credit utilised, duties or taxes recovered and interest or penalty paid.”;

- (b) e Form CRA-3, in Annexure to the Cost Audit Report,-
 - (I) in Part-A,-
 - (a) in table 2. General Details of Cost Auditor,-
 - (i) for item 11, the following shall be substituted, namely:-

“(11) SRN number of Form CRA-2”;
 - (ii) for item 12, the following shall be substituted, namely:-

“12(a) Number of audit committee meeting(s) during the year for which Cost Auditor was invited

- 12(b) Number of audit committee meeting(s) attended by cost auditor during year”;
- (b) in table 4. PRODUCT/ SERVICE DETAILS (for the company as a whole),-
- (i) or the words “Total Net revenue from Operations”, the words “Total Net Operational Revenue of Manufactured Product or Service” shall be substituted and thereafter two new rows shall be inserted, namely:- “Other Operating Incomes of Company
Total Operating Incomes of Company”;
- (ii) for the words “Exceptional, Extra Ordinary and Other Comprehensive Income, if any”, the following shall be substituted, namely:-
- “(i) Exceptional and Extra Ordinary income
- (ii) Other Comprehensive Income, if any”;
- (iii) for the words “Excise/ Service Tax” the words “Excise / Service Tax/ GST” shall be substituted;
- (II) in Part-B,-
- (a) in table 1. QUANTITATIVE INFORMATION (for each product with CETA Heading separately), in point 3, for the words “Excise”, the words “Excise/ GST” shall be substituted;
- (b) in table 2. ABRIDGED COST STATEMENT (for each product with CETA Heading separately), in point 28, for the word “Interest”, the word “Finance Charges” shall be substituted;
- (c) in table 2B. Details of Utilities Consumed, for the word “Material”, the words “Utilities Consumed” shall be substituted;
- (III) in Part-C,-
- (a) in table 1. QUANTITATIVE INFORMATION (for each service separately),-
- (i) in point 3, for the words “Service Tax”, the words “Service Tax/ GST” shall be substituted;
- (ii) point 5 shall be renumbered as point 7 and before point 7, so as renumbered, and after point 4, the following points shall be inserted, namely:-
- “5. Other Adjustments
- (a) Self or Captive Consumption
- (b) Other Quantitative Adjustments, if any
- (c) Total Other Adjustments
6. Total Available Services for Sale [2(d)+5(c)]”
- (b) in table 2. ABRIDGED COST STATEMENT (for each service separately), in point 23, for the word “Interest”, the words “Finance Charges” shall be substituted;
- (c) in table 2B. Details of Utilities Consumed, for the word “Material”, the words “Utilities Consumed” shall be substituted;
- (IV) in Part-D,-
- (a) in table 2. PROFIT RECONCILIATION (for the company as a whole), in point 1, for the words “Accounting Records”, the word “Accounts” shall be substituted;
- (b) in table 3. VALUE ADDITION AND DISTRIBUTION OF EARNINGS (for the company as a whole), for points 1, 2, 3, 5 and 9, the following points shall respectively be substituted, namely:-
- “1 Revenue from Operations”;
- “2 Less: Taxes and other duties”;
- “3 Net Revenue from Operations”;
- “5 Add/ Less: Adjustment in Stocks”;
- “9 Add: (i) Exceptional and Extra Ordinary income
- (ii) Other Comprehensive Income, if any”;
- (c) in table 4. FINANCIAL POSITION AND RATIO ANALYSIS (for the company as a whole), in point E, item 3 and the entries relating thereto, shall be omitted;
- (d) in table 5. RELATED PARTY TRANSACTIONS (for the company as a whole), for the words “Name and Address of the Related Party”, the words “Name and CIN of the Related Party” shall be substituted;
- (e) for table 6. Reconciliation of Indirect Taxes (for the company as a whole), the following table shall be substituted, namely:-
- “6 Reconciliation of Indirect Taxes (for the company as a whole)

Particulars		Taxable Value/ Assessable Value	Excise Duty/ VAT, CST, Cess etc./ Other State Taxes, if any	Goods & Services Tax				Cess and Others
				CGST	SGST / UTGST	IGST		
		Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	
Sl. No.	Duties/ Taxes Payable							
	Excise Duty							
1	Domestic							
2	Export							
3	Stock Transfers (Net)							
4	Others, if any							
5	Total Excise Duty (1 to 4)							
6	VAT, CST, Cess etc.							
7	Other State Taxes, if any							
Goods & Services Tax								
8	Outward Taxable Supplies (other than zero rated, Nil Rated and Exempted)							
9	Outward Taxable Supplies (zero rated)							
10	Inward Supplies (liable to Reverse Charge)							
11	Other Outward Supplies (Nil Rated, Exempted)							
12	Non-GST Outward Supplies							
13	Total (8 to 12)							
14	Total Duties / Taxes Payable (5 + 6 + 7 + 13)							
Duties/ Taxes paid [by Utilisation of Input Tax Credit and Payment through Cash Ledger, as the case may be]								
Input Tax Credit Utilised								
15	CGST/ CENVAT							
16	SGST / UTGST/ VAT							
17	IGST							
18	Cess							
19	Transitional Credit							

20	Others, if any, specify						
21	Total Input Tax Credit Utilised (15 to 20)						
22	Payment through Cash Ledger						
23	Total Duties/Taxes Paid (21 + 22)						
	Difference between Taxes Paid and Payable (14 - 23)						
24	Interest/Penalty/Fines Paid						

Explanatory Memorandum : It is certified that no person is being adversely affected by giving retrospective effect to this notification. The proposed amendments have been made on account of introduction of the Goods and Services Tax.

K. V. R. MURTY
Joint Secretary

13 Companies (Filing of Documents and Forms in Extensible Business Reporting Language), Amendment Rules, 2019

[Issued by the Ministry of Corporate Affairs vide E No. 1/40/2013-CL-V Part 1 dated 15.10.2019. Published in the Gazette of India Extraordinary, Part - II, Section - 3, Sub Section (i)]

In exercise of the powers conferred by sub-sections (1) and (2) of section 469 read with section 398 of the Companies Act, 2013 (18 of 2013) (hereinafter referred as the Act), the Central Government hereby makes the following rules further to amend the Companies (Filing of Documents and Forms in Extensible Business Reporting Language) Rules, 2015, namely:—

- Short title and commencement.**—(1) These rules may be called the Companies (Filing of Documents and Forms in Extensible Business Reporting Language), Amendment Rules, 2019.
(2) They shall come into force from the date of their publication in the Official Gazette.
- In the Companies (Filing of Documents and Forms in Extensible Business Reporting Language) Rules, 2015, for Annexure-III, the following Annexure shall be substituted, namely:—

K. V. R. MURTY
Joint Secretary

Annexure not published here for want of space. Readers may log on to www.mca.gov.in for Complete Notification.

14 Notification for Delegation of powers to Tribunal -Section 458 read with section 418 of the Companies Act 2013

[Issued by the Ministry of Corporate Affairs vide E No. A-12018/02/2017- Ad-IV/P dated 14.10.2019. Published in the Gazette of India Extraordinary, Part - II, Section - 3, Sub Section (i)]

In exercise of the powers conferred by sub-section (1) of section 458 of the Companies Act, 2013 (18 of 2013), the Central Government hereby delegates its powers and functions under

sub-section (1) of section 418 of the said Act (hereinafter referred to as the said sub-section) to provide officers and other employees to the Tribunal and the Appellate Tribunal referred to in the said sub-section to the President and Chairperson of the said Tribunal and the Appellate Tribunal, as the case may be, subject to conditions as specified in the recruitment rules of the respective posts as approved and notified by the Central Government.

K. V. R. MURTY
Joint Secretary

15 Companies (Meetings of Board and its Powers) Amendment Rules, 2019

[Issued by the Ministry of Corporate Affairs vide E No. 1/32/2013-CL-V-Part dated 11.10.2019. To be published in the Gazette of India Extraordinary, Part - II, Section - 3, Sub Section (i)]

In exercise of the powers conferred by sections 173, 177, 178 and section 186 read with section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Meetings of Board and its Powers) Rules, 2014, namely:—

- (1) These rules may be called the Companies (Meetings of Board and its Powers) Amendment Rules, 2019.
(2) They shall come into force on the date of their publication in the Official Gazette.
- In the Companies (Meetings of Board and its Powers) Rules, 2014, in rule 11, in sub-rule (2), for the words "business of financing of companies", the words "business of financing industrial enterprises" shall be substituted.

K. V. R. MURTY
Joint Secretary

16 Disclosure of divergence in the asset classification and provisioning by banks

[Issued by the Securities and Exchange Board of India vide Circular No. CIR/CFD/CMD1/120/2019 dated 31.10.2019.]

- Under regulation 30 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ('**SEBI LODR Regulations**') a listed entity shall disclose to stock exchange(s) all events or information, which are material, as soon as reasonably possible and not later than twenty four hours from the occurrence of event or information.
- Further, SEBI (Prohibition of Insider Trading) Regulations, 2015 ('**SEBI PIT Regulations**'), mandates prompt disclosure of unpublished price sensitive information that would impact price discovery no sooner than credible and concrete information comes into being.
- RBI vide Notification No RBI/2016-17/283; DBR.BP.BC. No. 63/21.04.018/ 2016-17 dated April 18, 2017 and amended Notification No. RBI/2018-19/157;DBR.BP.BC. No.32/21.04.018 /2018-19 dated April 1, 2019 mandated banks to disclose certain cases of divergence in the asset classification and provisioning in the Notes to Accounts in the ensuing Annual Financial Statements published immediately following communication of such divergence by RBI to the

bank.

4. Accordingly, SEBI vide its Circular No. CIR/CFD/CMD/80/2017 dated July 18, 2017 and amended Circular no. CIR/CFD/CMD1/79/2019 dated July 17, 2019 also specified the said disclosure requirements to all banks, which have listed specified securities.
5. These disclosures in respect of divergence and provisioning are in the nature of material events / information and hence, necessitate immediate disclosure. Further, this information is also price sensitive, requiring prompt disclosure.
6. Accordingly, in consultation with RBI, it has been decided that the listed banks shall make disclosures of divergences and provisioning beyond specified threshold, as mentioned in aforesaid RBI notifications, as soon as reasonably possible and not later than 24 hours upon receipt of the Reserve Bank's Final Risk Assessment Report ('RAR'), rather than waiting to publish them as part of annual financial statements. The disclosures are to be made in either or both of the following cases:
 - a. *the additional provisioning for NPAs assessed by RBI exceeds 10 percent of the reported profit before provisions and contingencies for the reference period, and*
 - b. *the additional gross NPAs identified by RBI exceed 15 percent of the published incremental Gross NPAs for the reference period.*

The format in which such disclosures are to be made has also been prescribed by RBI (**Annex A**).
7. SEBI's circular CIR/CFD/CMD/80/2017 dated July 18, 2017 and amended circular CIR/CFD/CMD1/79/2019 dated July 17, 2019 are withdrawn.
8. The Stock Exchanges are advised to bring the provisions of this circular to notice of all banks which have listed specified securities and also to disseminate it on their websites.
9. This circular shall come into force with immediate effect.
10. The circular is issued under Regulation 30 and 101 of SEBI LODR Regulations.
11. The circular is available on SEBI website at www.sebi.gov.in under the category 'Legal-Circulars'.

PRADEEP RAMAKRISHNAN

General Manager

17 Framework for listing of Commercial Paper

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/DDHS/DDHS/CIR/P/2019/115 dated 22.10.2019.]

1. The issuers of Commercial Papers (CPs) have shown interest to list CPs for trading on Stock Exchange(s) with a view to broadening investor participation in CPs. Accordingly, to enable listing of CPs and to ensure investor protection, it is important that issuers make appropriate disclosures at the time of listing and on a continuous basis.
2. In view of the above, a disclosure framework applicable for

listing of CPs was discussed in the meeting of Corporate Bonds & Securitization Advisory Committee (CoBoSAC), chaired by Shri H. R. Khan.

3. Based on recommendations of CoBoSAC, for listing of CPs, issuers and stock exchanges shall comply at the time of listing and on a continuous basis with the following:
 - a. An issuer who desires to list its CP shall forward an application for listing along with the disclosures specified in **Annexure I** to the concerned stock exchange(s).
 - b. On approval of the listing application by the concerned stock exchange(s), the disclosures so provided along with the application for listing, shall be made available on the website of the concerned stock exchange(s).
 - c. Post listing, the issuer shall make disclosures, as specified in **Annexure II**, during the tenure of the CP(s) to the concerned stock exchange(s), which in turn shall disseminate the same on its website.
4. The Stock exchange(s) are advised to put in place;
 - a. Necessary systems and procedures for monitoring of disclosures as specified in **Annexure I & II** of this circular.
 - b. A framework for imposition of fine, in case of non-compliance and/or inappropriate disclosures by issuers.
5. Any non-compliance with the conditions of listing issued under this circular may also attract action under Securities and Exchange Board of India Act, 1992.
6. This Circular is issued in exercise of powers conferred under Section 11(1) of Securities and Exchange Board of India Act, 1992.
7. This Circular is available on SEBI website at www.sebi.gov.in under the categories "Legal Framework" and under the drop down "Corporate Debt Market".

RICHA G. AGARWAL

Deputy General Manager

Annexure not published here for want of space. Readers may log on to www.sebi.gov.in for Complete Notification.

18 Resignation of statutory auditors from listed entities and their material subsidiaries

[Issued by the Securities and Exchange Board of India vide Circular No. CIR/CFD/CMD1/114/2019 dated 18.10.2019.]

1. Listed companies are required to make timely disclosures to investors in the securities market for enabling them to take informed investment decisions.
2. Under Sub-clause (2) of Clause A in Part C of Schedule II under Regulation 18(3) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ("**SEBI LODR Regulations**"), the Audit Committee of a listed entity, *inter alia*, has to make recommendations for the appointment, remuneration and terms of appointment of auditors of a listed entity. Under Sub-clause (7), the Audit Committee is also responsible for reviewing and monitoring the independence and performance of auditors and the effectiveness of the audit process.

3. Further, Sub-clause (7A) inserted under Clause A in Part A of Schedule III under Regulation 30(2) of SEBI LODR Regulations requires detailed reasons to be disclosed by the listed entities to the stock exchanges in case of resignation of the auditor of a listed entity as soon as possible but not later than twenty-four hours of receipt of such reasons from the auditor.
4. Regulation 36(5) of the SEBI LODR Regulations lays down certain disclosures to be made part of the notice to the shareholders for an AGM, where the statutory auditors are proposed to be appointed/re-appointed, including their terms of appointment.
5. Resignation of an auditor of a listed entity / its material subsidiary before completion of the audit of the financial results for the year due to reasons such as pre-occupation may seriously hamper investor confidence and deny them access to reliable information for taking timely investment decisions.
6. In light of the above, the conditions to be complied with upon resignation of the statutory auditor of a listed entity/material subsidiary w.r.t. limited review / audit report as per SEBI LODR Regulations, are as under:
 - A. All listed entities/material subsidiaries shall ensure compliance with the following conditions while appointing/re-appointing an auditor:**
 - (i) If the auditor resigns within 45 days from the end of a quarter of a financial year, then the auditor shall, before such resignation, issue the limited review/ audit report for such quarter.
 - (ii) If the auditor resigns after 45 days from the end of a quarter of a financial year, then the auditor shall, before such resignation, issue the limited review/ audit report for such quarter as well as the next quarter.
 - (iii) Notwithstanding the above, if the auditor has signed the limited review/ audit report for the first three quarters of a financial year, then the auditor shall, before such resignation, issue the limited review/ audit report for the last quarter of such financial year as well as the audit report for such financial year.
 - B. Other conditions relating to resignation shall include:**
 - (i) **Reporting of concerns with respect to the listed entity/its material subsidiary to the Audit Committee:**
 - a. In case of any concern with the management of the listed entity/material subsidiary such as non-availability of information / non-cooperation by the management which may hamper the audit process, the auditor shall approach the Chairman of the Audit Committee of the listed entity and the Audit Committee shall receive such concern directly and immediately without specifically waiting for the quarterly Audit Committee meetings.
 - b. In case the auditor proposes to resign, all concerns with respect to the proposed resignation, along with relevant documents shall be brought to the notice of the Audit Committee. In cases where the proposed resignation is due to non-receipt of information / explanation from the company, the auditor shall inform the Audit Committee of the details of information / explanation sought and not provided by the management, as applicable.
 - c. On receipt of such information from the auditor relating to the proposal to resign as mentioned above, the Audit Committee / board of directors, as the case may be, shall deliberate on the matter and communicate its views to the management and the auditor.
 - (ii) **Disclaimer in case of non-receipt of information:**

In case the listed entity/ its material subsidiary does not provide information required by the auditor, to that extent, the auditor shall provide an appropriate disclaimer in the audit report, which may be in accordance with the Standards of Auditing as specified by ICAI / NFRA.

The listed entity/ material subsidiary shall ensure that the conditions as mentioned in 6(A) and 6(B) above are included in the terms of appointment of the statutory auditor at the time of appointing/re-appointing the auditor. In case the auditor has already been appointed, the terms of appointment shall be suitably modified to give effect to 6(A) and 6(B) above. The practicing company secretary shall certify compliance by a listed entity with 6(A) and 6(B) above in the annual secretarial compliance report issued in terms of SEBI Circular no. CIR/CFD/CMD1/27/2019 dated February 08, 2019.
 - C. Obligations of the listed entity and its material subsidiary:**
 - (i) **Format of information to be obtained from the statutory auditor upon resignation:**

Upon resignation, the listed entity / its material subsidiary shall obtain information from the Auditor in the format as specified in **Annexure A** to this Circular. The listed entity shall ensure disclosure of the same under Sub-clause (7A) of Clause A in Part A of Schedule III under Regulation 30(2) of SEBI LODR Regulations.
 - (ii) **Co-operation by listed entity and its material subsidiary:**

During the period from when the auditor proposes to resign till the auditor submits the report for such quarter / financial year as specified above, the listed entity and its material subsidiaries shall continue to provide all such documents/information as may be necessary for the audit / limited review.
 - (iii) **Disclosure of Audit Committee's views to the Stock Exchanges:**

Upon resignation of the auditor, the Audit Committee shall deliberate upon all the concerns raised by the auditor with respect to its resignation as soon as possible, but not later than the date of the next Audit Committee meeting and communicate its views to the management. The listed entity shall ensure the disclosure of the Audit Committee's views to the stock exchanges as soon as possible but not later than twenty-four hours after the date of such Audit Committee meeting.
7. In case an entity is not mandated to have an Audit Committee, then the board of directors of the entity shall ensure compliance of this circular.
8. The Stock Exchanges are advised to bring the provisions of

this circular to the notice of all listed entities and their material subsidiaries and also disseminate it on their websites.

9. This Circular shall come into force with immediate effect.
10. In case the auditor is rendered disqualified due to operation of any condition mentioned in Section 141 of the Companies Act, 2013, then the provisions of this Circular shall not apply.
11. The Circular is issued in exercise of the powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 read with regulations 18(3), 30(2) and 36(5) of the SEBI LODR Regulations and shall be in addition to the provisions of Companies Act, 2013.
12. The circular is available on SEBI website at www.sebi.gov.in under the category - 'Legal→Circulars'.

PRADEEP RAMAKRISHNAN
General Manager

19 Cyber Security & Cyber Resilience framework for Stock Brokers / Depository Participants - Clarifications

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/MIRSD/DOP/CIR/P/2019/109 dated 15.10.2019.]

1. SEBI, vide circular SEBI/HO/MIRSD/CIR/PB/2018/147 dated December 03, 2018, prescribed the framework for Cyber Security & Cyber Resilience for Stock Brokers / Depository Participants.
2. Paragraph 52 of Annexure 1 of the SEBI circular dated December 03, 2018 specifies the following regarding sharing of information:

Quarterly reports containing information on cyber-attacks and threats experienced by Stock Brokers / Depository Participants and measures taken to mitigate vulnerabilities, threats and attacks including information on bugs / vulnerabilities / threats that may be useful for other Stock Brokers / Depository Participants should be submitted to Stock Exchanges / Depositories.

3. In this regard, following guidelines are being issued for submission of report / information and the timelines:
 - 3.1. A format for submitting the reports is attached as Annexure.
 - 3.2. For the quarter ended on September 30, 2019, quarterly reports shall be submitted by stock brokers / depository participants not later than November 30, 2019 as per the format specified.
 - 3.3. Effective from quarter ending on December 31, 2019, the time period for submission of the report shall be 15 days after the end of the quarter.
 - 3.4. The mode of submission of such reports by the stock brokers / depository participants may be prescribed by Stock Exchanges / Depositories.

4. With regard to periodic audit as specified in paragraph 58 of Annexure 1 of the SEBI circular dated December 03, 2018, it has been decided that auditors qualified in following certifications can audit the systems of depository participants and stock brokers to check the compliance of Cyber Security and Cyber Resilience provisions:

CERT-IN empanelled auditor, an independent DISA (ICAI) Qualification, CISA (Certified Information System Auditor) from ISACA, CISM (Certified Information Securities Manager) from ISACA, CISSP (Certified Information Systems Security Professional) from International Information Systems Security Certification Consortium (commonly known as (ISC)).

5. The periodicity of audit for the purpose of compliance with Cyber Security and Cyber Resilience provisions for depository participants shall be annual. The periodicity of audit for the compliance with the provisions of Cyber Security and Cyber Resilience provisions for stock brokers, irrespective of number of terminals and location presence, shall be as under:

Type of stock broker as specified in SEBI circular CIR/MRD/DMS/34/2013 dated November 06, 2013	Periodicity
Type I	Annual
Type II	Annual
Type III	Half-yearly

Paragraph 58 of Annexure 1 of the SEBI circular dated December 03, 2018 stands modified accordingly.

6. Stock Exchanges and Depositories shall
 - a) make necessary amendments to the relevant byelaws, rules and regulations for the implementation of the above direction;
 - b) bring the provisions of this circular to the notice of their members and depository participants respectively and also disseminate the same on their websites; and
 - c) communicate to SEBI, the status of implementation of the provisions of this circular in their Monthly Report.
7. This circular is being issued in exercise of powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act, 1992 and Section 19 of the Depositories Act to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.

D RAJESH KUMAR
General Manager

Annexure not published here for want of space. Readers may log on to www.sebi.gov.in for Complete Notification.

20 Cyber Security & Cyber Resilience framework for KYC Registration Agencies

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/MIRSD/DOP/CIR/P/2019/111 dated 15.10.2019.]

1. Rapid technological developments in securities market have

highlighted the need for maintaining robust Cyber Security and Cyber Resilience framework to protect the integrity of data and guard against breaches of privacy.

2. A robust Cyber Security and Cyber Resilience framework should identify the plausible sources of operational risk, both internal and external, and mitigate the impact through the use of appropriate systems, policies, procedures, and controls. Systems should be designed to ensure a high degree of security and operational reliability and should have adequate, scalable capacity. Business continuity management should aim for timely recovery of operations and fulfilment of its obligation in the event of cyber-attack.
3. Since KYC Registration Agencies (KRAs) perform important function of maintaining KYC records of the clients in the securities market, it is desirable that KRAs have robust Cyber Security and Cyber Resilience framework in order to provide essential facilities and perform systemically critical functions relating to securities market.
4. In view of the above, SEBI's High Powered Steering Committee - Cyber Security decided that the framework on Cyber Security and Cyber Resilience be made applicable for KRAs. The framework placed at **Annexure A**, would be required to be complied by the KRAs with regard to Cyber Security and Cyber Resilience. KRAs are directed to take necessary steps to put in place systems for implementation of this circular by January 01, 2020.
5. This circular is being issued in exercise of powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act, 1992 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.

D RAJESH KUMAR

General Manager

Annexure not published here for want of space. Readers may log on to www.sebi.gov.in for Complete Notification.

21 Cyber Security & Cyber Resilience framework for Qualified Registrars to an Issue / Share Transfer Agents

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/MIRSD/DOP/CIR/P/2019/110 dated 15.10.2019.]

1. SEBI, vide circular SEBI/HO/MIRSD/CIR/P/2017/100 dated September 08, 2017, prescribed the framework for Cyber Security & Cyber Resilience for Qualified Registrars to an Issue / Share Transfer Agents (QRTAs).
2. Paragraph 51 of Annexure A of the SEBI circular dated September 08, 2017 specifies the following regarding sharing of information:
Quarterly reports containing information on cyber-attacks and threats experienced by QRTAs and measures taken to mitigate vulnerabilities, threats and attacks including information on bugs / vulnerabilities / threats that may be useful for other QRTAs should be submitted to SEBI in soft copy to rta@sebi.gov.in.
3. In this regard, following guidelines are being issued for

submission of report / information and the timelines:

- 3.1. A format for submitting the reports is attached as Annexure.
- 3.2. For the quarter ended on September 30, 2019, quarterly reports shall be submitted by QRTAs not later than November 30, 2019 as per the format specified.
- 3.3. Effective from quarter ending on December 31, 2019, the time period for submission of the report shall be 15 days after the end of the quarter.
- 3.4. The mode of submission of reports by QRTAs to SEBI shall be through email.
4. This circular is being issued in exercise of powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act, 1992 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.

D RAJESH KUMAR

General Manager

Annexure not published here for want of space. Readers may log on to www.sebi.gov.in for Complete Notification.

22 Framework for issue of Depository Receipts

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/MRD/DOP1/CIR/P/2019/106 dated 10.10.2019.]

1. Reference is drawn to Section 41 of the Companies Act, 2013, Companies (Issue of Global Depository Receipts) Rules, 2014 ('GDR Rules'), the Depository Receipts Scheme, 2014 ('DR Scheme'), Reserve Bank of India ('RBI') notification dated December 15, 2014, Central Government notification dated September 18, 2019 and Central Government notification dated October 07, 2019.
2. In light of the aforesaid, only 'a company incorporated in India and listed on a Recognized Stock Exchange in India' ('**Listed Company**') may issue Permissible Securities or their holders may transfer Permissible Securities, for the purpose of issue of Depository Receipts ('**DRs**'), subject to compliance with the following requirements:

Eligibility

- 2.1. Listed Company is in compliance with the requirements prescribed under SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 and any amendments thereof.
- 2.2. Listed company shall be eligible to issue Permissible Securities, for the purpose of issue of DRs, if:
 - (a) the Listed Company, any of its promoters, promoter group or directors or selling shareholders are not debarred from accessing the capital market by SEBI;
 - (b) any of the promoters or directors of the Listed Company is a promoter or director of any other company which is not debarred from accessing the

- capital market by SEBI;
- (c) the listed company or any of its promoters or directors is not a wilful defaulter;
- (d) any of its promoters or directors is not a fugitive economic offender.

2.3. Existing holders shall be eligible to transfer Permissible Securities, for the purpose of issue of DRs, if:

- (a) the Listed Company or the holder transferring Permissible Securities are not debarred from accessing the capital market by SEBI;
- (b) the Listed Company or the holder transferring Permissible Securities is not a wilful defaulter;
- (c) the holder transferring Permissible Securities or any of the promoters or directors of the Listed Company are not a fugitive economic offender.

Explanation 1: The restrictions at Paragraph (2.2) and (2.3) above shall not apply to the persons or entities mentioned therein, who were debarred in the past by SEBI and the period of debarment is already over as on the date of filing of the document as referred at Paragraph (2.13).

Explanation 2: For the purpose of this Circular, DR means a foreign currency denominated instrument, listed on an international exchange, issued by a foreign depository in a permissible jurisdiction on the back of permissible securities issued or transferred to a domestic custodian and includes 'global depository receipt' as defined in section 2(44) of the Companies Act, 2013.

Explanation 3: For the purpose of this Circular 'Foreign Depository' means a person which:

- (a) is not prohibited from acquiring permissible securities;
- (b) is regulated in any of the Permissible Jurisdiction as defined in this Circular; and
- (c) has legal capacity to issue DRs in the Permissible Jurisdiction where issue of DRs is proposed.

Explanation 4: For the purpose of this Circular, 'transfer of permissible securities by existing holders' means deposit of existing Permissible Securities of the Listed Company with a Domestic Custodian, for the purpose of issue of DRs, pursuant to formal agreement(s) among the Listed Company and the Foreign Depository. For this purpose, the Listed Company may also enter into arrangement(s) with, Indian Depository, Domestic Custodian and existing Permissible Securities holder(s), as may be necessary.

2.4. For the purpose of an initial issue and listing of DRs, pursuant to 'transfer by existing holders', the Listed Company shall provide an opportunity to its equity shareholders to tender their shares for participation in such listing of DRs.

2.5. Subsequent issue and listing of DRs, pursuant to 'transfer by existing shareholders' may take place subject to the limits approved pursuant to a special resolution in terms of GDR Rules.

2.6. A company proposing to make a public offer and list on

a Recognized Stock Exchange, and also simultaneously proposing to issue Permissible Securities or transfer Permissible Securities of existing holders, for the purpose of issue of DRs and listing such DRs on an International Exchange, may seek in-principle and final approval from Recognized Stock Exchange as well as International Exchange. However, such issue or transfer of Permissible Securities for the purpose of issue of DRs shall be subsequent to, the receipt of trading approval from the Recognized Stock Exchange for the public offer.

Permissible Jurisdictions and International Exchanges

2.7. Listed Company shall be permitted to issue Permissible Securities or transfer Permissible Securities of existing holders, for the purpose of issue of DRs, only in Permissible Jurisdictions and said DRs shall be listed on any of the specified International Exchange(s) of the Permissible Jurisdiction.

Explanation 1: For the purpose of this Circular, 'Permissible Jurisdiction' shall mean jurisdictions as may be notified by the Central Government from time to time, pursuant to notification no. G.S.R. 669(E) dated September 18, 2019 in respect of sub-rule 1 of rule 9 of Prevention of Money-Laundering (Maintenance of Records) Rules, 2005.

Explanation 2: For the purpose of this Circular 'International Exchange(s)' shall mean exchange(s) as may be notified by SEBI from time to time.

2.8. Listing of DRs on specified International Exchange shall meet the highest applicable level / standards for such listing by foreign issuers.

Explanation: Examples of DR listing programs that would qualify for the aforesaid criteria:

Issuer-sponsored Level III ADR programs listed on Nasdaq or the NYSE, DRs listed on the Main Board of the Hong Kong Stock Exchange, Global Depository Receipts admitted to the Standard Segment of the Official List of the FCA and to trading on the London Stock Exchange.

Obligations of Listed Company

2.9. Listed Company shall ensure compliance with extant laws relating to issuance of DRs, including, requirements prescribed in this Circular, the Companies Act, 2013, the Foreign Exchange Management Act, 1999 ('FEMA'), Prevention of Money-Laundering Act, 2002, and rules and regulations made thereunder. For this purpose, Listed Company may also enter into necessary arrangements with Custodian, Indian Depository and Foreign Depository.

2.10. Listed Company shall ensure that DRs are issued only with Permissible Securities as the underlying.

Explanation: For the purpose of this Circular, 'Permissible Securities' shall mean equity shares and debt securities, which are in dematerialized form and rank pari passu with the securities issued and listed on a Recognized Stock Exchange.

2.11. Listed Company shall ensure that the aggregate

of Permissible Securities which may be issued or transferred for the purpose of issue of DRs, along with Permissible Securities already held by persons resident outside India, shall not exceed the limit on foreign holding of such Permissible Securities under the applicable regulations of FEMA:

Provided that within the above limit, the maximum of aggregate of Permissible Securities which may be issued by the Listed Company or transferred by the existing holders, for the purpose of issue of DRs, shall be such that the Listed Company is able to ensure compliance with the minimum public shareholding requirement, after excluding the Permissible Securities held by the depository for the purpose of issue of DRs.

- 2.12. Listed Company shall ensure that the agreement entered with the Foreign Depository, for the purpose of issue of DRs, provides that the Permissible holder, including its Beneficial Owner(s), shall ensure compliance with holding limits prescribed under Paragraph (2.19).
- 2.13. Listed Company shall, through an intermediary, file with SEBI and the Recognized Stock Exchange(s), a copy of the initial document, by whatever name called, for initial issue of DRs issued on the back of Permissible Securities.
- (a) SEBI shall endeavor to forward its comments, if any, to the Recognized Stock Exchange(s) within a period of 7 working days from the receipt of the document and in the event of no comments being issued by SEBI within such period, it shall be deemed that SEBI does not have comments to offer.
- (b) Recognized Stock Exchange(s) shall take into consideration the comments of SEBI while granting in-principle approval to the Listed Company and decide on the approval within 15 working days of receipt of application and required documents.

Further, final document for such initial issue shall be filed with Recognized Stock Exchange(s) and SEBI for record purpose.

- 2.14. Listed Company shall ensure that any public disclosures made by the Listed Company on International Exchange(s) in compliance with the requirements of the Permissible Jurisdiction where the DRs are listed or of the International Exchange(s), are also filed with the Recognized Stock Exchange as soon as reasonably possible but not later than twenty four hours from the date of filing.

Permissible holder

- 2.15. Permissible holder means a holder of DR, including its Beneficial Owner(s), satisfying the following conditions:
- (a) who is not a person resident in India;
- (b) who is not a Non-Resident Indian (NRI)
- Explanation 1:** For the purpose of this Circular, 'Beneficial Owner' shall have the same meaning as provided in proviso to sub-rule 1 of rule 9 of Prevention of Money-Laundering (Maintenance of Records) Rules, 2005, as amended by the Central Government vide notification no. G.S.R. 669(E) dated September 18, 2019.
- Explanation 2:** The Permissible holder, including its Beneficial Owner(s), shall be responsible for ensuring

compliance with this requirement.

Voting rights

- 2.16. Listed Company shall ensure that the agreement entered between the holder of DRs, the Listed Company and the Depository provides that the voting rights on Permissible Securities, if any, shall be exercised by the DR holder through the Foreign Depository pursuant to voting instruction only from such DR holder.

Pricing

- 2.17. In case of a simultaneous listing of, Permissible Securities on Recognised Stock Exchange(s) pursuant to a public offer / preferential allotment / qualified institutions placement under Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018, and DRs on the International Exchange, the price of issue or transfer of Permissible Securities, for the purpose of issue of DRs by Foreign Depository, shall not be less than the price for the public offer / preferential allotment / qualified institutions placement to domestic investors under the applicable laws.
- 2.18. Where Permissible Securities are issued by a Listed Company or 'transferred by the existing holders', for the purpose of issue of DRs by the Foreign Depository, the same shall be issued at a price, not less than the price applicable to a corresponding mode of issue of such Permissible Securities to domestic investors under the applicable laws.

Obligations of Indian Depository, Foreign Depository and Domestic Custodian

- 2.19. Indian Depositories, in consultation with each other, shall develop a system to ensure that aggregate holding of DR holders along with their holding, if any, through offshore derivative instruments and holding as a Foreign Portfolio Investor belonging to same investor group shall not exceed the limit on foreign holding under the FEMA and applicable SEBI Regulations. For this purpose, Indian Depositories shall have necessary arrangement with the Domestic Custodian and / or Foreign Depository.
- Explanation-** For the purposes of Paragraph (2.19), the term 'investor group' shall have the meaning as prescribed to such term in the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2019 or amendments thereof.
- 2.20. Domestic Custodian shall maintain records in respect of, and report to, Indian depositories all transactions in the nature of issue and cancellation of depository receipts, for the purpose of monitoring limits.
- 2.21. Indian Depositories shall coordinate among themselves and with Domestic Custodian to disseminate:
- (a) the outstanding Permissible Securities against which the DRs are outstanding; and,
- (b) the limit up to which Permissible Securities can be converted to DRs.

- 2.22. The Foreign Depository shall not issue or pre-release the DRs unless the Domestic Custodian has confirmed the receipt of underlying Permissible Securities.

3. Words and expressions used and not defined in this Circular but defined in the DR Scheme, Securities Contracts


(Regulation) Act, 1956 or the Securities and Exchange Board of India Act, 1992 or the Depositories Act, 1996 or the Companies Act, 2013 or the Reserve Bank of India Act, 1934 or the Foreign Exchange Management Act, 1999 or Prevention of Money-Laundering Act, 2002, and rules and regulations made thereunder shall have the meanings respectively assigned to them, as the case may be, in those Acts, unless the context requires otherwise.

Power to remove difficulties

4. In case of any difficulties in the application or interpretation or to relax strict enforcement of the requirements of this Circular, the Board may issue clarifications through guidance notes or circulars after receipt of request from the issuer.
5. The provisions of this circular shall be effective from October 10, 2019 and shall be applicable only to DR issuance by a Listed Company after the effective date.
6. Stock Exchanges and Depositories are advised to:
 - a) make necessary amendments to the relevant bye-laws, rules and regulations for the implementation of the above circular; and
 - b) bring the provisions of this circular to the notice of the issuers, Domestic Custodians and also to disseminate the same on the website.
7. This circular is being issued in exercise of powers conferred

under Section 11(1) of the Securities and Exchange Board of India Act, 1992.

AMIT TANDON
General Manager


Chennai Petroleum Corporation Limited
 (A group company of IndianOil)
 Manali, Chennai - 600 068, Tamil Nadu, India

Advt.No.2 of 2019 – CPCL/HRD:03:056/055 dated 13.11.2019

CPCL invites applications from qualified and experienced candidates of Indian Nationality for the position as mentioned below:

Deputy Company Secretary


Educational Qualification:
 Candidate should have acquired Associate Membership of Institute of Company Secretaries of India (ACS). Candidates must have secured minimum 50% of marks (or equivalent CGPA and above) in the final examination of ICSI. Additional qualification in Law from a recognized university is a must.

Work Experience:
 Minimum 10 years of work experience in a Company Secretarial set-up of Private/ Public Sector or a reputed Listed Company.

For details of eligibility criteria, experience, compensation & benefits, general terms and conditions, etc., please log on to our website www.cpcl.co.in. Any addendum, corrigendum to the above advt. if any will be posted in our website.

The date of opening of online application is 13.11.2019 and the date of closing of online application is 03.12.2019

DY. GENERAL MANAGER (PERSONNEL)



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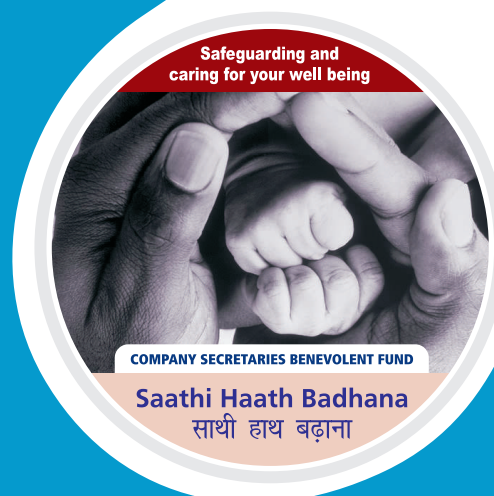
**THE INSTITUTE OF
Company Secretaries of India**

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Statutory body under an Act of Parliament
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NEWS FROM THE INSTITUTE



- MEMBERS RESTORED DURING THE MONTH OF AUGUST 2019
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- ATTENTION! MEMBERS
- ATTENTION! KNOW YOUR MEMBER (KYM)
- THE LAST DATE FOR PAYMENT OF CERTIFICATE OF PRACTICE FEE FOR THE YEAR 2019-20
- RESTORATION OF MEMBERSHIP
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- OBITUARIES



Institute News

MEMBERS RESTORED DURING THE MONTH OF SEPTEMBER 2019

S. NO.	A/F	MEM. NO.	NAME	REGN.
1	A	8589	MS. K R SUBBALAKSHMI	SIRC
2	A	24864	MS. YAVANIKA SINGH	NIRC
3	A	50206	MS. RASIKA SATISH JOSHI	WIRC
4	A	29482	MS. SHWETA AGARWAL	SIRC
5	F	1943	SH. S NATARAJAN	SIRC
6	A	27989	MR. ANIL KUMAR MOOLA	SIRC
7	A	34798	MS. PRAGATI PODDAR	EIRC
8	A	46448	MS. JYOTI KUMARI	NIRC
9	F	3172	SH. C BHAGERAJ JAIN	WIRC
10	A	37788	MR. ANKUR JAIN	NIRC
11	A	2286	SH. ACHUTHAN SIDDHARTH	WIRC
12	A	6406	SH. S KALYANARAMAN	SIRC
13	A	43819	MS. SHILPA SURESH MANGHNANI	WIRC
14	A	767	SH. CHANDRA PRAKASH SHARDA	SIRC
15	A	29228	MR. LAVANYA SHARMA	NIRC
16	A	39270	MS. MRUNMAYEE ABHIJIT PRABHU	WIRC
17	A	41317	MR. BUGATHA MURALI DHARA RAO	NIRC
18	A	30769	MS. NATASHA MONICA SALDANHA	SIRC
19	A	40567	MS. SAKSHI SRIVASTAVA	NIRC
20	A	26373	MRS. GARIMA KANODIA	SIRC
21	A	29297	MS. RAJPRIYA KHANDLWAL	NIRC
22	A	17942	SH. SHISHIR SINGHAL	NIRC
23	A	16388	MS. GARIMA V SRIVASTAVA	NIRC
24	A	25986	MS. ANISHA DEEP BABUR	WIRC
25	A	35798	MS. SHILPA VERMA	NIRC
26	F	4640	SH. SUNIL KWATRA	NIRC

CERTIFICATE OF PRACTICE SURRENDERED DURING THE MONTH OF SEPTEMBER 2019

SL. NO.	NAME	ACS/ FCS NO.	COP NO.	REGN.
1	MS. SWETA JAIN	A-25134	9025	EIRC
2	MS. YOJNA AHUJA	A-41461	15503	NIRC
3	MS. SEEPIKA CHHABRA	A-27773	10260	NIRC
4	SH. YOGESH KUMAR SHARMA	F-7626	8071	NIRC

5	MS. RIMI AGARWAL	A-52662	22176	EIRC
6	MS. IMMACULATE WILLIAM FERNANDES	A-16540	17811	WIRC
7	MS. MAMTA	A-37374	14532	NIRC
8	MS. SONAM MINOCHA	A-50989	18510	NIRC
9	MS MAYA GUPTA	F-6854	19257	NIRC
10	MS. RITA SINGHAL	A-41519	15667	NIRC
11	MR. DEEPAK SUTHAR	A-57002	21569	NIRC
12	MR. NAMAN BARDIYA	A-52350	19253	NIRC
13	MS. CHINNAIYAN SREEDEVI	A-24042	9185	SIRC
14	MS. RAKSHA TEWARI	A-44212	19378	NIRC
15	MR. RAJ KUMAR NEHRA	A-53640	19834	NIRC
16	MR. ROHIT LAXMIKANT MORDE	A-36023	14997	WIRC
17	MRS. SHIKHA SHARMA BUDHIRAJA	F-10391	20195	NIRC
18	MS. MRINALI GUHA	A-45535	17752	WIRC
19	MS. DOLLY SHARMA	A-46275	17154	NIRC
20	MS. MANISHA KUMARI PATIDAR	A-44872	17089	NIRC
21	MS. SWEETY SHARMA	A-40750	15169	EIRC
22	MS. DIVYA JAIN	A-38883	20448	NIRC
23	MR. TARUN SHARMA	A-57071	21628	SIRC
24	MS. PRIYANKA AGARWAL	A-40798	21556	NIRC
25	MR. KETUL JAGDISHBHAI SHAH	A-37822	17187	WIRC
26	MS. AYUSHI GARG	A-50658	21959	NIRC
27	MS. VRINDA AGGARWAL	A-56207	21145	NIRC
28	MS. KUSUM CHAUHAN	A-21284	10473	WIRC
29	MS. SEEPIKA GUPTA	A-37984	17077	NIRC
30	MS. SOMATRI ROY	A-39086	14763	EIRC
31	MS. ANKITA BENGANI	A-45017	20900	EIRC
32	MS. GARIMA AHUJA	A-59113	22244	NIRC
33	MS. ESWARAN GAYATHRI	A-30686	11156	SIRC
34	MS. RAINA GOYAL	A-55486	21527	WIRC
35	MS. SARITA CHAURASIA	A-40245	19636	NIRC
36	MR. OOVESH MOHD RAFIQUE SARA	A-28770	10425	WIRC
37	MS. HARSHITA JEEVAL LAL JAIN	A-39993	17917	WIRC
38	SH. AMIT LOONKER	A-25075	21383	WIRC
39	SH. K M SADANANDAN	A-9710	7295	SIRC
40	MR. JAYMIN BHIKADIYA	A-53080	22286	WIRC
41	MS. REENA RAPHEAL ANTHONY	A-48557	20255	WIRC
42	MS. SANGITA KUMARI AGARWAL	A-50467	19446	EIRC

43	MS. MEGHA SHARMA	A-41529	21033	NIRC
44	MS. SONAL SHARMA	A-54819	22252	NIRC
45	MR. HARSH SHARMA	A-50484	19487	NIRC
46	MS. SWATI AGARWAL	A-42554	15749	NIRC
47	MR. SUMIT BANSAL	A-42433	22113	NIRC
48	MS. SANTOSH SHARMA	A-51364	19470	NIRC
49	MS. POOJA SONI	A-46766	17387	NIRC
50	MS. MONA	A-43221	16809	NIRC
51	MR. RANJIT KUMAR MAHTO	A-52401	19181	WIRC
52	MR. PAWAN KATHURIA	A-58658	22216	NIRC
53	MS. GARIMA JAIN	A-43359	21936	NIRC
54	MS. NISTHA MISHRA	A-39952	15258	WIRC
55	MRS. MANGALA ROHITH	A-20315	7438	SIRC
56	MS. ANITA KUMARI SINGH	A-26413	15101	EIRC
57	MS. DEEPA SINGHAL	F-6346	4747	NIRC
58	SH. NITIN KUMAR GARG	F-8047	21799	NIRC
59	MR. ANKIT JAIN	A-58064	22015	NIRC
60	MS. POOJA GUPTA	A-40397	21340	NIRC
61	MR. GANESH RAMCHANDRA NANAWARE	A-56381	21090	WIRC
62	MR. VASUDEV KARANTH	A-53526	21429	SIRC
63	MR. GAURAV JAIN	A-46909	17114	WIRC
64	MS. KETANA SHIRISH GHARPURE	A-31370	14611	WIRC
65	SH. CHITTARANJAN ANANTRAO KONNUR	A-8054	13298	SIRC
66	MS. SHARADHA S	A-40134	20202	SIRC
67	MS. AARTI SHARMA	A-53397	20104	NIRC
68	MS. VANDANA CHOKHANI	A-30661	19531	EIRC
69	SH. SACHIN PREMJI CHHADAWA	F-5619	4617	WIRC
70	MS. DIPTI ATUL MEHTA	F-3667	3202	WIRC
71	MS. NEHA GUPTA	A-48041	18818	EIRC
72	MR. KAPIL KACHHAWA	A-42638	15864	NIRC
73	MS. SHIVANI MEHRA	A-45450	19224	NIRC
74	MR. GOVIND DEWAN	A-53190	19630	EIRC
75	MS. DEEPIKA BAJAJ KEDIA	F-8827	15550	WIRC
76	MR. RISHABH ARORA	A-41124	18868	NIRC
77	MR. AMRESH TIWARI	A-33984	21876	SIRC
78	MR. SUNIL SHARMA	A-51501	21760	NIRC
79	SH. MANOJ KUMAR PURBEY	F-6063	6385	NIRC
80	MRS. ARCHANA HRISHIKESH APTE	A-28072	11833	WIRC

81	MS. MINAL MUKESH GOYAL	A-39825	14829	WIRC
82	MR. ARGHA ROY	A-41746	15562	NIRC
83	MS. VIJETA RATHI	A-50529	18331	EIRC
84	MS. POOJA PANJWANI	A-50922	21067	NIRC
85	MRS. RISHBHA AHLUWALIA	A-20710	15041	NIRC
86	MS. KOMAL JAIN	A-54786	20301	SIRC

ANNUAL CERTIFICATE OF PRACTICE FEE FOR 2019-20

In accordance with Section 6 (1) of the Company Secretaries Act, 1980 read with Regulation 11(1) (d) of the Company Secretaries Regulations, 1982, the Certificate of Practice of the members who could not remit their annual certificate of practice fee for the year 2019-20 by the last date i.e. 30th September, 2019 stand cancelled w.e.f. 1st October, 2019. The list of such members as on 01.10.2019 is given herein below. Members are requested to get their Certificate of Practice restored on or before 31st March, 2020 by filling the On-line Form D in manage account and then remitting the COP fees in Manage account of Online services at request relating to COP payment of Rs. 2655/- (Rs. 2000/- annual COP fee + 250/- restoration fee + applicable GST@18% for Fellow members and Associate members admitted before 01-04-2018. Associates members admitted on or after 01-04-2018 are required to pay Rs. 2065/- (Rs. 1500/- annual COP fee + 250/- restoration fee + applicable GST@18%). It may be noted that the Certificate of Practice can only be restored during the same financial year i.e. on or before 31st March, 2020 and therefore after 31st March, 2020, the Certificate of Practice cannot be restored and a fresh certificate of practice is to be obtained.

S. NO.	ACS/FCS NO.	COP NO.	NAME	REGN.
1	A - 7139	2498	SH. MAHESHKUMAR KALURAM HURGAT	WIRC
2	A - 7167	7712	SH. MEHER CHRISTOPHER DESOUZA	WIRC
3	A - 15959	4819	MS. RACHNA AGGARWAL	NIRC
4	A - 21512	8189	MS. ANSHU AGRAWAL	WIRC
5	A - 22317	8056	SH. SANJEEV TEJINDAR SINGH	WIRC
6	A - 9933	3678	SH. RAGHUNATH MANDAL	EIRC
7	A - 12014	21455	SH. RAMESH KUMAR	NIRC
8	A - 16002	4742	MS. NISHA JHUNJHUNWALA	WIRC
9	A - 20731	16770	MRS. MONIKA GUJARWASIA	WIRC
10	A - 21682	11692	MRS. VAIDEHI PRANAV DESHPANDE	WIRC
11	A - 780	2021	SH. SUBRAHMANYAM VISWANATHAN	SIRC
12	A - 16301	4981	MS. SHARMILA VINODKUMAR JAIN	WIRC
13	A - 20979	14684	SH. RAJESH KUMAR	NIRC
14	A - 23524	10097	MRS. SUNITA MANISH AGARWAL	WIRC
15	A - 1707	16980	SH. RANGANATHA RAO VITTAL	SIRC
16	A - 1871	13623	SH. PRAMOD RANJAN GUPTA	EIRC
17	A - 16596	5176	MS. PADMAJA CHERUKURI	SIRC
18	A - 21142	15791	MS. KOMAL SAURABH DESHMUKH SAMANT	WIRC
19	A - 25614	9310	SHIPRA GERA	NIRC
20	A - 5623	15486	SH. SURESH SUBRAMANIAN VAIGALTHUR	WIRC
21	A - 10138	6156	SH. C R SASIDHARAN PILLAI	WIRC

22	A - 11157	15413	MS. RUMA CHOWDHURY	EIRC
23	A - 17396	5846	MS. RASHMI C GATNE	WIRC
24	A - 25473	12938	MS. NIDHI CHANDAK	EIRC
25	A - 21028	21834	SH. KRISHNAMOORTHY SATHIAVAN RAGURAAM	SIRC
26	A - 21034	9186	MS. SUMITHRA P SARATHI	SIRC
27	A - 22770	8191	MRS. MANJU PATHAK KHULBE	NIRC
28	A - 23620	9957	SH. RAJEEV SUNARIA	NIRC
29	A - 27041	12157	MS. NIDHI UMESH SHETH	WIRC
30	A - 7432	21836	SH. DURGA PRASAD PARIJA	EIRC
31	A - 11144	18249	SH. RAJAN WALIA	NIRC
32	A - 24387	17663	MS. POOJA MAJITHIA	WIRC
33	A - 29111	14745	MR. MADHUR JAIN	NIRC
34	A - 29121	12087	MS. DAXA NILESH BOGHARA	WIRC
35	A - 18170	11463	SH. PAWAN KUMAR BAID	WIRC
36	A - 18184	18957	MS. ANURADHA NAGAR	NIRC
37	A - 26128	9345	MS. DISHA NARENDRA TEKWANI	WIRC
38	A - 26827	12321	MS. KISHORI NARAYAN KHANOLKAR	WIRC
39	A - 29789	21086	MS. SWATI JAIN SINGH	EIRC
40	A - 25502	9124	SH. ASHISH SHARMA	NIRC
41	A - 25532	9271	MS. CHHAVI TYAGI	NIRC
42	A - 27845	10395	MS. GURPREET KAUR	NIRC
43	A - 29971	10812	MS. SAKSHI	NIRC
44	A - 31427	16006	MS. KHUSHBU HARDIK SHAH	WIRC
45	A - 25382	16697	MS. RASHMI GUPTA	NIRC
46	A - 28572	20363	MR. NIKHIL RAJKUMAR GUPTA	WIRC
47	A - 28592	18706	MR. PANKAJ KUMAR MISHRA	NIRC
48	A - 31488	11754	MS. SABA RIZVI	NIRC
49	A - 32175	13406	MS. NEHA VIVEK JAIN	WIRC
50	A - 24090	10463	MS. NEHA ARORA	NIRC
51	A - 24114	8817	MS. PAYAL MOHTA	EIRC
52	A - 26688	9643	MRS. SIMRAT AHLUWALIA BHASKAR	NIRC
53	A - 31781	13532	MR. KARAN GULATI	NIRC
54	A - 33095	15232	MS. DASVINDER KAUR	NIRC
55	A - 12788	9800	MRS. VAISHALI VOHRA	SIRC
56	A - 20665	18252	SH. VIJAY VILAS KULKARNI	WIRC
57	A - 24280	10220	MS. NUTAN SINGH	EIRC
58	A - 28832	11047	MS. GOURI PARSHOTAMDAS KHESKWANI	WIRC
59	A - 10404	7845	SH. VISHU KAUSHAL	NIRC
60	A - 12238	16169	MS. CHANCHAL BANSAL	NIRC
61	A - 27949	20911	SH. RAJESH TANEJA	NIRC
62	A - 27955	10024	SH. BASAVARAJ SHIVALINGAPPA UDADAR	SIRC
63	A - 27993	15300	MS. SHWETA PAHUJA	NIRC
64	A - 21292	18996	MS. ANURADHA VARMA	WIRC
65	A - 24007	9983	MRS. NEELAKSHEE RAJESH MARATHE	WIRC
66	A - 27356	19344	MS. GOURI SARKAR	EIRC
67	A - 28874	11431	MS. NISHA CHOUDHURY	NIRC
68	A - 29458	14597	MRS. ASHU RATHI	WIRC
69	A - 26280	9465	MS. VIJAY LAXMI NEGI	NIRC

70	A - 26306	15454	MS. NEHA BHATIA	NIRC
71	A - 27792	17777	MR. ANUJ KESHARI	NIRC
72	A - 29279	21489	MS. PRACHI SHANTANU SAWARGAONKAR	WIRC
73	A - 33858	12718	MS. ACHITA SOBTI	NIRC
74	A - 3514	3313	SH. M P SARANATH	WIRC
75	A - 6867	10929	SH. NANDAN KUMAR GHOSH	EIRC
76	A - 23010	12268	MRS. CHHAVI JAIN	NIRC
77	A - 26511	20886	MS. PALLAVI GOYAL	NIRC
78	A - 30162	11315	MS. VARSHA VERMA	NIRC
79	A - 10232	3715	MS. REKHA SAINI	NIRC
80	A - 16185	5252	MS. NIDHI AMIT CHAUHAN	NIRC
81	A - 23421	21324	MR. MUKESH SRIVASTAVA	NIRC
82	A - 26807	9731	MS. SHEFALI KHANDLWAL	NIRC
83	A - 27559	16932	MS. SADHANA RAMNIHOR YADAV	WIRC
84	A - 27074	9691	SH. BHARAT GULATI	NIRC
85	A - 28534	20086	MR. SAURABH BADJATIA	WIRC
86	A - 31572	12115	MS. JULIE CHAKRABORTY	EIRC
87	A - 32209	16238	MS. ADITI PRATIK SHAH	EIRC
88	A - 18006	20979	SH. NULL ANIL	NIRC
89	A - 20041	7900	SH DEEPAK KUMAR	NIRC
90	A - 30359	10963	MR. VINAYKUMAR OMPRAKASH CHANDAK	WIRC
91	A - 30364	19393	MS. AMANPREET KAUR MALHOTRA	NIRC
92	A - 30387	14226	MS. ARUNA V	SIRC
93	A - 5016	2431	SH. DILIP NARROTTAMDAS MOTWANI	WIRC
94	A - 16055	6141	SH. VINEET KHETAN	EIRC
95	A - 17913	11725	SH. SAURAV SHHUKLA	SIRC
96	A - 30659	18700	MS. SHUBHANGI MEHTA	NIRC
97	A - 31975	12046	MR. KAPIL DAYYA	NIRC
98	A - 22342	8090	MS. CHITRA HARSHAL JOSHI	WIRC
99	A - 30327	11194	MS. MEGHNA MONARK PATEL	WIRC
100	A - 31142	12164	MR. KULDEEP JAYMAHESH BHAI SHUKLA	WIRC
101	A - 32434	14646	MS. PARUL MEHTA	NIRC
102	A - 6707	15697	SH. V P KULKARNI	WIRC
103	A - 22936	9775	MS. ADITI BIDASARIA	NIRC
104	A - 25659	9161	MS. KAVITA ASHISH SHAH	WIRC
105	A - 26581	10945	MR. GANESH DATT	NIRC
106	A - 30120	12265	MRS. MEENU AGGARWAL	NIRC
107	A - 25909	12116	MS. NEHA JAIN	NIRC
108	A - 27612	11197	MS. SANA SIDDIQUI	NIRC
109	A - 29062	18071	MR. ABHISHEK CHAURASIA	NIRC
110	A - 29065	11299	MR. AADARSH B CHANDAK	NIRC
111	A - 32581	11953	MR. GAURANG MANUBHAI SHAH	WIRC
112	A - 33576	12825	MR. PRANAV VITTHAL MEHTA	WIRC
113	A - 35961	19518	MS. REEMA JAIN	NIRC
114	A - 40099	18554	MR. NARENDER KUMAR	NIRC
115	A - 40105	15900	MR. SUMUKH SANJEEV VALIMBE	NIRC
116	A - 40930	16456	MR. NITESH KUMAR SINGH	NIRC
117	A - 5779	4534	SH. ANGREGZ SINGH KATOCH	NIRC
118	A - 19919	7170	MS. FARHAT ALI	NIRC

119	A - 22508	21191	MS. SHILPI SARKAR	EIRC
120	A - 31867	11762	MS. SWATI ARORA	NIRC
121	A - 40283	19807	MR. ANKIT JAYANT PAREKH	WIRC
122	A - 22400	9480	MRS. GARIMA MITTAL	WIRC
123	A - 24866	21248	MS. SMRITI DHAWAN	WIRC
124	A - 26032	19898	MS. SONIA	NIRC
125	A - 29663	11883	MR. GOVIND KUMAR MISHRA	NIRC
126	A - 33647	12493	MR. VINEET MAHESHWARI	NIRC
127	A - 29830	12154	MS. ISHA HIRAWAT	NIRC
128	A - 32676	12008	MR. CHANDAN ARORA	NIRC
129	A - 32682	12329	MS. SHALU SINGHAL	NIRC
130	A - 36239	16027	MS. NEHA SHARMA	NIRC
131	A - 38219	19980	MR. PRADEEP KUMAR JALUKA	EIRC
132	A - 21214	17036	SH. ABHINAY KUMAR	NIRC
133	A - 22977	15547	SH. VENKATESH VILLIVALAM	SIRC
134	A - 30045	14740	MS. SHREYA BHANDARI	NIRC
135	A - 35185	13051	MR. TANVEER ILAHI	NIRC
136	A - 41279	16509	MR. MAYANK DAGA	EIRC
137	A - 28014	10159	MS. SNEHA LATA MISHRA	EIRC
138	A - 30822	14344	MS. NEHA JAIN	NIRC
139	A - 30823	13938	MR. NIRUPAM SRIVASTAVA	NIRC
140	A - 35803	19079	MR. VIKRAM AGARWAL	EIRC
141	A - 38323	14450	MS. AISHWARYA SINGH	NIRC
142	A - 32614	12506	MS. SUPRIYA ICHHARAM WAGH	WIRC
143	A - 35599	13215	MR. HEMANT AMRUTLAL OSWAL	WIRC
144	A - 36167	19940	MS. POOJA	NIRC
145	A - 36194	21226	MS. SUCHITA DUGAR	SIRC
146	A - 41085	18120	MRS. AKANSHA MEHTA	NIRC
147	A - 34046	18497	MS. GUNJAN ARORA	NIRC
148	A - 38997	14485	MR. ASHUTOSH SHARMA	NIRC
149	A - 41302	19274	MS. NIRUPIKA BHARDWAJ	NIRC
150	A - 42380	15744	MS. NIDHI ANAND	NIRC
151	A - 42823	20241	MS. JYOTI VERMA	NIRC
152	A - 33436	12448	MR. SHAILENDRA SINGH	NIRC
153	A - 35301	14071	MS. KUMUD SHARMA	NIRC
154	A - 36037	18097	MS. SHUBHAMANGALA GANAPATI HEGDE	SIRC
155	A - 39615	20530	MS. SAKINA ZULFEKAR KHOKHAWALA	WIRC
156	A - 41451	17852	MR. DIVAY ARORA	NIRC
157	A - 34815	20383	MR. ATUL KUMAR MODI	NIRC
158	A - 39667	15145	MR. RAHUL BILOTIA	EIRC
159	A - 42491	18089	MS. NIKITA SNEHIL	EIRC
160	A - 43396	20332	MS. KANIKA DUA	WIRC
161	A - 43432	21207	MR. NAWAL KISHOR VERMA	NIRC
162	A - 33977	12659	MR. SURESH KUMAR THAKRAL	NIRC
163	A - 35886	13357	MRS. SHRUTI AGARWALA	EIRC
164	A - 35894	16183	MS. SWATI YOGESH UPADHYAY	WIRC
165	A - 38427	14816	MS. DEESHA ROHIT SHROFF	WIRC
166	A - 45133	21271	MS. SHAHIN PARVEEN	EIRC
167	A - 33059	12138	MS. SONU SINGHAL	NIRC

168	A - 38539	19370	MS. HENA BHARAT JUTHANI	WIRC
169	A - 40617	15082	MS. MINAL TARUN GOSAR	WIRC
170	A - 43089	16600	MR. ABHISHEK GUPTA	NIRC
171	A - 44888	16434	MR. GOPAL SUNILCHANDRA RATHI	WIRC
172	A - 35684	15448	MR. RAHUL JOSHI	EIRC
173	A - 37452	15159	MR. KULDEEP BOTHRA	EIRC
174	A - 39960	19020	MR. SANTOSH KUMAR SAHU	NIRC
175	A - 39961	14979	MR. PRITESH JAIN	NIRC
176	A - 44405	17750	MR. ATUL MUDGAL	NIRC
177	A - 35714	13758	MS. HEMALI SURESHBHAI PATEL	WIRC
178	A - 36775	14705	MS. SHUBHANGI SONI	WIRC
179	A - 41678	15508	MR. ABISHEK JAIN	SIRC
180	A - 43661	18146	MS. MEGHA BOHRA	SIRC
181	A - 44032	21584	MS. JYOTI KUMARI KHANDLWAL	NIRC
182	A - 10641	3861	SH. MADHAVA RAMACHANDRA KAIMAL	WIRC
183	A - 11543	5543	SH. VIJAYSHANKAR SARAF	SIRC
184	A - 16769	8927	MS. NEERAJ TULSHYAN	NIRC
185	A - 32886	12091	MRS. RITIKA AGARWAL	EIRC
186	A - 35868	13505	MS. SHYAMA VIJAYARAGHAVAN	SIRC
187	A - 17150	14738	MS. SUHITA MUKHOPADHYAY	NIRC
188	A - 25044	13718	MRS. SHRUTI SIDDHARTH SINGH	NIRC
189	A - 28960	20810	MS. NUZHAT FATIMA	EIRC
190	A - 46222	16823	MR. VEERASH MYSORE JAGADISH	SIRC
191	A - 46234	16937	MR. DODDAPANENI SATWIK	SIRC
192	A - 33509	12540	MR. AKASH KUMAR KEDIA	EIRC
193	A - 36984	20372	MS. SONIA RANI	NIRC
194	A - 40854	15238	MS. JAYATI GUPTA	NIRC
195	A - 43801	17643	MS. SOMAN POOJA SUNIL	WIRC
196	A - 45167	18857	MS. REEMA SHARMA	NIRC
197	A - 33120	13540	MR. VIVARTH DOSAR	NIRC
198	A - 40336	21179	MS. PRIYADARSHANI JAIN	NIRC
199	A - 46489	16995	MS. RADHIKA VIVEK JOSHI	WIRC
200	A - 47607	17465	MR. RAJAN GHAI	NIRC
201	A - 47938	17561	MR. VIJAY RAMCHANDRA ALIMKAR	WIRC
202	A - 40957	16779	MR. AASHISH NANGALIA	EIRC
203	A - 41534	18913	MR. SHAHNAWAZ AHMAD	NIRC
204	A - 41960	17833	MR. RAHUL NARESHBHAI BHANDARI	WIRC
205	A - 44555	16520	MS. RASHI SHANKAR RAMUKA	WIRC
206	A - 46055	16844	MR. ROHIT MERANI	WIRC
207	A - 30527	11424	MS. MANISHA SINGHAL	NIRC
208	A - 32083	20519	MR. IRSHAD PILATHOTTATHIL ABDURAHIMAN	SIRC
209	A - 42045	17291	MS. SHAWETA ARORA	NIRC
210	A - 43934	17376	MS. DEEPIKA	SIRC
211	A - 49058	18201	MS. NISHA MUNKA	EIRC
212	A - 40423	15797	MR. RAHUL RANJAN	EIRC
213	A - 46270	17020	MS. ALISHA WADHWA	NIRC
214	A - 46273	16873	MR. JATIN BAJAJ	NIRC
215	A - 49426	19163	MR. ROHIT KAMALKISHOR RANDAR	WIRC
216	A - 49429	21044	MS. KARISHMA NITIN BHUSARI	WIRC

217	A - 32814	19704	MS. ALISHA NAKRA	NIRC
218	A - 36331	13561	MS. YAMINA ALMAS	NIRC
219	A - 44608	16576	MS. VAISHALI TEJWANI	NIRC
220	A - 46212	16897	MR. ANKIT DUBEY	WIRC
221	A - 48457	19751	MR. KISHAN KUMAR SHARMA	EIRC
222	A - 8094	6595	MS. RAJNI MALHOTRA	NIRC
223	A - 30006	11078	MS. BIJAL ANKIT SHAH	WIRC
224	A - 36132	19244	MR. SACHIN BAREJA	NIRC
225	A - 48924	20575	MS. PRACHI DASHORA	NIRC
226	A - 49142	18978	MR. NIRAJ SANTOSH AGARWAL	WIRC
227	A - 36552	13659	MR. DANISH PUTHIYA PURAYIL	SIRC
228	A - 41036	15627	MR. DIBYA KANT SARAF	EIRC
229	A - 41542	19033	MS. JENY VINODKUMAR GOWADIA	WIRC
230	A - 47452	21754	MR. ASLAM	NIRC
231	A - 49090	19382	MS. AKANKSHA PARASHAR	NIRC
232	A - 41194	15824	MS. IQRA RIAZ	NIRC
233	A - 42124	15674	MR. MEET PIYUSH KUMAR SHAH	WIRC
234	A - 44371	16334	MR. ROHIT JAIN	EIRC
235	A - 46790	19321	MR. RAVINDRA VILAS UTTURE	WIRC
236	A - 48318	17695	MR. NISHANT GOYAL	NIRC
237	A - 40144	14882	MR. THAKKAR UMANGKUMAR NAVINBHAI	WIRC
238	A - 40996	17745	MS. SAYALI AJIT KARANJKAR	WIRC
239	A - 41000	15242	MR. AMIT KUMAR	NIRC
240	A - 42590	15773	MR. NIKHIL KUMAR	NIRC
241	A - 49910	18703	MS. SWATI SALUJA	NIRC
242	A - 40574	16186	MR. NEERAJ ARORA	NIRC
243	A - 46604	17864	MR. SUMIT SAHGAL MISHRA	EIRC
244	A - 48617	19950	MS. RAVEENA ANAND	NIRC
245	A - 48858	21042	MS. DISHA KHETAN	EIRC
246	A - 49696	21330	MS. ARSHPREET KAUR GULIANI	NIRC
247	A - 40668	15371	MS. SHILPI MANGLIK	NIRC
248	A - 47735	17530	MR. ANKIT JAIN	NIRC
249	A - 50995	18755	MR. GAURAV KUMAR YADAV	NIRC
250	A - 51193	18732	MS. KOMAL MOUR	EIRC
251	A - 51762	18815	MS. NIKITA DAVE	WIRC
252	A - 44487	19043	MS. AMRITA GUPTA	NIRC
253	A - 44494	16461	MS. NEHA	NIRC
254	A - 51918	19888	MR. ABHISHEK RANJAN	NIRC
255	A - 52008	20226	MS. BHAWNA	NIRC
256	A - 52425	20038	MS. LATIKA KALYANI	NIRC
257	A - 51048	18695	MR. PARTH PRADEEP JOSHI	WIRC
258	A - 52622	21770	MS. SHRUTI SHARMA	NIRC
259	A - 52780	20461	MR. SHOWKAT AHMAD ALLAIE	NIRC
260	A - 52872	19482	MS. NISHTHA GUPTA	NIRC
261	A - 52949	19475	MR. ROHIT KUMAR JALAN	EIRC
262	A - 40902	20609	MR. NITESH JAYANTI LAL SONI	WIRC
263	A - 53275	21636	MS. AASTHA AGRAWAL	EIRC
264	A - 53393	19696	MS. HEMLATA YADAV	NIRC

265	A - 53445	20012	MS. SHUBHAM KHANDELWAL	NIRC
266	A - 53505	20961	MS. ANKITA DAKSHA	NIRC
267	A - 53122	19955	MR. SUBRAMANYAM POTHUGUNTA	SIRC
268	A - 53123	19568	MS. VARTIKA KHANDELWAL	WIRC
269	A - 53206	20992	MR. SAHIL SUNEJA	NIRC
270	A - 54077	19933	MS. SHRUTI JAIN	NIRC
271	A - 54088	21594	MR. VIVEK GAUR	WIRC
272	A - 53844	20015	MS. SHIVANGI MEHROTRA	NIRC
273	A - 54268	20139	MS. NUPUR KHANDELWAL	WIRC
274	A - 54722	20991	MS. RIYA SHARMA	NIRC
275	A - 54734	20535	MR. ELIAS LAZARUS RODRIGUES	WIRC
276	A - 54847	21454	MS. NISHI KUMARI	EIRC
277	A - 54917	20309	MR. VARDAN SHARMA	NIRC
278	A - 55141	20458	MR. GUFARAN AHAMAD	NIRC
279	A - 55443	21739	MS. VINITA VISHWAKARMA	NIRC
280	A - 55916	21035	MR. TUSHAR AGRAWAL	WIRC
281	A - 55944	21597	MR. SHUBHAM	NIRC
282	A - 52459	19624	MR. VIVEK KUMAR SHUKLA	NIRC
283	F - 897	3708	SH. RAJINDER KUMAR JAIRATH	NIRC
284	F - 997	9359	SH. SHRI KRISHAN CHAND MATHUR	NIRC
285	F - 1310	17632	SH. ANIL KOHLI	NIRC
286	F - 1313	3142	SH. SATISHKUMAR KANHAIYALAL SHAH	WIRC
287	A - 54090	20386	MS. CHITRANGANA SINGH	WIRC
288	A - 56239	21032	MR. SYED AMIR ALI	NIRC
289	A - 56611	21464	MS. HONEY	WIRC
290	A - 57996	21859	MR. RAJAT KAMAL AGRAWAL	EIRC
291	F - 779	3055	SH. GURU RAJ DESAI	SIRC
292	A - 55972	21053	MR. SAGAR JHA	NIRC
293	A - 56004	21117	MR. TARUN GOEL	NIRC
294	F - 1621	2005	SH. MADAVACHAR GOPALRATHNAM	SIRC
295	F - 2099	12771	SH. M L SONEJI	WIRC
296	F - 2191	993	SH. AJAY ARORA	NIRC
297	F - 1461	8117	SH. PURNA CHANDRA RAO KETHE	SIRC
298	F - 2341	2600	SH. NIKHIL C POPAT	SIRC
299	F - 2377	3504	SH. SUBRAHMANYAM YELAMANCHILI	SIRC
300	F - 2416	3629	SH. MULTAN SINGH KADIAN	NIRC
301	F - 2677	20108	SH. PADMAKAR MANJUNATH RAO	WIRC
302	F - 2238	1505	SH. N R RAMACHANDRAN	SIRC
303	F - 3288	12618	SH. RAJASEKHAR RAO SONTY	SIRC
304	F - 3377	3727	SH. KRISHNA WARRIER MADHAVA WARRIER	SIRC
305	F - 3604	9576	SH. RAJIV MAHAJAN	NIRC
306	F - 3734	3264	SH. S NAGALINGAM	SIRC
307	F - 3119	18364	SH. SANJAY KUMAR SACHDEV	NIRC
308	F - 3853	15753	SH. SUMIT KUMAR KHETAN	EIRC
309	F - 4097	13705	MS. REKHA S JAGDALE	WIRC
310	F - 4125	14371	SH. SASHIKANTA PARIDA	EIRC
311	F - 3741	15112	SH. ATUL PUKHRAJ FALGUNIA	WIRC
312	F - 4764	2883	SH. PARVEEN KUMAR RASTOGI	NIRC
313	F - 4801	10142	SH. KAILASH CHAND GOEL	NIRC

314	F - 5125	8496	SH. ASHOK KUMAR	NIRC
315	F - 5178	3931	SH. K R VENKATESWARAN	WIRC
316	F - 4378	5226	SH. D K SETHUMADHAVAN	WIRC
317	F - 5269	13084	SH. AJAY KUMAR SHARMA	WIRC
318	F - 5335	4318	SH. RAVI SHANKAR ADUSUMILLI	SIRC
319	F - 5422	4552	MS. MEENU GUPTA	NIRC
320	F - 5431	4717	MS. POONAM WADHWA	NIRC
321	F - 5213	4017	SH. RAJ KUMAR SEHGAL	NIRC
322	F - 5673	4678	SH. BHATTARAM GOPICHAND	SIRC
323	F - 5762	18886	SH. KAMAL SACHDEV	NIRC
324	F - 5901	5870	SH. KANWALJIT SINGH THANEWAL	NIRC
325	F - 5915	5824	SH. AJAY KUMAR MUNDHRA	EIRC
326	F - 5510	10455	SH. SHARAD KABRA	WIRC
327	F - 5991	3851	SH. MUKESH KUMAR AGARWAL	NIRC
328	F - 6002	6314	MS. MONIKA BANSAL	NIRC
329	F - 6029	5657	MS. RITU MANGLA	NIRC
330	F - 6089	8848	MS. POOJA HARDAYAL KATARE	WIRC
331	F - 5946	6202	MS. PRATIMA BADJATIYA	WIRC
332	F - 5965	5930	MS. MAYURI GUPTA	NIRC
333	F - 6399	11466	SH. RAJNISH CHANDULAL POPAT	SIRC
334	F - 6479	20371	SH. AJAY KUMAR SIWACH	NIRC
335	F - 6578	5877	SH. DIPAK YADUKA	EIRC
336	F - 6166	3981	MS. ANURADHA SINGHAI	WIRC
337	F - 6996	6534	SH. PRASANT KUMAR SARKAR	NIRC
338	F - 7201	7201	MS SAROJ PRAKASH DHANAWAT	NIRC
339	F - 7511	8124	MS. PRAGYA JHUNJHUNWALA	EIRC
340	F - 7577	8083	MRS. NEHA BAID	EIRC
341	F - 6919	7319	SH. PETHANNAN PERIASWAMY	SIRC
342	F - 6921	7234	MRS. SUPRIYA JALAN	EIRC
343	F - 7947	16795	SH RUPAK KUMAR SINHA	NIRC
344	F - 8088	18136	SH. YOGESH BHARDWAJ	NIRC
345	F - 8166	9216	MS. LIZA SAHNI	NIRC
346	F - 7679	18904	SH. RAJEEV KUMAR JAIN	NIRC
347	F - 8274	9369	SH. HARNATHARAM CHOUDHARY	WIRC
348	F - 8294	9024	MS. NEHA GOYAL	NIRC
349	F - 8300	14926	SH. BHARATIRAJU VEGIRAJU	WIRC
350	F - 8182	20376	MR. RADHABALLAV MANDAL	EIRC
351	F - 8259	9400	MS. SONIA AGGARWAL	NIRC
352	F - 8541	9655	SH. MANOJ KUMAR PANDEY	NIRC
353	F - 8616	12073	MRS. RASHMI GUPTA	NIRC
354	F - 8735	7691	MS. BHAWNA GUPTA	NIRC
355	F - 8420	17808	SH. RAMESHKUMAR B PANCHAL	WIRC
356	F - 8888	12123	SH. VASUDEVA RAO DEVAKI	SIRC
357	F - 8976	10438	SH. VIVEK KUMAR	NIRC
358	F - 9230	10509	MS. RUPALI NITIN ABHYANKAR	WIRC
359	F - 8798	13399	MS. AMISHA VIJAY SHAH	WIRC
360	F - 8814	8443	SH. GIRRAJ KUMAR GUPTA	NIRC

361	F - 8835	13594	SH. AMIT BHARGAVA	NIRC
362	F - 8836	9317	SH. NITIN RAMESHRAO BHUSARI	WIRC
363	F - 9396	11181	MR. SOURABH PARNAMI	NIRC
364	F - 9446	9863	SH. RAHUL DHUPAR	NIRC
365	F - 9461	13960	MS. GUNJAN SINGH	NIRC
366	F - 9467	10938	MS. SUPREET KAUR REKHI	NIRC
367	F - 9643	11800	MS. EKTA NOPANY	EIRC
368	F - 9305	10977	MS. VANITA ARORA	NIRC
369	F - 9540	11722	MR. MOHIT DAHIYA	NIRC
370	F - 9618	11734	MS. NITIKA	NIRC
371	F - 9819	19677	MR. AMIT KUMAR	NIRC
372	F - 10021	10813	MS. ANKITA AGRAWAL	NIRC
373	A - 42827	16548	MS. NISHA MITTAL	NIRC
374	F - 9858	10516	MR. JASBIR SINGH	NIRC
375	F - 9863	7146	MS. CHARUL YOGESH PATEL	WIRC
376	F - 9890	15493	MR. BURRA BHARGAVA	SIRC
377	F - 9922	21548	MS. MEERA VENKATRAMANAN	SIRC
378	A - 45635	16758	MR. ARVIND KUMAR KUSHWAHA	NIRC
379	F - 9942	16724	MR. AZEEM TARIQ KHAN	WIRC
380	F - 9943	12210	MR. ABHISHEK MISHRA	NIRC
381	A - 42267	19521	MS. RITU PUGLIA	EIRC
382	A - 42285	18143	MR. RAJARSHI CHAKRABORTY	EIRC
383	A - 43544	18145	MS. PRIYANKA JAIN	NIRC
384	A - 43952	16690	MR. NARENDER	NIRC
385	A - 46793	18362	MS. KHUSHBOO SIDDHARTH SHAH	WIRC
386	A - 45919	19507	MR. NITESH	NIRC
387	A - 46500	17430	MS. KAMIYA	NIRC
388	A - 49300	18555	MS. AMISHA	NIRC
389	A - 50038	18967	MR. GIRIRAJ AJAY MOHTA	WIRC
390	A - 50260	18208	MS. HENNA SHARMA	NIRC
391	A - 47851	18050	MR. AKARSHIT KAPOOR	NIRC
392	A - 46724	17214	MR. BINNY CHOPRA	NIRC
393	A - 49757	18828	MR. ASHIQ HUSSAIN SHEIKH	NIRC
394	A - 49989	21620	MS. VIDUSHI AGARWAL	NIRC
395	A - 50111	19829	MS. ANURADHA RATANKUMAR NAGORI	WIRC
396	A - 47106	18842	MS. PRABHSIFT KAUR	NIRC
397	A - 42443	15745	MS. NEHA GUPTA	NIRC
398	F - 1323	16438	SH. S K AGRAWALA	EIRC
399	A - 47940	17902	MR. SANDEEP DUBEY	WIRC
400	A - 47020	20524	MS. ANUPAM TRIPATHI	NIRC
401	A - 50197	21004	MS. DIPALI SHRIRANG GOLE	WIRC
402	A - 45836	16712	MS. SHRADDHA VIVEK BHAGWAT	WIRC
403	A - 45877	18651	MS. WIDHI PASARI	EIRC
404	A - 51770	21432	MR. RAMIZ AHMAD SHEIKH	NIRC
405	A - 50727	18421	MR. JAYKUMAR DEEPAKBHAI KHATNANI	WIRC
406	A - 51644	18834	MR. RAGHAV GARG	EIRC
407	A - 51404	19545	MS. SHAFALI GOYAL	NIRC

ANNUAL LICENTATE SUBSCRIPTION FOR 2019-2020

LIST OF LICENTIATES (AS ON 25.10.2019) WHO HAVE BEEN DISENTITLED TO USE THE DESCRIPTIVE LETTERS "LICENTATE - ICSI" W.E.F. 1ST July, 2019 DUE TO NON- PAYMENT OF ANNUAL LICENTATE SUBSCRIPTION FOR 2019-2020

LICENTATE NO.	NAME	REGN.
6637	MS. IRA RAVI KAPOOR	WIRC
6682	MR. SURESH NAMBOODIRI. K	SIRC
6688	MR. ADITYA JANAKKUMAR PANDYA	WIRC
6711	MR. PAWAN KUMAR MADANGOPAL SHAH	WIRC
6758	MS. DEVANSHI GANDHI	WIRC
6760	MS. VIJITA K. NAMBOOTHIRI	SIRC
6790	MR. AMIT NANDKISHORE RUIA	WIRC
6827	MS. NEHA GARG	NIRC
6830	MR. HARIPRASHANTH S	SIRC
6841	MS. AASTHA NITIN VASAVADA	WIRC
6855	MR. SRIVATSAN B	SIRC
6859	MR. SIDHAARDHA MANNAVA	WIRC
6867	MR. PRASHANT KUMAR K	SIRC
6872	MS. PUSHPANJALI GUPTA	NIRC
6894	MS. SNEHA S	SIRC
6937	MR. AMIT ASHOKLAL KHIYANI	WIRC
6945	MS. VAISHNAVI V V	SIRC
6947	MR. AMITKUMAR NAVNITKUMAR BAVISHI	WIRC
6956	MS. AMEETA KRISHNA SHETTY	WIRC
6958	MR. SUYASH GUPTA	NIRC
6964	MR. HARDIK PRATIPAL PURI	WIRC
6966	MS. PRIYANKA DAFTARY	SIRC
6972	MS. ADITI NIGAM	WIRC
6979	MS. SHIVANI SINGH RATHI	NIRC
6980	MS. SAMIKSHA SHAILESH AGRAWAL	WIRC
6981	MR. GANESH KUMAR SHAW	WIRC
6988	MR. ROHIT ARUINDA BAPAT	WIRC
6989	MS. KOMAL PRAMOD AGRAWAL	WIRC

ATTENTION !

For latest admission of Associate and Fellow Members, Life Members of Company Secretaries Benevolent Fund (CSBF), Licentiates and issuance of Certificate of Practice, kindly refer to the link <https://www.icsi.edu/member>



ATTENTION!

MEMBERS WHO HAVE NOT PAID THE ANNUAL MEMBERSHIP FEE BY LAST DATE 30-06-2019

The last date for payment of annual membership fee was 30-06-2019. The members who have not paid their annual membership fee by the last date are required to restore their membership by paying the requisite additional entrance and restoration fees totalling Rs. 2655/- (inclusive of GST@18%) alongwith the applicable annual membership fee with GST@18% payable. Members are required to submit Form-BB for restoration of membership duly filled and signed. For specific assistance raise a ticket at <http://support.icsi.edu>

ATTENTION! MEMBERS

The CD containing List of Members of ICSI as on 1st April, 2019 is available in the Institute on payment of Rs. 280/-* for members and Rs. 560/-* for non-members (*including GST@12%). Request along with payment may please be sent to Joint Secretary (SG), Directorate of Membership, ICSI House, C-36, Sector-62, Noida-201309. For queries if any, please write to member@icsi.edu

For specific assistance raise a ticket at <http://support.icsi.edu>

ATTENTION ! ADVISORY FOR MEMBERS OF ICSI

Members would henceforth be required to declare their PAN (mandatory) and Aadhaar / UID Number (optional) at the time of making online payment of annual membership fees and while applying for Fellow membership of the Institute in Form-B.

Further, offline Membership fee / Certificate of Practice fee / Restoration fee is not being accepted in any office of the Institute from 1st June, 2019. Only online fees is being accepted from 1st June, 2019 onwards.

Members may also note that as per Regulation 3 of the Company Secretaries Regulations, 1982, they are required to communicate to the Institute any change in their Professional Address within one month of such change.

Team ICSI

ATTENTION!

List of members whose names stand removed from the Register of Members owing to non-receipt of annual membership fee of FY 2019-20 till 30th June, 2019 is placed under Latest @ICSI, What's New at the link: https://www.icsi.edu/media/webmodules/Defaultler_List.pdf



Members whose names stand restored w.e.f 1-7-2019 is placed under Latest @ICSI, What's New at the link: https://www.icsi.edu/media/webmodules/Members_whose_names_stand_restored_wef_01072019.pdf

**ICSI Signature Award Gold Medal**

B.Com Toppers of Sri Dev Suman Uttarakhand, Vishwavidhyalay, were recently awarded ICSI Signature Award Gold Medal for the year 2017 & 2018 at the annual Convocation.

Details for the students are given below.

Sl. No	Name of Student	Rank / Position in B.Com Three year Degree Course	Session
1	Ms. Ekta Saini	Topper	2014 - 17
2	Ms. Akanksha Singh	Topper	2015 - 18

RESTORATION OF CERTIFICATE OF PRACTICE

The process of Restoration of Certificate of Practice is now enabled for the members who could not pay the COP fees by the due date i.e. 30-09-2019.

The certificate of practice fee and restoration fee payable is as follows:

Particulars	Associate (admitted till 31.03.2018)	Associate (admitted on or after 01.04.2018)	Fellow
Certificate of Practice fee*	Rs. 2360	Rs. 1770	Rs. 2360
Restoration fee**	Rs. 295	Rs. 295	Rs. 295

* Fee inclusive of applicable GST@18%.

** Fee inclusive of applicable GST@18% and applicable as certificate of practice fee is not received by 30th September, 2019

MODE OF REMITTANCE OF RESTORATION OF COP FEE: ONLINE ONLY**Procedure for filling Online Form D:**

1. Kindly go to Manage Account. Select Online Form D. Fill the form and keep a copy of the same for your records. Fill the form stepwise
2. First fill the Personal detail and click the save as draft
3. Second go to Area of practice, select the radio buttons of your area of interest and click the save as draft
4. In Verification details click the save as draft (this page is important) and please fill all the mandatory fields which is marked as blue
5. Last page is Declaration, fill the place option and click the save as draft option.
6. At the end please click the 'Final save & Print' button and keep a copy of form-D for your records*

*(once the form D is submitted, modifications cannot be done)

Procedure for payment of Restoration of COP fee:

1. Go to Manage Account and select the first option "Requests relating to COP"
2. Select the button Restoration of COP
3. Select the button online form D (at the Top)
4. You will get a message "You have already submitted the declaration for the financial year"
5. Please write in the Comment box (mandatory box)
6. Remit the payment online*

*(Members admitted on or after 01.4.2018 shall pay Rs. 2065/- while members admitted before 01.04.2018 shall pay Rs. 2655/- (all amount inclusive of GST @ 18%).



For any support you may reach out to us at <http://support.icsi.edu>.

ATTENTION! DIGITAL I-CARD FOR MEMBERS

You may be aware that the National Digital Locker System, launched by Govt. of India, is a secure cloud based platform for storage, sharing and verification of documents and certificates. Targeted at the idea of paperless governance, DigiLocker is a platform for issuance and verification of documents & certificates in a digital way, thus eliminating the use of physical documents. Digital Locker also makes it easier to validate the authenticity of documents as they are issued directly by the registered issuers. Organizations that are registered with Digital Locker can push electronic copies of documents and certificates directly into citizens' lockers. Members of ICSI can now access their digital I-Card anytime, anywhere. This is convenient and time saving. ICSI has launched this initiative on 5th Oct 2019 in the presence of Honourable President of India by making available Identity Cards online for its members.

You may access the DigiLocker in the following manner:

- Go to <https://digilocker.gov.in> and click on Sign Up
- You may download mobile app from mobile store (Android/iOS)

How to Login:

- Signing up for DigiLocker is easy - all you need is your mobile number.
- Your mobile number will be authenticated by sending an OTP (one-time password) followed by selecting a username & password. This will create your DigiLocker account.
- After your DigiLocker account is successfully created, you can voluntarily provide your Aadhaar number (issued by UIDAI) to avail additional services.

How to Access your digital Documents:

On successful validation of credential go to the "Pull Documents" in Issued document section, select the partner name "The Institute of Company Secretaries of India" & document type "Identity Card" and enter the document details asked for and fetch the same.

ATTENTION! Know Your Member (KYM)

A User Manual for filling the Know Your Member (KYM) proforma online is available at the below link: https://www.icsi.in/student/Portals/0/Manual/KYM_Usermanual.pdf



ATTENTION! MEMBERS HOLDING CERTIFICATE OF PRACTICE

The Institute has brought out a CD containing List of Members holding Certificate of Practice of the Institute as on 31st March 2019. The CDs are available at Noida office of the Institute and will be provided free of cost to the members holding Certificate of Practice on receipt of request. Request may please be sent to the Directorate of Membership at e-mail id: saurabh.bansal@icsi.edu

OBITUARIES

Chartered Secretary deeply regrets to record the sad demise of the following Members:

CS Manish Singh (10.01.1991 – 26.08.2019), an Associate Member of the Institute from Howrah.

CS Chakravarthi Sampath Aravind (18.12.1951 – 31.07.2019), an Associate Member of the Institute from Bangalore.

CS Priyanka Pandey (27.12.1993 – 28.08.2019), an Associate Member of the Institute from Chandigarh.

CS Bharti Manocha (15.08.1986 – 28.09.2019), an Associate Member of the Institute from Faridabad.

May the almighty give sufficient fortitude to the bereaved family members to withstand the irreparable loss.

May the departed souls rest in peace.

NOTIFICATION

20th September, 2019

NOTIFICATION (MEMBERSHIP) NO. 01 OF 2019

Allotment of new unique code in case of change of state of practicing firms

Members of the Institute may note that as per the decision of the Council, a new Unique Code will be allotted to practising units in case there is a change in the place of the practice unit from one state to another. It will be the responsibility of the practicing firm to intimate the Institute about such a change within thirty days after the change is effected. It will be mandatory for all such firms to use the old unique code along with the new code for a period of three years from the date of allotment of new code in all their communications/correspondences for the purpose of link and reference.

ICSI

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MISCELLANEOUS CORNER



- ETHICS & SUSTAINABILITY CORNER
- ICSI (EMPLOYEE COMPANY SECRETARIES IDENTIFICATION NUMBER (ECSIN) GUIDELINES), 2019
- ICSI UNIQUE DOCUMENT IDENTIFICATION NUMBER (UDIN) GUIDELINES, 2019
- BOOK REVIEW
- 12TH SOUTHERN INDIA REGIONAL CONFERENCE OF PRACTISING COMPANY SECRETARIES
- GST CORNER
- ICSI TEACHERS WEEK

Five Golden Principles for Happy Living

Contributed by Brahma Kumaris, Om Shanti Retreat Centre, Gurugram

We all wish to be happy. All our endeavors in life are aimed at getting happiness. But how-so-ever we obtain happiness; it does not seem to last for long. Very soon, we are found hunting for reasons or possessions to feel happy again and again. But if we focus on some simple principles of life, tried and tested in the laboratory of life, which end up in happiness for the self and others, then we are likely to find the happiness en-route and remain happy in life. These basic principles are based on the relationship between man and the world or between mind and matter. These principles would empower us to master the art of living and enhance happiness. They are easy to practise; continuous attention is perhaps the only requirement.

1. Nothing in the world exists for itself:

When we look around, we find that rivers flow to distribute its water to others, but do not drink its own water. It may distribute the water to many distributaries on its way, it may not even know who is drinking its water through those distributaries, but it still flows and it still distributes without complaining or expecting. The trees do not eat their own fruit. Similarly, the chair we sit on, the bed we sleep on, the house we live in, in fact nothing exists for itself. The heat and light of the mighty sun, the bounties of the mother earth, the treasures of the ocean, nothing is meant for its own use. Human beings take in oxygen from the air and exhale carbon dioxide, which is inhaled by the plants to give back oxygen. One finds inter- connectedness and inter- dependence everywhere.

Everything in this universe is supporting and balancing a highly complex and well-harmonized network of matter and energies. The lesson that we learn from this observation is that if we cause harm to even one thing in this delicately balanced ecosystem, it will recoil on us.

If we continue to plunder and exploit nature for our wanton lifestyle, nature will show its own way of putting things right by reprimanding us. Our reckless actions have brought us today to the brink of an ecological disaster because we did not realize the fact that everything that nature offers can be used by us but not abused.

Another lesson that follows from this is of service. Serve others and in the process, you will get served. Just as the rivers, trees and elements of nature have been sustaining and serving humanity since eternity, we also must learn to serve each other. When we give selflessly, even if do not expect any return, we are destined to reap the reward of such an action because the law of karma stipulates that every action has an equal and opposite reaction. Hence, if we show disrespect to nature and fellow humans, we are bound to suffer for such actions in form of dissatisfaction and unhappiness.

2. You can't actually own anything; you can just use it:

A little reflection will reveal the fallacy of the common belief that we can own material objects of this world. The sense of ownership, which people have on possessing legal titles, only gives illusory satisfaction. When the owner leaves the body, all proof of ownership becomes worthless. The possessions that were owned by the former person are then used by others, who again make the mistake of becoming the new owner. Hence, ownership of everything including the physical body, which we call 'mine', is an illusion. Everything that we use can never be owned but only be best used as a trustee.

The concept of ownership results in the vice of attachment. People become possessive about objects and relationships, trying to control and manipulate them for their selfish needs. It becomes an obsession for them and then the very things or people whom they try to secure for happiness become a bondage and hurt both the owner and the owned object or person.

Moreover, attachment leads to the fear of loss and consequently, suffering. For instance, if a guest is staying in a hotel room and another person in the adjoining room drives a



bkashaorc@gmail.com



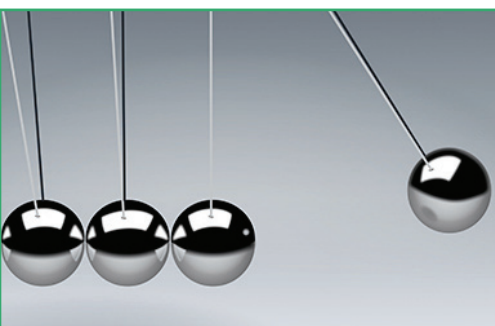
Everything in this universe is supporting and balancing a highly complex and well-harmonized network of matter and energies. if we cause harm to even one thing in this delicately balanced ecosystem, it will recoil on us.



- Whatever material things we have acquired in this world have to be used as a trustee, for the good of all.



- Physical and material objects can be a source of both happiness and suffering. A healthy body and a healthy mind are both essential for a happy existence.



- A person's entitlement to happiness is based on how good his actions have been.

nail into the wall, then the first person would not feel concerned. But if the same thing happens at one's home, where a tenant living in an adjoining room, were to hammer a nail into a wall, the owner would very much mind and resist it because of the feeling that it is his house that is being spoiled.

Actually, we can merely use our possessions and resources according to our entitlement, as per the Law of Karma. We did not bring anything with us when we were born, and would take none of our material acquisitions with us on death. Whatever material things we have acquired in this world have to be used as a trustee, for the good of all. The false notion of ownership also leads us to the vice of greed and wrongful actions to acquire more and more. We are all well aware of how Alexander the Great ordered that on his demise, both his hands must be kept hanging out of his coffin so that people may see that he was going empty handed.

3. Mere possessions of material objects do not lead to happiness:

It is a fact that physical and material objects can be a source of both happiness and suffering. Take the example of our body- it can give us joy and happiness and also suffering, when afflicted by some painful disease or disorder.

If accumulation of money or material objects could bring happiness, then rich people with more of these things should have been proportionately happier than the less fortunate brethren. But is it so? For instance, imagine the misery of a millionaire who likes eating sweets but can't do so because of diabetes. On seeing his chauffeur having a mouthful of sweets at the sweet shop, he regrets that he can buy the whole shop, but can't taste a single piece of sweet.

However, if we look at it deeply, the suffering of the millionaire in this case results from unfulfilled desires rather than from the diseased body. The same person will not feel any sorrow if he does not have the desire for eating sweets. Hence, it follows that mere possession of material objects is not enough to make one happy. One must also have the capacity or power to enjoy them. A healthy body and a healthy mind are both essential for a happy existence.

4. Fortune and happiness depend on accumulated stock of good karma

Fortune is created by one's own karma. As you sow, so you reap. Any thing or relationship in this physical world- be it your house, relations, status or health- can become the source of joy and happiness and also of sorrow and grief, as already discussed, depending on the stock of good and bad karma. That's why this world is called a '*karma kshetra*'. One's actions decide the extent to which one enjoys life. A person's entitlement to happiness is based on how good his actions have been.

For instance, a high status such as the presidency of a nation, or an organization, may give a person great opportunity to enjoy the privileges and powers that such a position carry. On the other hand, it could also become a cause of great anxiety, suffering and discomfort. The same is true of health, wealth, status and relationships.

People get killed, looted or harmed in many ways because of having too much wealth or power. For some persons, having high status or famous and powerful relatives may also result in harm or suffering. It depends on one's karma whether one can enjoy status, power or wealth.

5. Matter is a good servant but a bad master

In order to have the right relationship between the soul and matter, it is important to realize that matter can be a good servant but can never be a good master. When the soul becomes a slave to matter, it experiences sorrow. And when it exercises control over matter as a master, it experiences joy. That is why the deities were the most prosperous and the happiest being in Golden Age as they were self- sovereign. They were materially rich and spiritually pure. The material prosperity that they enjoyed can't even be dreamt

of by the wealthiest mortals of today. They had wealth, health, relationships and status of the highest degree, which they enjoyed to the full extent without ever experiencing any trace of sorrow. This was because they never allowed the 5 vices- lust, anger, greed, attachment and ego- to enter their domain of thoughts, words and actions. Their blissful life was the fruit of their pure thoughts and deeds. Their body and soul were both pure, so they could enjoy their material opulence without obstacle or obstruction.

Is such a life as of the deities- a fantasy or myth? No, that was the quality of life in the period called Golden Age or Satyug. The souls in that period were liberated- in- life. Such a stage can be achieved when we become free from vices and remain pure and perform pure actions. Such a purification of mind and matter occurs with the practice of Rajyoga Meditation. By establishing a loving link with the Supreme Soul and by applying Godly wisdom to our day- to- day lives, we can overcome our weakness and regain the original purity of the soul.

When the soul is nourished with Godly knowledge and love, the mind becomes pure and powerful. Such souls who become self- sovereign, that is, who have complete control over their mind and sense organs, get the fruit of everlasting peace and happiness- both material and spiritual. When souls are purified and strengthened, the mind establishes the right balance with matter. All material and natural things are purified with the energy of pure thoughts. Matter then serves the souls to give joy and happiness.

True happiness and peace, therefore, comes from within. When we learn to use our mind in the right way, we will automatically be able to use matter for creating happiness for ourselves and others.



Let us practise Rajyoga Meditation to arouse our inner strength and shield ourselves so as not be influenced and affected by any negative inputs.

Tie-up with Universities/Colleges for use of their libraries by Members and Students of ICSI

Providing library facility to our students and members is one of the prime responsibilities of the Institute. As an initiative to provide library services to its Members and Students all over India, the Institute of Company Secretaries of India is pleased to inform that it has forayed into a tie-up with 54 Renowned Universities and Colleges of India for providing access to its Library/Reading room facilities to esteemed Members and students of ICSI. CS Study Materials and Publications will also be available at the following Universities/ Colleges for the benefit of all:

Sl. No.	State	Name of the Institute/ University
1	Andhra Pradesh	Andhra University, Waltair Junction, CBM Compound, Visakhapatnam,
2		Sri Boddu Krishna Degree College, No-4-7-7, Kothagraharam, Near ICICI Bank, Vizianagaram- 535001
3	Arunachal Pradesh	Rajiv Gandhi University, Rono Hills, Doimukh, Itanagar Pin-791112
4	Assam	Women's College, Near Durgabari Hall, Rangagora Road, Tinsukia- Assam- 786125
5		Gauhati University, K.K. Handiqui Library, Department of Library and Information Science, Ground Floor, Main Arts Building, Gauhati University, Guwahati-781014
6	Bihar	Thakur Prasad Singh College, Chiraiyatand, Patna-800001
7		Patna Women's College, Bailey Rd, Kidwaipuri, Patna- 800001
8		PNA & BP Science College, Behind Tilka Manji Bhagalpur University, Ravindra Bhavan Road, Parnathpur -812002
9	Dadar and Nagar Haveli	KBS Commerce & NATARAJ Professional Sciences College, Shree Kaushik Haria Educational Foundation, Chanod Colony Naka, Silvassa Road, Dadra and Nagar Haveli 396195
10	Gujarat	Tolani Commerce College, Near Post office, Ward 2A, Gandhidham, Adipur-370205 Kutch
11	Karnataka	National Law School of India University, Nagarbhavi, Bangalore - 560 072.
12		Dr.D G Shetty Educational Society, Lakamanahalli, Dharwad HO, Near KMF Industrial Area Dharwad - 580001
13		Edurite College, Savlanga Road, Ravindra Nagara, Shivamogga- 577201
14	Kerala	Baselius College Manorama Junction, Near Malayala Manorama, K K Road, Kottayam - 686001

15	Madhya Pradesh	Swami Vivekanand Government Commerce College, Viriyakhedi, Ratlam-457001
16		Lokmanya Tilak Science & Commerce College, Neelganga Road, Near Railway Station, Madhav Nagar, Ujjain-456010 Indore
17		Gyanodaya Institute of Management and Technology, Gram Kanawati, Mhow- NasirabadHighwat, Th&Dist- Neemuch - 458441
18		Noble College, NH-26, Rajakhedi, Makronia, Sagar -470006
19	Maharashtra	Knowledge Resource Centre Jawaharlal Nehru Library, CST Road, Kolivery Village, University of Mumbai, VidyaNagari, Kalina, Santacruz East, Mumbai - 400098,
20		Ismailsaheb Mulla Law College, Karmaveer Samadhi Parisar, Ravivar Peth, Powai Naka, Satara 415002
21		Dnyandeep College of Science & Commerce, At Post Morvande-Boraj, Tal. Khed Dist- Ratnagiri-415709
22		NanasahebVanjare New Education Society's Arts, Commerce & Science College, Lanja, Dist- Ratnagiri-416701
23		Jaikranti Arts & Commerce Senior College, Sitaram Nagar, Latur- 413512
24		Chintamanrao College of Commerce, Vishrambag, Sangli - 416415
25		HirachandNemchandCollege of Commerce, S W H Marg, AshowkChowk New PachaPeth, Walchand Collage Campus, S W H Marg, Solapur- 413006
26	Meghalaya	Indian Institute of Management, Mayurbhanj Complex, Nonthyammai, Shillong, Meghalaya-793 014
27	Odisha	Biju Patnaik University of Technology, Chhend Colony, Rourkela, Odisha-769004
28		PG Dept. of Commerce SCS Autonomous College, Chandan Hajuri Road, Puri -752001
29		Nayagarh (Autonomous) College, Jadumanichhatrabas, Nayagarh, Odisha 752069
30	Port-Blair	Jawaharlal Nehru Rajkeeya, Mahavidhyalaya, MS Road, Port Blair, Andaman and Nicobar Islands - 744101
31	Puducherry	BharathidasanGovt College for Women, Ananda Inn, Thiruvalluvar Nagar, Puducherry- 60500
32	Punjab	RRMK Arya Mahila Maha Vidyalaya, Shahpur Chowk, near KabirChowk, Pathankot- 145001
33		Lovely Professional University, G.T. Road, Phagwara, Jalandhar-Delhi, Punjab-144411
34	Rajasthan	Maharaja Ganga Singh University, N.H. 15, Jaisalmer Road Bikaner-334004
35		University of Bikaner, Dungar College Campus, JNV Colony, Bikaner - 334 003
36		Jai Narain Vyas University, Residency Road, Jodhpur- 342011
37		Jasveer Memorial P G College, Near Police Station, Sandwa, (Nokha-Bidasar Road) Teh - Bidasar, Distt - Churu) -33151
38		Biyani Girls College, Sector-3, Vidhyadhar Nagar, Jaipur- 302023
39		S P U College Bali Road, Falna-306116
40		SESOMU Girls College, NH-11, Shri Dungargarh- 331803
41	Tamil Nadu	Indian Institute of Management Tiruchirappalli, NIT Campus, Thanjavore Main Road, Thuvakudi, Tiruchirappalli- 620015
42		Annamalainagar Chidambaram, Tamilnadu- 608 002
43		St. Xavier's College, Near Palai Bus Stand, Palayamkottai, Tamilnadu-627002
44		AyyaNadar Janaki Ammal College, Srivilliputhur, State Highway 42, Sivakasi- 626123
45		Dharmamurthi Rao Bahadur Calavala Cunan Chetty's Hindu College, Pattabiram, Chennai-600072
46		SCSVMV University Enathur, Kanchipuram - 631561
47	Telangana	Sharada P G College, C/o. Computer Corner Centre, Near Tirumala Cinema Hall, (Theatre), Weekly Market, Beside Sun Flower High School, Nizamabad Dist. - 503001
48	Uttar Pradesh	Springdale College of Management Studies, Madhotanda road, Near Sugar Factory Pilibhit- 262001
49		Sharada Devi Degree College, Ballampur Road, Near Blue Bells Public School, Rajgarh Hansari, (Bijoli) Jhansi- 284135
50		R C A Girls (PG) College, Vrindavan Gate, Masani, Mathura, 12, Aakash Nagar, Vishwa Laxmi Nagar, Mathura - 281003
51	Uttarakhand	Chanakya Law College, VillBhamrola, P O Bagwara Kichha Road, Opp Radha Swami Satsang, Rudrapur (U S Nagar) - 263153
52		Himalayan Institute of Education & Technology (HIET), Village & Post- Jilasu, Via- Langasu, Karnpriyag Dist. Chamoli- 246446
53	West Bengal	University of Kalyani, Kalyani, Nadia-741235
54		DSMS College of Tourism & Management, Dr Zakir Hussain Avenue, Bidhannagar Durgapur-713206
55		Siliguri College of Commerce, P.O. : Siliguri, Darjeeling- 734001

The list is also available on the Institute's website (<https://www.icsi.edu/home/>).

GST REVENUE COLLECTION FOR OCTOBER, 2019

The gross GST revenue collected in the month of October, 2019 is **Rs. 95,380 crore** of which CGST is Rs. 17,582 crore, SGST is **Rs. 23,674 crore**, IGST is **Rs. 46,517 crore** (including **Rs. 21,446 crore** collected on imports) and Cess is **Rs. 7,607 crore** (including **Rs. 774 crore** collected on imports).

The total number of **GSTR 3B** Returns filed for the month of September up to **31st October, 2019** is **73.8 lakh**.

The government has settled **Rs. 20,642 crore** to CGST and **Rs. 13,971 crore** to SGST from IGST as regular settlement. The total revenue earned by Central Government and the State Governments after regular settlement in the month of October, 2019 is **Rs. 38,224 crore** for CGST and **Rs. 37,645 crore** for the SGST.

The revenue during October, 2019 has declined by **5.3%** in comparison to the revenue during October, 2018. However, during **April-October, 2019** vis-à-vis 2018, the domestic component has shown **6.7%** growth while the GST on imports has shown negative growth and the total collection has grown by **3.4%**.

Source: <https://pib.gov.in>

Notification No. 44/2019-Central Tax, dated 09th October, 2019

In exercise of the powers conferred by section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act) read with sub-rule (5) of rule 61 of the Central Goods and Services Tax Rules, 2017 (hereafter in this notification referred to as the said rules), the Commissioner, on the recommendations of the Council, hereby specifies that the return in FORM GSTR-3B of the said rules for each of the months from October, 2019 to March, 2020 shall be furnished electronically through the common portal, on or before the twentieth day of the month succeeding such month. 2. Payment of taxes for discharge of tax liability as per FORM GSTR-3B. – Every registered person furnishing the return in FORM GSTR-3B of the said rules shall, subject to the provisions of section 49 of the said Act, discharge his liability towards tax, interest, penalty, fees or any other amount payable under the said Act by debiting the electronic cash ledger or electronic credit ledger, as the case may be, not later than the last date, as specified in the first paragraph, on which he is required to furnish the said return.

Notification No. 45/2019-Central Tax, dated 9th October, 2019

In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), the Central Government, on the recommendations of the Council, hereby notifies the registered persons having aggregate turnover of up to 1.5 crore rupees in the preceding financial year or the current financial year, as the class of registered persons who shall follow the special procedure as mentioned below for furnishing the details of outward supply of goods or services or both. 2. The said registered persons shall furnish the details of outward supply of goods or services or both in FORM GSTR-1 under the Central Goods and Services Tax Rules, 2017, effected during the quarter as specified in column (2) of the Table below till the time period as specified in the corresponding entry in column (3) of the said Table, namely:-

Table

Sl. No.	Quarter for which details in FORM GSTR-1 are furnished	Time period for furnishing details in FORM GSTR-1
(1)	(2)	(3)
1	October, 2019 to December, 2019	31st January, 2020
2	January, 2020 to March, 2020	30th April, 2020

- The time limit for furnishing the details or return, as the case may be, under sub-section (2) of section 38 of the said Act, for the months of October, 2019 to March, 2020 shall be subsequently notified in the Official Gazette.

Notification No. 46/2019-Central Tax, dated 9th October, 2019

In exercise of the powers conferred by the second proviso to sub-section (1) of section 37 read with section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), the Commissioner, on the recommendations of the Council, hereby extends the time limit for furnishing the details of outward supplies in FORM GSTR-1 of the Central Goods and Services Tax Rules, 2017, by such class of registered persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year, for each of the months from October, 2019 to March, 2020 till the eleventh day of the month succeeding such month. 2. The time limit for furnishing the details or return, as the case may be, under sub-section (2) of section 38 of the said Act, for the months of October, 2019 to March, 2020 shall be subsequently notified in the Official Gazette.

Notification No. 47/2019-Central Tax, dated 9th October, 2019

In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act), the Central Government, on the recommendations of the Council, hereby notifies those registered persons whose aggregate turnover in a financial year does not exceed two crore rupees and who have not furnished the annual return under sub-section (1) of section 44 of the said Act read with sub-rule (1) of rule 80 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules) before the due date, as the class of registered persons who shall, in respect of financial years 2017-18 and 2018-19, follow the special procedure such that the said persons shall have the option to furnish the annual return under sub-section (1) of section 44 of the said Act read with sub-rule (1) of rule 80 of the said rules: Provided that the said return shall be deemed to be furnished on the due date if it has not been furnished before the due date.

Notification No. 48/2019-Central Tax, dated 9th October, 2019

In exercise of the powers conferred by section 128 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance, Department of Revenue No. 41/2019-Central Tax, dated the 31st August, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Subsection (i) vide number G.S.R. 618(E), dated the 31st August, 2019, namely:-

In the said notification, in the opening paragraph-

- clause (ii), for the figures, letters and word "20th September", the figures, letters and word "11th October" shall be inserted;
- the clause (iv), the following clauses shall be inserted, namely:-

- “(v) the registered persons whose principal place of business is in the State of Jammu and Kashmir, having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year, who have furnished, electronically through the common portal, details of outward supplies in FORM GSTR-1 of the Central Goods and Services Tax Rules, 2017 (hereafter referred to as the said rules), for the month of August, 2019, on or before the 11th October, 2019, for failure to furnish the said FORM GSTR-1 by the due date;
- (vi) the registered persons whose principal place of business is in the State of Jammu and Kashmir, required to deduct tax at source under the provisions of section 51 of the said Act, who have furnished electronically through the common portal, return in FORM GSTR-7 of the said rules under sub-section (3) of section 39 of the said Act read with rule 66 of the said rules, for the month of July, 2019, on or before the 10th October, 2019, for failure to furnish the said FORM GSTR-7 by the due date;
- (vii) the registered persons whose principal place of business is in the State of Jammu and Kashmir, required to deduct tax at source under the provisions of section 51 of the said Act, who have furnished electronically through the common portal, return in FORM GSTR-7 of the said rules under sub-section (3) of section 39 of the said Act read with rule 66 of the said rules, for the month of August, 2019, on or before the 10th October, 2019, for failure to furnish the said FORM GSTR-7 by the due date;
- (viii) the registered persons whose principal place of business is in the State of Jammu and Kashmir, who have furnished, electronically through the common portal, return in FORM GSTR-3B of the said rules, for the month of July, 2019, on or before the 20th October, 2019, for failure to furnish the said FORM GSTR-3B by the due date;
- (ix) the registered persons whose principal place of business is in the State of Jammu and Kashmir, who have furnished, electronically through the common portal, return in FORM GSTR-3B of the said rules, for the month of August, 2019, on or before the 20th October, 2019, for failure to furnish the said FORM GSTR-3B by the due date.”.

Notification No. 49/2019 – Central Tax dated 9th October, 2019

Paste text from <http://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-49-central-tax-english-2019.pdf>

Notification No. 50/2019 – Central Tax dated 24th October, 2019

In exercise of the powers conferred under section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 21/2019- Central Tax, dated the 23rd April, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 322(E), dated the 23rd April, 2019, namely:—

In the said notification, in paragraph 2, after the first proviso, the following proviso shall be inserted, namely: –

“Provided further that the due date for furnishing the statement

containing the details of payment of self-assessed tax in said FORM GST CMP-08, for the quarter July, 2019 to September, 2019, or part thereof, shall be the 22nd day of October, 2019.”.

2. This notification shall be deemed to have come into force with effect from the 18th day of October, 2019.

Notification No. 51/2019 – Central Tax dated 31st October, 2019

In exercise of the powers under section 3 read with section 5 of the Central Goods and Services Tax Act, 2017 (12 of 2017) and section 3 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Government hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 02/2017- Central Tax, dated the 19th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 609(E), dated the 19th June, 2017, namely:—

In the said notification, in Table II, in column (3), in serial number 51, for the words “State of Jammu and Kashmir”, the words “Union territory of Jammu and Kashmir and Union territory of Ladakh” shall be substituted.

Circular No. 113/32/2019-GST dated 11th October, 2019 Leguminous vegetables when subject to mild heat treatment (parching)

Dried leguminous vegetables are classified under HS code 0713. As per the explanatory memorandum to the HS 2017, the heading 0713 covers leguminous vegetables of heading 0708 which have been dried, and shelled, of a kind used for human or animal consumption (e.g., peas, chickpeas etc.). They may have undergone moderate heat treatment designed mainly to ensure better preservation by inactivating the enzymes (the peroxidases in particular) and eliminating part of the moisture.

Thus, it is clarified that such leguminous vegetables which are subjected to mere heat treatment for removing moisture, or for softening and puffing or removing the skin, and not subjecting to any other processing or addition of any other ingredients such as salt and oil, would be classified under HS code 0713.

Such goods if branded and packed in a unit container would attract GST at the rate of 5% [S. No. 25 of notification No. 1/2017- Central Tax (Rate) dated 28.06.2017].

In all other cases such goods would be exempted from GST [S. No. 45 of notification No. 2/2017- Central Tax (Rate) dated 28.06.2017].

However, if the above dried leguminous vegetable is mixed with other ingredients (such as oil, salt etc) or sold as namkeens then the same would be classified under Sub heading 2106 90 as namkeens, bhujia, chabena and similar edible preparations and attract applicable GST rate.

Almond Milk- It is made by pulverizing almonds in a blender with water and is then strained. As such almond milk neither constitutes any fruit pulp or fruit juice. Therefore, it is not classifiable under tariff item 2202 99 20 (@12%).

Almond milk is classified under the residual entry in the tariff item 2202 99 90 and attract GST rate of 18%.

Mechanical Sprayer: It is clarified that the S. No. 195B of the Schedule II to notification No. 1/2017- Central Tax (Rate), dated 28.06.2017 covers “mechanical sprayers” of all types whether or not hand operated (like hand operated sprayer, power operated

sprayers, battery operated sprayers, foot sprayer, rocker etc.) GST leviable @12%.

Imported stores by the Indian Navy for use of navy ships: In accordance with letter No. 21/31/63-Cus-IV dated 17 Aug 1966 of the then Department of Revenue and Insurance, the Indian Naval ships were treated as "foreign going vessels" for the purposes of Customs Act, 1962, and the naval personnel serving on board these naval ships were entitled to duty-free supplies of imported stores even when the ships were in Indian harbour.

However, in the GST era, no such circular has been issued regarding exemption from IGST on purchase of imported stores by Indian Naval ships. The doubt has arisen as there is a no specific exemption, while there is a specific exemption for the Coast Guard (vide S. No. 4 of notification No. 37/2017-Customs dated 30.6.2017).

Indian Naval ship stores are exempted from import duty in terms of section 90(1) of the Customs Act, 1962. Further, as per section 90(2), goods "taken on board a ship of the Indian Navy" shall be construed as exported to any place outside India. Also, section 90(1) and 90(3) of the Customs Act, 1962 provides that imported stores for the use of a ship of the Indian Navy and stores supplied free by the Government for the use of the crew of a ship of the Indian Navy in accordance with their conditions of service will be exempted from duty.

Accordingly, it is clarified that imported stores for use in navy ships are entitled to exemption from GST.

Taxability of goods imported under lease: It is hereby clarified that the expression "taken on lease/imported under lease" (in S. No. 557A and 557B respectively of notification No. 50/2017-Customs dated 30.06.2017) covers imports under an arrangement so as to supply services covered by item 1(b) or 5(f) of Schedule II of the CGST Act, 2017 to avoid double taxation. The above clarification holds for such transactions in the past.

GST rate on parts for the manufacture solar water heater and system: It is clarified that parts including Solar Evacuated Tube falling under chapter 84, 85 and 94 for the manufacture of solar water heater and system will attract 5% GST.

Applicability of GST on the parts and accessories suitable for use solely or principally with a medical device: As per chapter note 2(b) of the Chapter 90, parts and accessories of the instruments used mainly and principally for the medical instrument of chapter 90 shall be classified with the machine only. Accordingly, 12% IGST would be applicable on the parts and accessories suitable for use solely or principally with a medical device falling under heading 9018, 9019, 9021 or 9022.

Circular No. 114/33/2019-GST dated 11th October, 2019
Support services to exploration, mining or drilling of petroleum crude or natural gas or both

Most of the activities associated with exploration, mining or drilling of petroleum crude or natural gas fall under heading 9986. A few services particularly technical and consulting services relating to exploration also fall under heading 9983. Therefore, following entry has been inserted under heading 9983 with effect from 1st October 2019 vide Notification No. 20/2019- Central Tax(Rate) dated 30.09.2019; -“(ia) Other professional, technical and business services relating to exploration, mining or drilling of petroleum

crude or natural gas or both”

The scope of the entry at Sr. 24 (ii) under heading 9986 of Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017 shall be governed by the explanatory notes to service codes 998621 and 998622 of the Scheme of Classification of Services. It is further clarified that the scope of the entry at Sr. No. 21 (ia) under heading 9983 of Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017 inserted with effect from 1st October 2019 vide Notification No. 20/2019- CT(R) dated 30.09.2019 shall be governed by the explanatory notes to service codes 998341 and 998343 of the Scheme of Classification of Services.

Circular No. 115/34/2019-GST dated 11th October, 2019
GST on Passenger Service Fee (PSF) and User Development Fee (UDF)

Passenger Service Fee (PSF) and User Development Fee (UDF) being charges levied by airport operator for services provided to passengers, are collected by the airlines as an agent and is not a consideration for any service provided by the airlines. Thus, airline is not responsible for payment of ST/GST on UDF or PSF provided the airline satisfies the conditions prescribed for a pure agent under Rule 33 of the CGST Rules. It is the licensee, that is the airport operator (AAI, DIAL, MIAL, etc.) which is liable to pay ST/GST on UDF and PSF. Airlines may act as a pure agent for the supply of airport services in accordance with rule 33 of the CGST rules.

Accordingly, the airline acting as pure agent of the passenger should separately indicate actual amount of PSF and UDF and GST payable on such PSF and UDF by the airport licensee, in the invoice issued by airlines to its passengers. The airline shall not take ITC of GST payable or paid on PSF and UDF. The airline would only recover the actual PSF and UDF and GST payable on such PSF and UDF by the airline operator. The registered passengers, who are the ultimate recipient of the airport services, may take ITC of GST paid on PSF and UDF on the basis of pure agent's invoice issued by the airline to them. The amount so recovered will be excluded from the value of supplies made by the airline to its passengers. The airport operators shall pay GST on the PSF and UDF collected by them from the passengers through the airlines. Since, the airport operators are collecting PSF and UDF inclusive of ST/GST, there is no question of their not paying ST/GST collected by them to the Government. The collection charges paid by airport operator to airlines are a consideration for the services provided by the airlines to the airport operator (AAI, DIAL, MAIL etc) and airlines shall be liable to pay GST on the same under forward charge. ITC of the same will be available with the airport operator.

GST on the service of display of name or placing of name plates of the donor in the premises of charitable organisations

Circular No. 116/35/2019-GST dated 11th October, 2019
GST on the service of display of name or placing of name plates of the donor in the premises of charitable organizations

When the name of the donor is displayed in recipient institution premises, in such a manner, which can be said to be an expression of gratitude and public recognition of donor's act of philanthropy and is not aimed at giving publicity to the donor in such manner that it would be an advertising or promotion of his business, then it can be said that there is no supply of service for a consideration (in the form of donation). There is no obligation (quid pro quo) on part of recipient of the donation or gift to do anything (supply a service). Therefore, there is no GST liability on such consideration. There is no reference or mention of any business activity of the

donor which otherwise would have got advertised. Thus where all the three conditions are satisfied namely – the gift or donation is made to a charitable organization, the payment has the character of gift or donation and the purpose is philanthropic (i.e. it leads to no commercial gain) and not advertisement, GST is not leviable.

Circular No. 117/36/2019-GST dated 11th October, 2019
GST on courses conducted by the Maritime Training Institutes of India

The Maritime Training Institutes and their training courses are approved by the Director General of Shipping which are duly recognised under the provisions of the Merchant Shipping Act, 1958 read with the Merchant Shipping (standards of training, certification and watch-keeping for Seafarers) Rules, 2014. Therefore, the Maritime Institutes are educational institutions under GST Law and the courses conducted by them are exempt from levy of GST. The exemption is subject to meeting the conditions specified at Sl. No. 66 of the notification No. 12/ 2017- Central Tax (Rate) dated 28.06.2017.

Circular No. 118/37/2019-GST dated 11th October, 2019
Determination of place of supply in case of software/design services related to Electronics Semi-conductor and Design Manufacturing (ESDM) industry

In contracts where service provider is involved in a composite supply of software development and design for integrated circuits electronically, testing of software on sample prototype hardware is often an ancillary supply, whereas, chip design/software development is the principal supply of the service provider.

It is clarified that the place of supply of software/design by supplier located in taxable territory to service recipient located in non-taxable territory by using sample prototype hardware / test kits in a composite supply, where such testing on the sample prototype hardware / test kits is an ancillary supply, is the location of the service recipient as per Section 13(2) of the IGST Act. Provisions of Section 13(3)(a) of IGST Act do not apply separately for determining the place of supply for ancillary supply in such cases.

Circular No. 119/38/2019-GST dated 11th October, 2019
Taxability of supply of securities under Securities Lending Scheme, 1997

SEBI has prescribed the Securities Lending Scheme, 1997 for the purpose of facilitating lending and borrowing of securities. Under the Scheme, lender of securities lends to a borrower through an approved intermediary to a borrower under an agreement for a specified period with the condition that the borrower will return equivalent securities of the same type or class at the end of the specified period along with the corporate benefits accruing on the securities borrowed. The transaction takes place through an electronic screen-based order matching mechanism provided by the recognised stock exchange in India. There is anonymity between the lender and borrower since there is no direct agreement between them.

The lending fee charged from the borrowers of securities has the character of consideration and this activity is taxable in GST since 01.07.2017. Apart from above, the activities of the intermediaries facilitating lending and borrowing of securities for commission or fee are also taxable separately. The supply of lending of securities under the scheme is classifiable under heading 997119 and is leviable to GST@18% under Sl. No. 15(vii) of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 as amended from time to time.

Circular No. 120/39/2019-GST dated 11th October, 2019
Clarification on the effective date of explanation inserted in notification No. 11/2017- CTR dated 28.06.2017, Sr. No. 3(vi)

Representations have been received to amend the effective date of notification No. 17/2018-CTR dated 26.07.2018 whereby explanation was inserted in notification No. 11/2017- CTR dated 28.06.2017, Sr. No. 3(vi) to the effect that for the purpose of the said entry, the activities or transactions undertaken by Government and Local Authority are excluded from the term 'business'.

The matter has been examined. Section 11(3) of CGST Act provides that the Government may insert an explanation in any notification issued under section 11, for the purpose of clarifying its scope or applicability, at any time within one year of issue of the notification and every such explanation shall have effect as if it had always been the part of the first such notification.

As recommended by GST Council, the explanation in question was inserted vide notification No. 17/2018-CTR dated 26.07.2018 in exercise of powers under section 11(3) within one year of the insertion of the original entry prescribing concessional rate, so that it would have effect from the date of inception of the entry i.e. 21.09.2017. However, like other notifications issued on 26.07.2018 to give effect to other recommendations of the GST Council, the said notification also contained a line in the last paragraph that the notification shall come into effect from 27.07.2018.

It is hereby clarified that the explanation having been inserted under section 11(3) of the CGST Act, is effective from the inception of the entry at Sl. No. 3(vi) of the notification No. 11/2017- CTR dated 28.06.2017, that is 21.09. 2017. The line in notification No. 17/2018-CTR dated 26.07.2018 which states that the notification shall come into effect from 27.07.2017 does not alter the operation of the notification in terms of Section 11(3) as explained in para 3 above.

Circular No. 121/39/2019-GST dated 11th October, 2019
GST on license fee charged by the States for grant of Liquor licences to vendors

Services provided by the Government to business entities including by way of grant of privileges, licences, mining rights, natural resources such as spectrum etc. against payment of consideration in the form of fee, royalty etc. are taxable under GST. Tax is required to be paid by the business entities on such services under reverse charge. GST Council in its 37th meeting held on 20.09.2019 further recommended that the decision of the 26th GST Council meeting be implemented by notifying service by way of grant of alcoholic liquor licence, against consideration in the form of licence fee or application fee or by whatever name it is called, by State Government as neither a supply of goods nor a supply of service.

Accordingly, service by way of grant of alcoholic liquor licence, against consideration in the form of licence fee or application fee or by whatever name it is called –

- are treated neither as a supply of goods nor a supply of service (Notification No. 25/2019-Central Tax (Rate) dated 30th September, 2019)
- GST Council further decided in the 37th meeting, to clarify that this special dispensation applies only to supply of service by way of grant of liquor licenses by the State Governments as an agreement between the Centre and States and has no applicability or precedence value in relation to grant of other licenses and privileges for a fee in other situations, where GST is payable.

**Circular No. 122/41/2019-GST dated 5th November, 2019
Generation and quoting of Document Identification Number (DIN) on any communication issued by the officers of the Central Board of Indirect Taxes and Customs (CBIC) to tax payers and other concerned persons- reg.**

1. In keeping with the Government's objectives of transparency and accountability in indirect tax administration through widespread use of information technology, the CBIC is implementing a system for electronic (digital) generation of a Document Identification Number (DIN) for all communications sent by its offices to taxpayers and other concerned persons. To begin with, the DIN would be used for search authorization, summons, arrest memo, inspection notices and letters issued in the course of any enquiry. This measure would create a digital directory for maintaining a proper audit trail of such communication. Importantly, it would provide the recipients of such communication a digital facility to ascertain their genuineness. Subsequently, the DIN would be extended to other communications. Also, there is a plan to have the communication itself bearing the DIN generated from the system.
2. The Board in exercise of its power under section 168(1) of the **CGST Act, 2017**/ Section 37B of the Central Excise Act, 1944 directs that no search authorization, summons, arrest memo, inspection notices and letters issued in the course of any enquiry shall be issued by any officer under the Board to a taxpayer or any other person, on or after the 8th day of November, 2019 without a computer-generated Document Identification Number (DIN) being duly quoted prominently in the body of such communication. The digital platform for generation of DIN is hosted on the Directorate of Data Management (DDM)'s online portal "**cbicddm.gov.in**"
3. Whereas DIN is a mandatory requirement, in exceptional circumstances communications may be issued without an auto generated DIN. However, this exception is to be made only after recording the reasons in writing in the concerned file. Also, such communication shall expressly state that it has been issued without a DIN. The exigent situations in which a communication may be issued without the electronically generated DIN are as follows:-
 - (i) when there are technical difficulties in generating the electronic DIN, or
 - (ii) when communication regarding investigation/enquiry, verification etc. is required to issued at short notice or in urgent situations and the authorized officer is outside the office in the discharge of his official duties.
4. The Board also directs that any specified communication which does not bear the electronically generated DIN and is not covered by the exceptions mentioned in para 3 above, shall be treated as invalid and shall be deemed to have never been issued.
5. Any communication issued without an electronically generated DIN in the exigencies mentioned in para 3 above shall be regularized within 15 working days of its issuance, by:
 - (i) obtaining the post facto approval of the immediate superior officer as regards the justification of issuing the communication without the electronically generated DIN;
 - (ii) mandatorily electronically generating the DIN after post facto approval; and
 - (iii) printing the electronically generated pro-forma bearing the DIN and filing it in the concerned file.
6. In order to implement this new facility of electronically generating the DIN, all Principal Chief Commissioners/ Principal Director Generals/Chief Commissioners/Director Generals shall ensure that all their authorized officers who have to electronically generate the DIN are immediately mapped as users in the System and are conversant with the process for auto-generating a DIN. In order to successfully add users for the DIN utility and enable them to electronically generate DINs, the following steps shall be followed:
 - (i) The details of officers to be added as users of the DIN Utility such as name, designation/Branch and official e-mail Id shall be fed into the System (the office of the officer being added will be auto populated);
 - (ii) The dashboard (Manage User) is provided with add/activate/inactivate/delete and edit options which can be availed for namely adding, activating, inactivating, editing and deleting the users as follows:
 - (a) **Add:-** Officers name/designation and branch can be added by selecting appropriate designation and branch from the drop down menu provided against the respective column.
 - (b) **Activate:-** Once the user activates the URL and provides the user name and password and OTP, the authorization will be processed by the system and shall be reflected as Green Radio button.
 - (c) **Inactivate:-** Any already added user who may be diverted on temporary basis to attend to some other assignment in the case of administrative exigency, can be deactivated for time being by dragging the Green Radio button to the left by which it will become red in color showing the user's position as inactive. A confirmation e-mail will also be sent to the respective user.
 - (d) **Edit:-** This icon will always appear with Red Radio button (indicating the inactive position of the user) and is provided for modifying/editing the name/designation/branch/e-mail Id of the officer to be authorized.
 - (e) **Delete:-** This icon can be used for deleting the already added user profile if the officer is permanently transferred out from that office.
7. Officers who have been added as users in the DIN utility shall electronically generate DINs, as follows:
 - (i) Every authorized user shall receive an e-mail on his official e-mail Id after he/she is mapped into the DIN utility. This e-mail shall provide the user of his/her user name and password. The same e-mail shall also provide an URL online link.
 - (ii) After clicking on the said URL link, the user shall be guided to the DIN utility within CBIC-Sanchar on the DDM's online portal "**cbicddm.gov.in**".
 - (iii) The user shall be required to submit his/her mobile number on the screen page for purposes of verification and then click "Get OTP" button for receiving a One Time Password (OTP) on the mobile.
 - (iv) The user shall login to the DIN utility by entering the OTP received.
 - (v) After successfully logging in, the user shall see the Dashboard displaying different categories, for total number of summons, search authorizations, inspection notices and arrest memos issued by the user. Initially, the figures under each category shall be 'zero'.
 - (vi) The user shall click "Generate DIN" on the Menu Bar located at the left hand side of the screen and enter the


details of the communication to be issued by choosing its category and selecting the appropriate title of the communication from the dropdown menu "Choose Document"

- (vii) After filling in all the required information, and clicking on the "View & Save DIN" button, the user shall see a preview page. By clicking the "Back button", mistakes or typographical errors, if any, can be rectified. Also, the user has the option of partially entering details in the System at a time and coming back later to retrieve the partially entered document (automatically saved in the System), fill in the remaining details, and generate a DIN on a later occasion.
 - (viii) The last step is to click on the "Generate DIN" button and a DIN shall be generated for that particular communication by the System. The generated DIN cannot be edited.
 - (ix) A new DIN shall be generated each time a request for generating it is submitted to the System.
 - (x) After the DIN is generated, the user shall print the page bearing the DIN and file it in the concerned file while also quoting the DIN on the communication.
8. The genuineness of the communication can be ascertained by recipient (public) by entering the CBIC- DIN for that communication in a window VERIFY CBIC-DIN on CBIC's website cbic.gov.in. Only in those cases where the DIN entered is valid, information about the office that issued that communication and the date of generation of its DIN would be displayed on the screen.
 9. As aforementioned, in the first phase beginning on 8th day of

November, 2019, the "Generate DIN" option shall be used for Search Authorizations, Summons, Inspection Notices, Arrest Memos, and letters issued in the course of any enquiry. The format of the DIN shall be CBIC-YYYY MM ZCDR NNNNNN where,


- (a) YYYY denotes the calendar year in which the DIN is generated,
 - (b) MM denotes the calendar month in which the DIN is generated,
 - (c) ZCDR denotes the Zone-Commissionerate-Division-Range Code of the field formation/Directorate of the authorized user generating the DIN,
 - (d) NNNNNN denotes 6 digit alpha-numeric system generated random number.
10. The electronic generation of DIN and its use in official communications to taxpayers and other concerned persons is a transformative initiative. Principal Chief Commissioners/ Principal Director Generals / Chief Commissioners/Director Generals must become fully familiar with the process involved. They are also urged to ensure that adequate and proper training is provided to all concerned officers under their charge to ensure its successful implementation. It is reiterated that any specified document that is issued without the electronically generated DIN shall be treated as invalid and shall be deemed to have never been issued. Therefore, it is incumbent upon all officers concerned to strictly adhere to these instructions.

Source: www.cbic.gov.in/NACIN weekly update




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The ICSI organised first Training of Trainers Program (T.O.T)

With a view to enhance the quality of guidance provided to the trainees during their practical training and in accordance with the requirement of ICSI Vision New 2022, the institute has organised a one day Train the Trainer Program (TOT) on 19th October 2019 at ICSI, Noida Office. The TOT program is a unique initiative of the Institute towards harnessing the skillsets of the trainees and provide them an environment to build their competencies in core ancillary and hybrid areas. The program was organised in a workshop mode and attended by 31 newly inducted Trainer from Delhi and NCR Region.

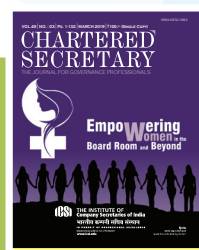
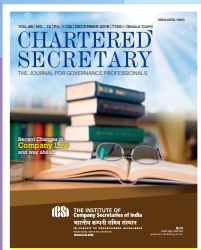


Addressing the gathering at the inaugural function, President ICSI, CS Ranjeet Pandey emphasised that TOT program is organised in accordance with the requirement of ICSI Vision New 2022 and with the objective to enhance the quality of practical training. 'There is a need to challenge the status quo for the professional growth of company secretaries' He said. Secretary ICSI while addressing the gathering focussed on quality in education and training and traits of the CS. The TOT program aims towards developing guidance and mentoring approach amongst newly inducted trainers who are registered with the institute for imparting practical training. The focus is on activities for involvement of the trainees and providing them an environment to build their competencies in core ancillary and hybrid areas and enhancing skillsets during their training period.

Dr. S K Jena, Director Training welcomed the dignitaries and said, "TOT is a unique program, organised for newly registered trainers with the objective to apprise the trainers on 4Ps of Training i.e Purpose, Planning, Presentation and Performance". In his address he briefly described the Training Structure and explained the guidelines for practical training.

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