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STUDENT COMPANY SECRETARY

[e-Journal for Executive & Professional Students]



UNION BUDGET 2023



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A symptom of wisdom is curiosity. The evidence is calmness and perseverance. The causes are experimentation and understanding.

~ Maxime Lagacé

Dear Students,

It gives me immense pleasure to pen down my first message for the future legion of Governance Professionals who are definitely going to contribute substantially towards the economic development of India and provide fuel to the engine of economic growth by discharging their professional obligations optimally.

Penning down the message for one of the most life-altering months for the students of the CS Course and this Institute, I am filled with emotions galore. The month gone by – that of January was not only filled with patriotism marking the celebration of the 74th Republic Day but of sitting in deep prayers seeking knowledge and wisdom on the occasion of Basant Panchami bowing before Goddess Saraswati and channelizing our energies towards our academic and professional goals.

As I mention this, I am reminded of an age old fact that there lies a very thin yet fine line of difference between knowledge and wisdom. And while on the outside, these words may be used interchangeably but it is true knowledge of our surroundings, of our own area & arena; and most importantly of our own selves that marks the beginning of wisdom.

Gaining knowledge might be the first step but attaining wisdom is the final destination for any professional – a goal each one of us must strive for – the culmination of all knowledge. To put it simplistically, wisdom is not only textbook knowledge and hoarding of information but a deeper understanding of its usage, an openness of thought, an accepting approach towards other's opinions, and a sense of patience in putting across your point of view (or as the millennials call it 'POV').

As the month of February decides for our December efforts and even so the efforts of all the months before put together, it shall also be paving the way for the times to follow. The results of the CS Examinations shall be shedding greater light on what lies ahead. While positive

results shall land you on the next rung of the ladder, a higher degree of efforts shall be expected from those not in the list.

Nonetheless, what shall be commonly expected from both groups would be true professionalism – a sense of dedication and perseverance towards achievement of your goal. On that note of expectations of continuous learning from each one of you, I extend my best wishes to all of you for the year ahead.

Happy learning!!!

Warm regards,

(CS Manish Gupta)

President

The Institute of Company Secretaries of India

RECENT INITIATIVES FOR STUDENTS

- The **Student Company Secretary e-journal** for Executive / Professional programme students of ICSI has been released for the month of **January, 2023**. The same is available on the Institute's website at the weblink: <https://www.icsi.edu/e-journals/>
- The **Student Company Secretary journal** for Executive / Professional programme students of ICSI containing the academic inputs i.e Articles, Practice Mentor, Regulatory Updates, Case Snippets etc. has been released for the month of **January, 2023**.
- The **CSEET Communique (e-bulletin)** for the month of **January, 2023** containing the latest updates / concepts through articles / write-ups and sample questions in respect of Papers of the CSEET has been placed on the ICSI website. The same is also available at the CSEET Portal at the Institute's website at the weblink: <https://www.icsi.edu/students/cseet-e-bulletin/>
- **Info Capsule** is being issued as an update on daily basis for members and students, covering latest amendments on various laws for the benefit of our members and students. The same is available on the ICSI website at the weblink: <https://www.icsi.edu/infocapsule/>
- **Info Capsule Publication Series 13 (501 -550)** has been released. The same is available on the Institute's website at the weblink: https://www.icsi.edu/media/webmodules/INFO_CAPSULE_SERIES_13.pdf
- **Practice Questions (Part I - Indirect Taxes relevant for June 2023 Exam)** for Professional Programme students of ICSI has been placed on the ICSI website. The same is available on the Institute's website at the weblink: <https://www.icsi.edu/practice-test-papers-prf-ns/>

- **Organising Samadhan Diwas**

The 25th Samadhan Diwas of the Institute was organised on 08th February, 2023 at 3:00 PM. The queries of all the students who participated in the Samadhan Diwas, were resolved on the spot.

The Institute is Organizing 26th **Samadhan Diwas** on **22nd February, 2023**. The purpose of the Samadhan Diwas is to facilitate the stakeholders to resolve their queries on the spot. In the Samadhan Diwas students get opportunity to present their cases and directly interact with the ICSI officials.



Academics



- **Union Budget 2023-24 : Futuristic and Fusion of Unique and Innovative 'Saptarishi' Approach**

Union Budget 2023-24: Futuristic and Fusion of Unique and Innovative 'Saptarishi' Approach*

Introduction

The Union Budget 2023-24 presented by the Honourable Finance Minister based on the unique and innovative concept of '*Saptarishi*' i.e., the seven priorities - Inclusive Development, Reaching the Last Mile, Infrastructure and Investment, Unleashing the Potential, Green Growth, Youth Power and Financial Sector is futuristic and paves the way of holistic development.

Indian economy is progressing at an astounding pace thereby ensuring both economic development and attainment of the vision for Amrit Kaal- *Opportunities for citizens with focus on the youth, Growth and job creation, Strong and stable macro-economic environment* as revealed through the following noteworthy developments:

- a) Per capita income has more than doubled to ₹1.97 lakh in around nine years.
- b) Indian economy has increased in size from being 10th to 5th largest in the world in the past nine years.
- c) EPFO membership has more than doubled to 27 crore.
- d) 7,400 crore digital payments of ₹126 lakh crore has taken place through UPI in 2022.
- e) 11.7 crore household toilets constructed under Swachh Bharat Mission.
- f) 9.6 crore LPG connections provided under Ujjwala.
- g) 47.8 crore PM Jan Dhan bank accounts.
- h) Insurance cover for 44.6 crore persons under PM Suraksha Bima and PM Jeevan Jyoti Yojana.
- i) Cash transfer of ₹2.2 lakh crore to over 11.4 crore farmers under PM Kisan Samman Nidhi.

The subsequent paragraphs throw light on the seven priorities that have duly focused on all the vital sectors of the Indian economy.

1. **Inclusive Development:** The inclusive development has given thrust on the following significant facets, i.e., Agriculture and Cooperatives, Health, Education and Skilling. The mentioned facets have been discussed as under:
 - a) *Agriculture sector:* Agriculture occupies a prominent position in the Indian economy and taking cognisance of this aspect, the Union Budget 2023-24 has taken an innovative

* Dr. Akinchan Buddhodev Sinha, Deputy Director, The ICSI

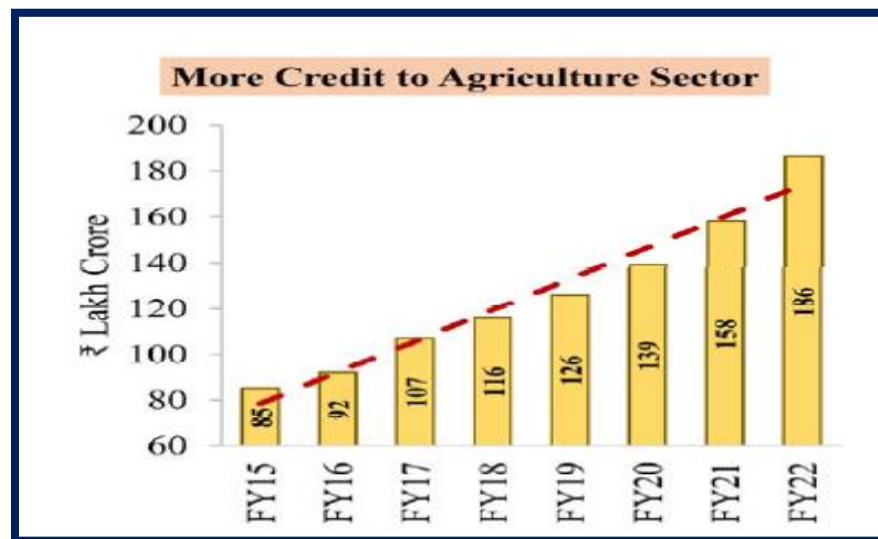
Views expressed in the Article are the sole expression of the Author and may not express the views of the Institute.

initiative of creating a Digital Public Infrastructure for Agriculture to have an accessible, inclusive and information solution for farmers, launching of

Atmanirbhar Bharat Horticulture Clean Plant Program to provide fillip to the production of high value horticultural crops, making India a Global Hub for Millets under 'Sree Anna' approach, setting up of Agriculture Accelerator Fund for encouraging innovative start-ups in rural areas, Targeted funding to the extent of Rs.20 lakh crore in the form of agricultural credit to animal husbandry, dairy and fisheries sector and establishing widely available storage capacity with the aim of enhancing farmers remuneration by enabling sale at appropriate times.

In light of the aforesaid facts, it is heartening to note that agricultural credit has exhibited an increasing trend during the period FY2015 to FY2022 (please refer exhibit 1), a herald of unrelenting growth of agriculture sector.

Exhibit 1
Trend of Agricultural Credit



Source: <https://www.indiabudget.gov.in/doc/bh1.pdf>

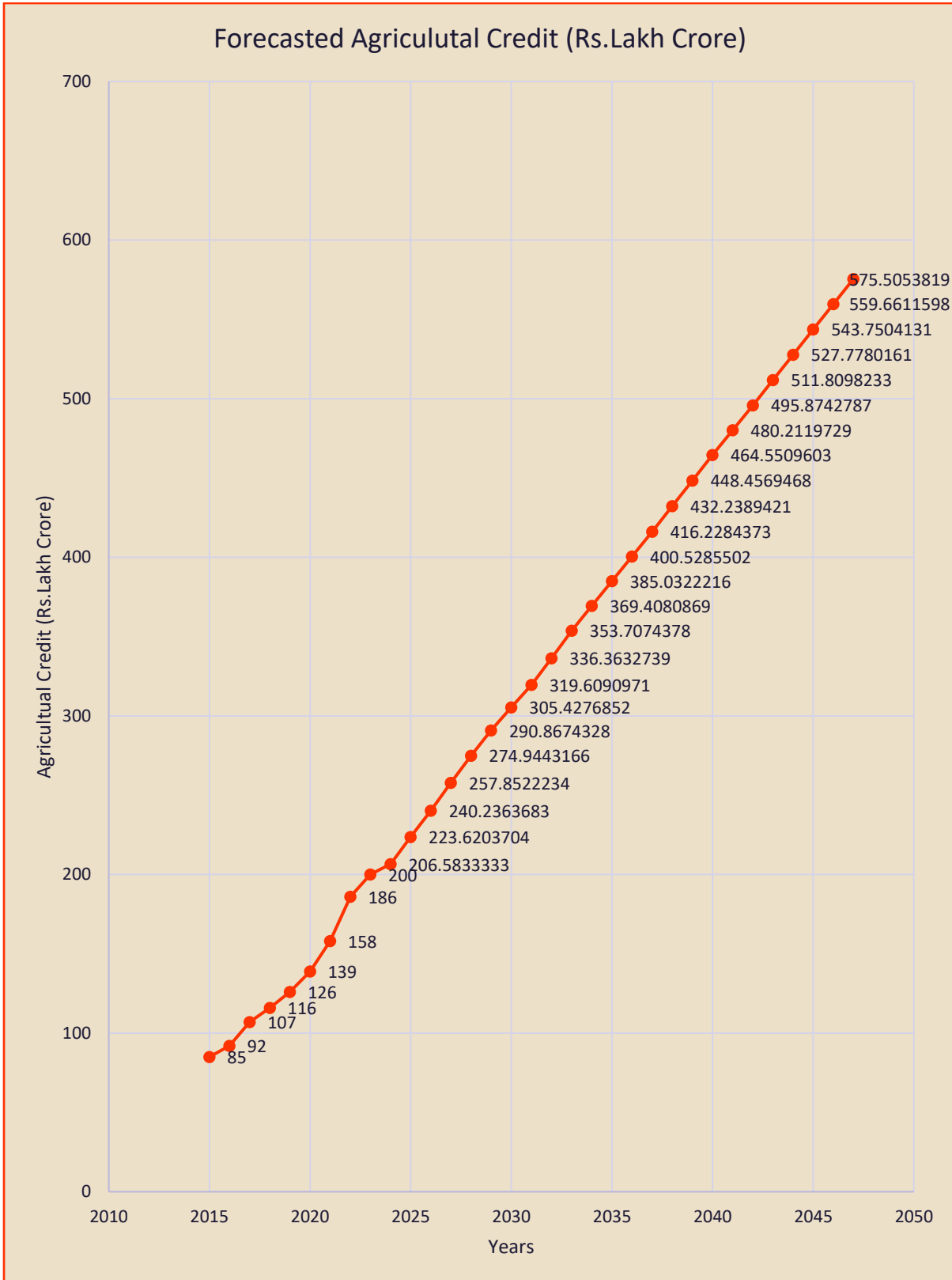
It would be of paramount academic and research interests to undertake the prognosis of agricultural credit in the years ahead. In view of this, agricultural credit have been forecasted for the period 2024- 2047, as the first Union Budget of Amrit Kaal i.e., the Union Budget 2022 laid the footing and provided a blue print to drive the economy over Amrit Kaal of next 25 years, i.e., from India at 75 to 100. Since the year 2047 will mark 100 years of India's independence, so the forecasting of agricultural credit has been undertaken using parabolic trend equation¹ till the mentioned year. The predicted values of agricultural credit for the period 2024-2047 is provided in table 1 followed by Table 1A exhibiting the predicted trend of agricultural credit.

¹ $Y = a + bX + cX^2$

Table 1
Predicted Values of Agricultural Credit (2024-2047)

Years	Agricultural Credit (Rs.Lakh Crore)
2015	85
2016	92
2017	107
2018	116
2019	126
2020	139
2021	158
2022	186
2023	200
2024	206.5833333
2025	223.6203704
2026	240.2363683
2027	257.8522234
2028	274.9443166
2029	290.8674328
2030	305.4276852
2031	319.6090971
2032	336.3632739
2033	353.7074378
2034	369.4080869
2035	385.0322216
2036	400.5285502
2037	416.2284373
2038	432.2389421
2039	448.4569468
2040	464.5509603
2041	480.2119729
2042	495.8742787
2043	511.8098233
2044	527.7780161
2045	543.7504131
2046	559.6611598
2047	575.5053819

Table 1A
Forecasted Trend of Agricultural Credit



Thus, the agricultural credit is showing a rising trend for the period 2024-2047, which is an indicator of optimism in Indian agricultural sector.

At this juncture it will be of equal academic and research interests, as to how agriculture sector will perform in the future. In this regard, projection of Gross Value Added at Basic Prices (2011-2012 series) of Agriculture, forestry & fishing sector have been undertaken using parabolic trend equation for the period 2023-2047. The prognosis of Gross Value Added of the mentioned sector have been provided in Table 2 and the forecasted trend of Gross Value Added of Agriculture, forestry & fishing have been provided in Table 2A

Table 2

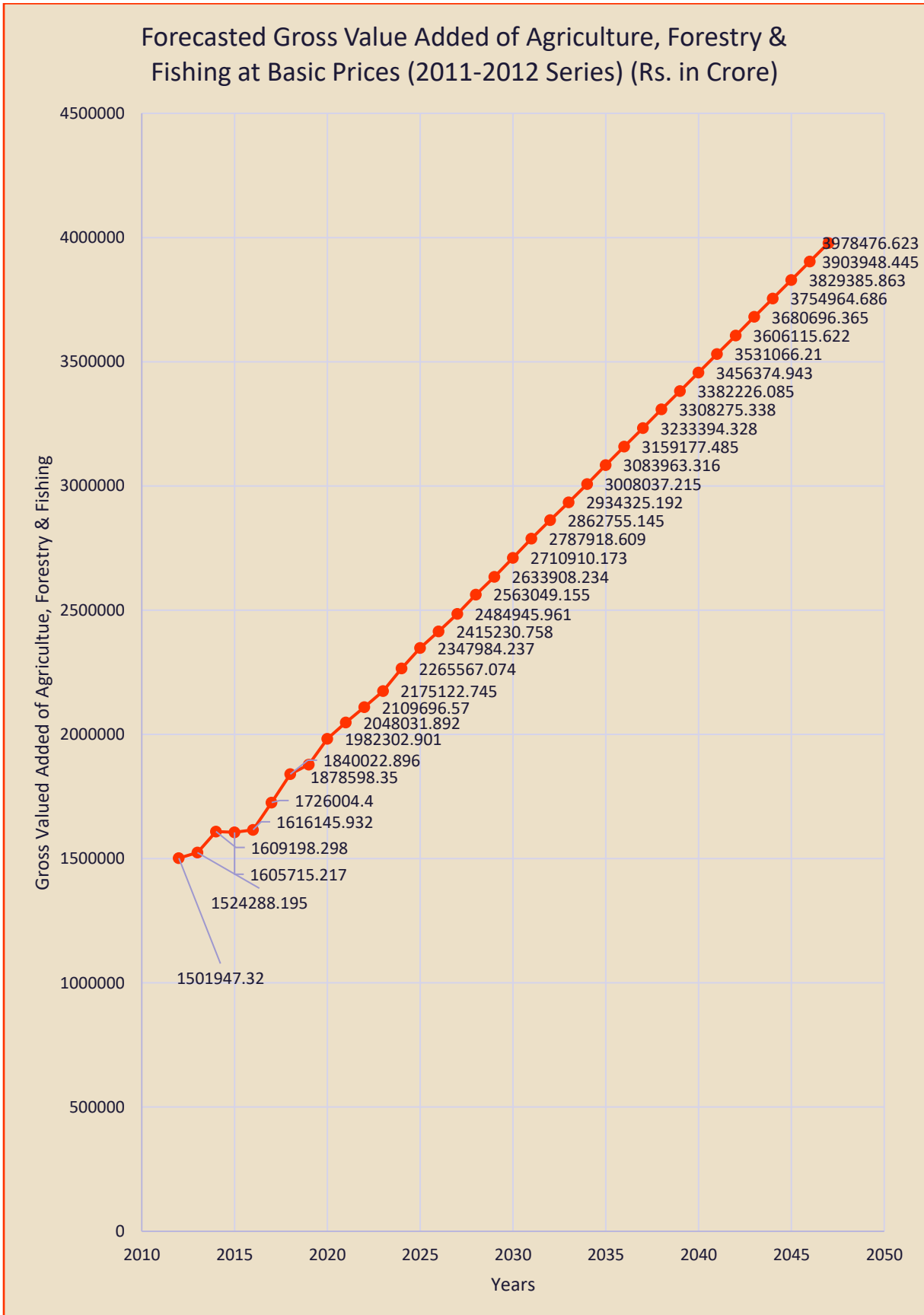
Forecasted Gross Value Added of Agriculture, Forestry & Fishing Sector

Years	Gross Value Added (Rs.in Crore)
2012	1501947.32
2013	1524288.195
2014	1609198.298
2015	1605715.217
2016	1616145.932
2017	1726004.4
2018	1840022.896
2019	1878598.35
2020	1982302.901
2021	2048031.892
2022	2109696.57
2023	2175122.745
2024	2265567.074
2025	2347984.237
2026	2415230.758
2027	2484945.961
2028	2563049.155
2029	2633908.234
2030	2710910.173

2031	2787918.609
2032	2862755.145
2033	2934325.192
2034	3008037.215
2035	3083963.316
2036	3159177.485
2037	3233394.328
2038	3308275.338
2039	3382226.085
2040	3456374.943
2041	3531066.21
2042	3606115.622
2043	3680696.365
2044	3754964.686
2045	3829385.863
2046	3903948.445
2047	3978476.623

Note: The Gross Value Added data in the Table 2 for the period 2012-2022 have been referred from National Accounts Data from Ministry of Statistics and Programme Implementation, Government of India.

Table 2A



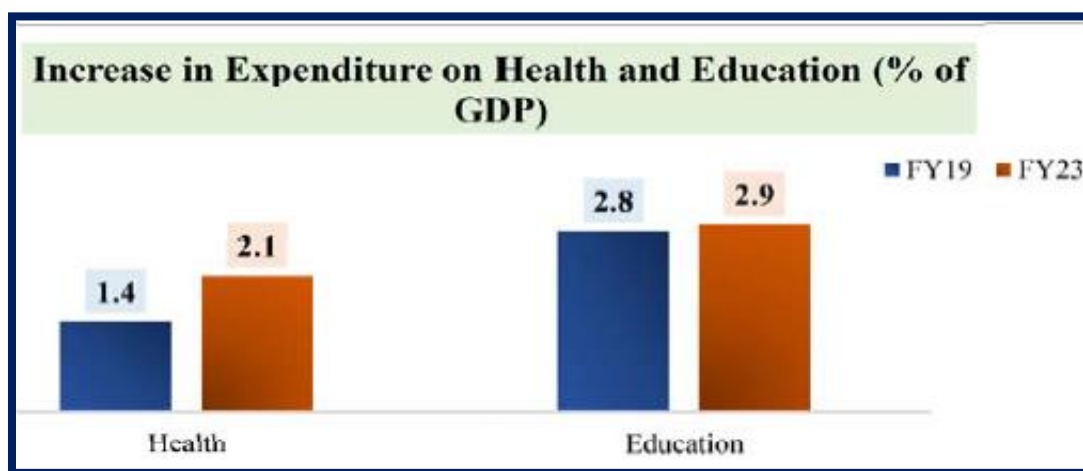
Thus, on observing the forecasted trend of Gross Value Added of Agriculture, Forestry & Fishing sector, it may be opined that there is optimism in the agricultural sector, as their contribution to the Gross Value Added of the economy has registered an upward trend. Hence, a higher allocation of agricultural credit will definitely provide a fillip to the agricultural sector, thereby creating gainful employment opportunities for rural and semi-urban India in the years ahead as well as ensuring inclusive growth and economic self-reliance.

- b) *Healthcare sector*: Taking cognisance of the fact that healthy nation is indispensable for economic development, several key initiatives have been announced in the Union Budget 2023-24, i.e., construction of 157 new nursing college, launching of new programme to foster research in Pharmaceutical sector, Sickle cell anaemia elimination mission to be commenced and joint public and private medical research to be strengthened with the help of select ICMR labs.
- c) *Education sector*: Embracing the tenets of National Education Policy, 2020, the Union Budget 2023-24, has taken mammoth steps towards creating an edifice of wisdom through the following initiatives in this year's union budget- Revamped teachers' training via District Institutes of Education and Training, National Digital Library for children and adolescents and promoting States to establish physical libraries at Panchayat and ward levels.

The evidence of laying emphasis on health and education sectors in terms of percentage of GDP spending is provided in exhibit 2.

Exhibit 2

Increase in Expenditure on Health and Education (% of GDP)



Source: <https://www.indiabudget.gov.in/doc/bh1.pdf>

Therefore, from the above exhibit it may be stated that the central government is trying its level best towards building a India that is both healthy and literate. Medical practitioners have welcomed the increased allocation for the health sector and the initiative to establish 157 nursing colleges. They mentioned that these measures will play a pivotal role in creating a robust healthcare sector.

Higher allocation to health sector in this year's budget i.e., Rs.89,155 crore which is a hike of approximately 13 percent over Rs.79,145 crore allocated in 2022-2023 is an indication of futuristic approach of the government. Further, with more emphasis on medical research it opens the gateway of accomplishing universal health coverage.

Thus, the approach of inclusive development covered in the union budget has taken a huge leap towards development of agriculture, healthcare and education sectors of the Indian economy.

2. **Reaching the Last Mile:** The mentioned approach is expected to create conducive milieu for numerous sectors. Pradhan Mantri PVTG (Particularly Vulnerable Tribal Groups), appointment of 38800 more teachers for 740 Eklavya Model Residential Schools, setting up of Bharat SHRI for digitization of ancient inscriptions etc. will definitely go a long way in ensuring inclusive growth and not a single soul left behind in the journey of economic development.

To provide more emphasis on the objective of 'reaching the last mile', the government has formed the ministries of AYUSH, Fisheries, Animal Husbandry and Dairying, Skill Development, Jal Shakti and Cooperation. The focus areas and measures announced under 'reaching the last mile' is provided in the exhibit 3.

Exhibit 3

Focus Areas and Measures Announced

Focus area	Measures announced
Aspirational Districts and Blocks Program	Launched the Aspirational Blocks Program covering 500 blocks for saturation of essential government services across multiple domains such as health, nutrition, education, agriculture, water resources, financial inclusion, skill development, and basic infrastructure.
Pradhan Mantri PVTG Development Mission	<p>To improve socio-economic conditions of the particularly vulnerable tribal groups (PVTGs), Pradhan Mantri PVTG Development Mission will be launched.</p> <p>This will saturate PVTG families and habitations with basic facilities such as safe housing, clean drinking water and sanitation, improved access to education, health and nutrition, road and telecom connectivity, and sustainable livelihood opportunities.</p> <p>An amount of Rs 15,000 crore will be made available to implement the Mission in the next three years under the Development Action Plan for the Scheduled Tribes.</p>
Eklavya Model Residential Schools	In the next three years, centre will recruit 38,800 teachers and support staff for the 740 Eklavya Model Residential Schools, serving 3.5 lakh tribal students.

Water for Drought Prone Region	In the drought prone central region of Karnataka, central assistance of Rs 5,300 crore will be given to Upper Bhadra Project to provide sustainable micro irrigation and filling up of surface tanks for drinking water.
PM Awas Yojana	The outlay for PM Awas Yojana is being enhanced by 66% to over Rs 79,000 crore.
Bharat Shared Repository of Inscriptions (Bharat SHRI)	'Bharat Shared Repository of Inscriptions' will be set up in a digital epigraphy museum, with digitization of one lakh ancient inscriptions in the first stage.
Support for poor prisoners	For poor persons who are in prisons and unable to afford the penalty or the bail amount, required financial support will be provided.

Source: https://www.indiaonline.com/article/budget-highlights/union-budget-priority-reaching-the-last-mile-1675239399782_1.html

3. **Infrastructure and Investment:** The economic development of any economy depends largely on its infrastructure and investment scenario. In this regard, the Union Budget 2023-24 has witnessed a sharp rise in capital investment outlay by 33 percent to Rs.10 lakh crore (\$122 bn), which is a whopping 3.3 percent of GDP. This huge capital investment outlay will facilitate crowd-in private investments, increase growth potential, create job opportunities and will provide a cushion against economic turmoil arising from global headwinds.

As an inclusive approach, the aforesaid measure has been accompanied by continuation of the 50-year interest free loan to State Governments for one more year to provide impetus to infrastructure investment and to incentivize the State Governments for complementary policy actions, with a substantially enhanced outlay of Rs.1.3 lakh crore (\$16 bn).

The union budget has come out with an innovative approach of setting-up of Infrastructure Finance Secretariat to act as a vehicle for private investment in infrastructure. This secretariat will assist all stakeholders to promote more private investment in infrastructure, including railways, roads, urban infrastructure and power which predominantly relies on public resources. Thus, it may be said that the union budget has duly focused on all the essential segments of the infrastructure sector, thereby ensuring strong economic growth.

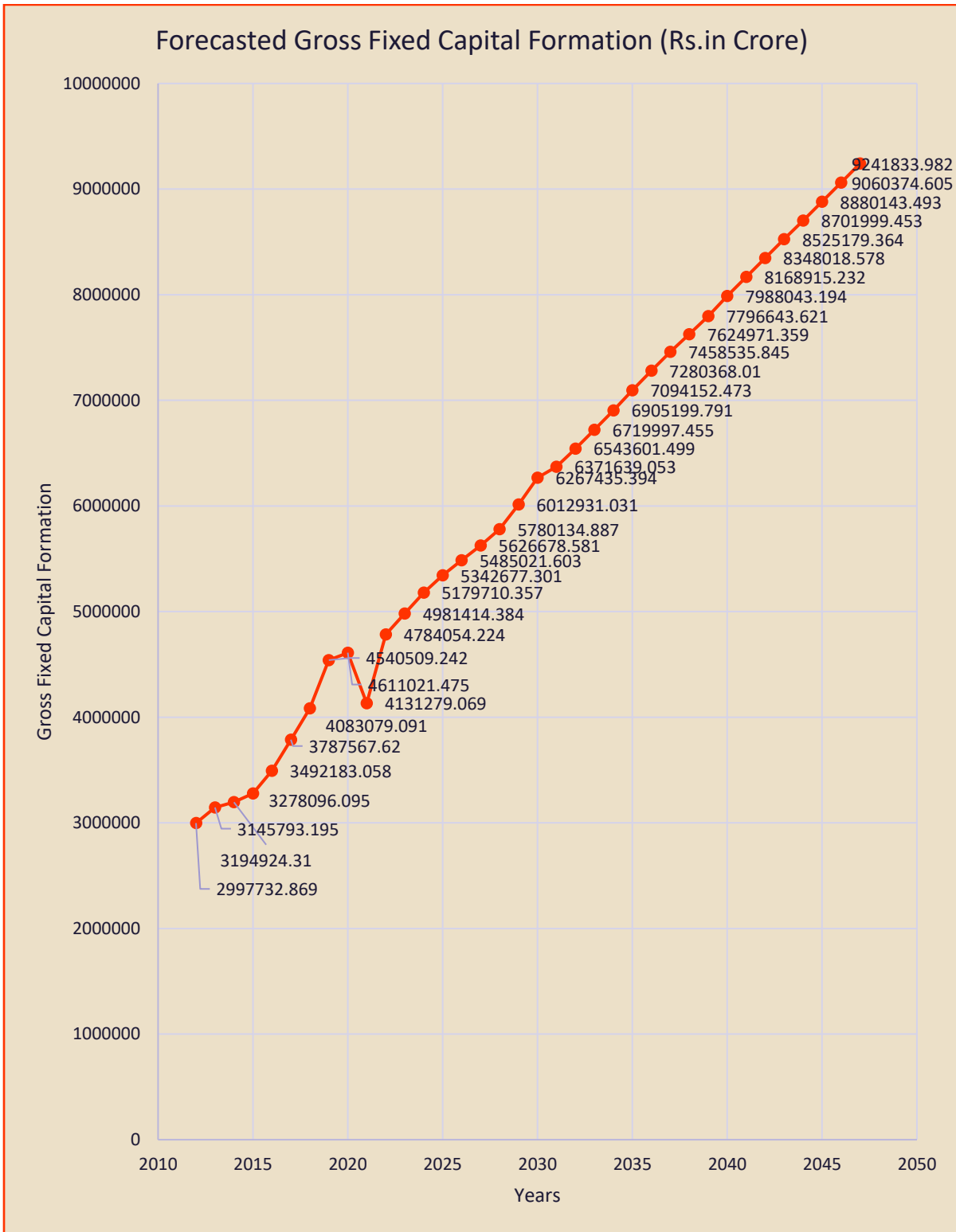
Since increase in infrastructure investment results into fixed capital formation in the economy, it becomes imperative to comprehend the future trend of Gross Fixed Capital formation (GFCF). In this regard, the GFCF data for the period 2011-12 to 2021-22 have been referred from the National Accounts Data, Ministry of Statistics and Programme Implementation, Government of India to predict the GFCF values for the period 2023 to 2047.

The forecasted values of Gross Fixed Capital Formation for the period 2023 to 2047 have been computed on the basis of parabolic trend equation and the same has been provided

in Table 3 and the forecasted trend of Gross Fixed Capital Formation for the mentioned period have been given in Table 3A.

Years	Gross Fixed Capital Formation (Rs.in Crore)
2012	2997732.869
2013	3145793.195
2014	3194924.31
2015	3278096.095
2016	3492183.058
2017	3787567.62
2018	4083079.091
2019	4540509.242
2020	4611021.475
2021	4131279.069
2022	4784054.224
2023	4981414.384
2024	5179710.357
2025	5342677.301
2026	5485021.603
2027	5626678.581
2028	5780134.887
2029	6012931.031
2030	6267435.394
2031	6371639.053
2032	6543601.499
2033	6719997.455

2034	6905199.791
2035	7094152.473
2036	7280368.01
2037	7458535.845
2038	7624971.359
2039	7796643.621
2040	7988043.194
2041	8168915.232
2042	8348018.578
2043	8525179.364
2044	8701999.453
2045	8880143.493
2046	9060374.605
2047	9241833.982



Thus, on observing the trend of Gross Fixed Capital Formation, it is heartening to note that our economy is taking giant leap in fixed capital formation which will act as a fulcrum in the process of economic development. In other words, the soaring investment trends in fixed capital formation is a metaphor of buoyancy in the Indian economy.

4. **Unleashing the Potential:** This priority of the union budget has mainly focused on science and technology, MSME sector and social governance through the announcement to set up three specialized AI centres in educational institutions to have AI based solutions in agriculture, health and sustainable cities, launching of National Data Governance Policy to enable access to anonymized data for research by Start-ups and sustainable cities, providing succour to MSME sector through *Vivad se Vishwas I and Vivad se Vishwas II* for lessening the stringency in execution of contract for MSMEs and, easier and standardized settlement scheme respectively.

The concept of Entity Digi Locker to be used by business enterprises and charitable trusts for enabling secure online storing and sharing of documents with the business environment, setting up of 100 labs for 5G services based application to tap employment potential and business opportunities, R&D grant for Lab Grown Diamonds (LGD) sector to bring down dependency by encouraging domestic production, classic approach towards social governance is exhibited through the announcement stating launching of Phase 3 of E-Courts for effective administration of justice are precursor of creating a congenial ambience for the aforesaid sectors and edifice of social governance.

As an impetus to the ease of doing business, a magnificent initiative of allowing business organisations that require Permanent Account Number (PAN) have been allowed to use PAN as common identifier for all digital systems of government agencies.

Further, for removing the need of providing same information to different government agencies, a system of 'Unified Filing Process' will be established. Such filing of information or return in simplified forms on a common portal, will be shared with other agencies as per filer's choice, will definitely facilitate ease of doing business.

5. **Green Growth**

Taking the cue from Honourable Prime Minister's vision for "LIFE", or lifestyle for environment to stimulate a movement of environmentally conscious lifestyle and India's journey towards 'panchamrit', as well as to attain net-zero carbon emission by 2070, to usher in green revolution and economic metamorphosis, the inclusion of 'Green Growth' in this year's union budget will prove to be a big boon for India.

The concept of green growth approach will engender a renaissance in the energy sector as evident from the following points:

- Annual production of 5 MMT under the Green Hydrogen Mission to be targeted by 2030 to facilitate the transition of the economy to low carbon intensity and to reduce dependence on fossil fuel imports.
- Rs.35,000 crores (US\$ 42.7 billion) outlay for energy security, energy transition, and net zero objectives.
- Battery energy storage systems to be promoted to steer the economy on the sustainable development path.
- Rs.20,700 crores (US\$ 37.4 billion) outlay provided for renewable energy grid integration and evacuation from Ladakh.
- For encouraging behavioural change, a Green Credit Programme will be notified under the Environment (Protection) Act. This will incentivize environmentally sustainable and responsive actions by companies, individuals and local bodies, and help mobilize additional resources for such activities.

- Setting up of 500 new ‘waste to wealth’ plants under GOBARdhan (Galvanizing Organic Bio-Agro Resources Dhan) scheme for promoting circular economy.

Moreover, the initiative of green growth has focused on the significance of afforestation through an unique and innovative approach called ‘MISHTI’, i.e., ‘Mangrove Initiative for Shoreline Habitats & Tangible Incomes’ for encouraging mangrove plantation along the coastline and on salt pan lands, wherever feasible, through convergence between MGNREGS, CAMPA Fund and other sources. Likewise, other measures - ‘Amrit Dharohar’, Coastal Shipping and Vehicle Replacement are impeccable initiatives towards preserving the mother earth.

6. Youth Power

A nation’s economic prosperity and development is largely influenced by the calibre of its youth and recognizing this universal truth, the Union Budget 2023-24 has highlighted ‘Amrit Peedhi’ as a priority under the ‘Saptarishi’ in guiding India through the Amrit Kaal.

To accomplish the twin goals of youth empowerment and assist the ‘Amrit Peedhi’ to achieve their dreams, Government of India came out with National Education Policy, laid stress on skill development, embraced economic policies that can act as a vehicle for job creation and create business opportunities.

As skill is an indispensable element of holistic career development, Pradhan Mantri Kaushal Vikas Yojana 4.0 has been announced for skilling lakhs of youth within the next three years. Under this scheme, on-job training, industry partnership, and alignment of courses with needs of industry will be emphasized. The scheme will also cover new age courses for Industry 4.0 like coding, AI, robotics, mechatronics, IOT, 3D printing, drones, and soft skills.

In view of the diaspora of youth population across the country, the concept of youth power has come out with an integrated and innovative approach in tourism sector, wherein at least 50 destinations will be chosen through challenge mode and in addition to aspects such as physical connectivity, virtual connectivity, tourist guides, high standards for food streets and tourists’ security, all the relevant aspects would be made available on an App to enhance tourist experience. Every destination would be developed as a complete package.

Sector specific skilling and entrepreneurship development will be merged to achieve the objectives of the ‘Dekho Apna Desh’ initiative which was launched as an appeal by the Prime Minister to the middle class to prefer domestic tourism over international tourism. For integrated development of theme-based tourist circuits, the ‘Swadesh Darshan Scheme’ was also launched. Under the Vibrant Villages Programme, tourism infrastructure and amenities will also be facilitated in border villages, thereby creating substantial employment opportunities for youth in the tourism sector.

To promote the sale of ODOP (one district, one product), GI products and other handicraft products, the wonderful concept of ‘Unity Mall’ have been coined in this union budget. Under this concept, states will be encouraged to set up a Unity Mall in their state capital or most prominent tourism centre or the financial capital to make the mentioned initiatives a reality.

7. Financial Sector

The Union Budget 2023-24 has focused on the following key facets pertaining to the financial sector-

- a) *Setting up of National Financial Information Registry* : To promote effectiveness in lending, encourage financial inclusion and increase financial stability.
- b) *Establishing of a Central Data Processing Centre* : For quicker dealing with administrative work under the Companies Act, 2013.
- c) *Credit Guarantee Scheme for MSMEs* : As already discussed above, numerous measures have been taken up for strengthening MSME sector under a revamped scheme to enable additional collateral free credit of Rs.2 lakh crore.
- d) *Reverence to women* : Launching of one-time new small savings scheme for a 2-year period with a deposit facility of up to Rs.2 lakh for women.
- e) *Care for senior citizens* : Increased maximum deposit limit for senior citizens savings scheme from Rs.15 lakh to Rs.30 lakh.
- f) *Other initiatives* : To promote business activities in GIFT IFSC and creating a legion of trained professionals in securities markets.

Tax Management

As per Economic Survey 2022-2023, Indian economy has bounced back after facing pandemic and get fully recovered in FY 2022-23, as compared to many nations. It is poised to return to its pre-pandemic growth trajectory in FY 2023-24. This year's budget has been mainly customs centric, and budget also shows that the Government intent to promote domestic manufacturing, with special focus on Green mobility.

From custom perspective, to provide impetus to the domestic manufacturing and the domestic value addition, the Hon'ble Finance Minister has made changes in customs Duties mainly import duties of electrical kitchen chimneys, Heat coils, chemicals, parts of mobile phones, television sets, and seeds of Lab Grown Diamonds (LGDs) etc. Putting a smile on the faces of the Jewellery industry, the Budget proposes to decrease the import duty on gold, silver, platinum, coin, and seed of LGDs. With the aim of making India, carbon neutral by 2070 becoming the government proposed to exempt Excise duty to that extent on blended CNG on which GST is paid. The Basic Customs Duty (BCD) has been exempted on Capital Goods used for manufacture of Lithium-ion cell for use in battery of Electric Vehicles (EVs) etc. which further strengthens the vision of sustainable development.

From a GST angle, while not much changes have been proposed, as many amendments were already done by the GST Council in it's meetings held in year 2022. The Government has also given effect to several decisions taken in last meeting of the GST Council like decriminalization & compounding of certain offences, retrospective amendment to treat certain transactions (high sea sales, bonded warehouse sales etc.) as no supply since July 2017.

The scope for Online Information Database Access and Retrieval (OIDAR) service has been increased to be applicable to all un-registered persons irrespective of whether the same are being used for commerce, industry or any other business. Additionally, the words 'automated and involving minimal human intervention' have been deleted from the definition of OIDAR services. Both these amendments seem to aim at plugging the loophole wherein the service recipients were not paying taxes contending the above exceptions as excuses.

Moreover, the threshold of time limit of 3 years has now been prescribed for furnishing GSTR-1, GSTR-3B and GSTR-9/9C. Earlier, there was no time limit to furnish returns and a taxpayer could furnish belated returns with late fees and interest. However, the returns older than 3 years would be locked henceforth for filing. This may have an impact from litigation perspective as the time limit to initiate an assessment or audit would be impacted based on this amendment.

With reference to the Direct Tax, the following significant announcements have been made-

- Higher TDS limit of Rs 3 crore for cooperatives.
- Rebate limit increased to Rs 7 lakh in new income tax regime.
- Only five per cent tax on individuals with annual income of Rs 9 lakh to only pay Rs 45,000 in tax.
- Salaried class and pensioner standard deduction increased to Rs 52,000.
- Highest tax rate 42.74 per cent brought down.

Thus, the changes in the indirect as well direct tax regime will provide solace to the tax payers. The new tax rates for direct tax are provided in the exhibit 4.

Exhibit 4

New Income Tax Rates

Total Income (Rs)	Rate (per cent)
Up to 3,00,000	Nil
From 3,00,001 to 6,00,000	5
From 6,00,001 to 9,00,000	10
From 9,00,001 to 12,00,000	15
From 12,00,001 to 15,00,000	20
Above 15,00,000	30

Source: <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1895315>

Conclusion

Indian economy is supported by robust macroeconomic fundamentals. The central government is marching on the path of fiscal consolidation as the fiscal deficit has been targeted to be below 4.5% by 2025-26, fiscal deficit of 3.5% of GSDP (Gross State Domestic Product) permitted for States of which 0.5% is linked to power sector reforms. The overall fiscal deficit is estimated to be 5.9% of GDP.

To finance the fiscal deficit in 2023-24, the net market borrowings from dated securities are estimated at Rs.11.8 lakh crore and the gross market borrowings to float around Rs.15.4 lakh crore. The approach of 'Saptarishi' which has covered all the key sectors of the Indian economy as well as assimilated the concept of national governance is to be extolled. To put in a nutshell, this union budget is like a polestar in the empyrean of economic and holistic development.

Further, going by the forecasts of Asian Development Bank (ADB), India's GDP growth rate for 2023 is forecasted at 7.2%, thereby promoting India to 2nd position from 3rd position as in 2022, the GDP growth rate forecast was 7.0%. Coming to inflation, it is expected to hover around 5.8% which is less than the previous year's forecast of 6.7%. Thus, on the inflation front, India is exhibiting an improving trend implying that consumers, especially belonging to middle-class will have more purchasing power which in turn may create business opportunities for large number of industries.

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**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)

7th February, 2023

Attention Students

Applicability of the Finance Act, 2022 for June, 2023 Examinations

Students may note that, for June 2023 Session of Examination, Finance Act, 2022 (i.e. Assessment Year 2023-24 / Previous Year 2022-23) is applicable for the following papers:

Executive Programme

(i) Tax Laws (Module-1, Paper-4)

Professional Programme

(ii) Advanced Tax Laws (Module-1 Paper-2)

Students are also required to update themselves on all the relevant Rules, Notifications, Circulars, Clarifications, etc. issued by the CBDT, CBIC & Central Government, on or before 30th Nov, 2022 for June, 2023 Examination.

**Director
Dte. of Academics**



Practice Mentor

Resolving Disputes through Mediation under Commercial Courts Act *

Introduction

The Ministry of Law and Justice introduced the 'The Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015' (Commercial Courts Act, 2015 for short) to reduce the burden on judiciary with respect to commercial disputes. This act was enacted not only to unburdened the judiciary but also to enable foreign investors to gain more trust over their investments in Indian market.

The main emphasis of the Act is on Commercial disputes which are special in nature since they affect the economy of a nation, directly or indirectly. To expedite the process of disposal of cases of large economic value or commercial cases, the Commercial Courts Act, 2015 (the Act) was introduced. It is an Act to provide for the constitution of Commercial Courts, Commercial Division and Commercial Appellate Division in the High Courts for adjudicating commercial disputes of specified value and matters connected therewith or incidental thereto.

The Commercial Courts Act 2015 deemed to have come into force on 23rd October 2015. It enables speedy redressal of cases holding large economic value.

The Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Act, 2018 which amended the principal commercial courts act *inter alia*, provided for the following namely:

- i) to reduce the specified value of commercial disputes from the existing one crore rupees to three lakh rupees, and to enable the parties to approach the lowest level of subordinate courts for speedy resolution of commercial disputes;
- ii) to enable the State Governments, with respect to the High Courts having ordinary original civil jurisdiction, to constitute commercial courts at District Judge level and to specify such pecuniary value of commercial disputes which shall not be less than three lakh rupees and not more than the pecuniary jurisdiction of the district courts;
- iii) to enable the State Governments, except the territories over which the High Courts have ordinary original civil jurisdiction, to designate such number of Commercial Appellate Courts at district judge level to exercise the appellate jurisdiction over the commercial courts below the district judge level;
- iv) to enable the State Governments to specify such pecuniary value of a commercial dispute which shall not be less than three lakh rupees or such higher value, for the whole or part of the State; and

* Prepared by Snigdha Kashyap, Consultant and reviewed by CS Kushal Kumar, Assistant Director, The ICSI
Views expressed in the Article(s) are the sole expression of the Author and may not express the views of the Institute.

- v) to provide for compulsory mediation before institution of a suit, where no urgent interim relief is contemplated and for this purpose, to introduce the Pre-Institution Mediation and Settlement Mechanism and to enable the Central Government to authorise the authorities constituted under the Legal Services Authorities Act, 1987 for this purpose.

To improve the "Enforcing Contracts" system, numerous legislative and policy reforms have been implemented. The Commercial Courts Act of 2015, which was revised once more in 2018, was created to facilitate the swift resolution of commercial issues. As a result, "Dedicated Commercial Courts" with specialised infrastructure and exclusive judicial personnel have been established for the first time in Delhi, Mumbai, Kolkata, and Bangalore. To encourage more business cases, the specified value of commercial cases was reduced from Rs. 1 crore to Rs. 3 lakhs. This brought concentrated focus to the resolution of business issues.

- There are 35 Dedicated Commercial Courts in Delhi. Additionally, 42 Dedicated Commercial Courts have been notified on 13.04.2021 in Delhi along with 42 judicial officers and support staff for dealing exclusively with commercial cases. 21,479 commercial cases have been disposed of by dedicated commercial courts in Delhi itself from January 2022 to December 2022.
- Government of Maharashtra in consultation with High Court of Bombay had established 16 Dedicated Commercial Courts spread across 11 Commercial Courts located in Bombay City Civil and Sessions Court, Mumbai and 5 Commercial Courts located in City Civil and Sessions Courts, Dindoshi vide Notification dated 13.09.2019.
- There are overall 10 Dedicated Commercial Courts which are operational in Bengaluru. There are 8 Dedicated Commercial Court in Bengaluru City and 2 Dedicated Commercial Court in Bengaluru Rural areas.
- 2 Dedicated Commercial Courts are already functional in Kolkata at Alipore and Rajarhat. Calcutta High Court vide notification dated 20.03.2020 has notified establishment of 2 more Dedicated Commercial Courts. The pecuniary jurisdiction of the 2 new Commercial Courts will be Rs. 3 lakh and above

What is a Commercial Court?

"Commercial Court" means the Commercial Court constituted under section 3(1) of the Act. According to Section 3 of the Act, the State Government may with the consultation of respective High Court constitutes Commercial Courts at District level, as it may deem necessary for the purpose of exercising the jurisdiction and powers conferred on those Courts under this Act.

Provided that with respect to the High Courts having original civil jurisdiction, the State Government may, after consultation with the concerned High Court, by notification, constitute Commercial Courts at the District Judge level.

Provided further that with respect to a territory over which the High Courts have ordinary original civil jurisdiction, the State Government may, by notification, specify such pecuniary value which shall not be less than three lakh rupees and not more than the pecuniary jurisdiction exercisable by the District Courts, as it may consider necessary.

State Government, after consultation with the High Court may-

1. specify pecuniary value which shall not be less than three lakh rupees or such higher value. [Section 3(1A)]
2. increase, alter and reduce the jurisdiction of such court within local limits. [Section 3(2)]
3. appoint one or more persons having experience in dealing with commercial disputes to be the Judge or Judges, of such Courts.

The State Government may, with the concurrence of the Chief Justice of the High Court appoint one or more persons having experience in dealing with commercial disputes to be the Judge or Judges, of a Commercial Court either at the level of District Judge or a court below the level of a District Judge.

Except the territories over which the High Courts have ordinary original civil jurisdiction, the State Government may, after consultation with the concerned High Court, by notification, designate such number of Commercial Appellate Courts at District Judge level, as it may deem necessary, for the purposes of exercising the jurisdiction and powers conferred on those Courts under this Act.

Constitution of Commercial Division of High Court

According to Section 4 of the Act, in all High Courts, having ordinary original civil jurisdiction, the Chief Justice of the High Court may, by order, constitute Commercial Division having one or more Benches consisting of a single Judge for the purpose of exercising the jurisdiction and powers conferred on it under this Act.

The Chief Justice of the High Court shall nominate such Judges of the High Court who have experience in dealing with commercial disputes to be Judges of the Commercial Division.

Constitution of Commercial Appellate Division

After issuing notification under subsection (1) of section 3 or order under sub-section (1) of section 4, the Chief Justice of the concerned High Court shall, by order, constitute Commercial Appellate Division having one or more Division Benches for the purpose of exercising the jurisdiction and powers conferred on it by the Act.

The Chief Justice of the High Court shall nominate such Judges of the High Court who have experience in dealing with commercial disputes to be Judges of the Commercial Appellate Division.

What is Commercial Dispute?

According to Section 2(1)(c) “commercial dispute” means a dispute arising out of--

- i) ordinary transactions of merchants, bankers, financiers and traders such as those relating to mercantile documents, including enforcement and interpretation of such documents;
- ii) export or import of merchandise or services;
- iii) issues relating to admiralty and maritime law;

- iv) transactions relating to aircraft, aircraft engines, aircraft equipment and helicopters, including sales, leasing and financing of the same;
- v) carriage of goods;
- vi) construction and infrastructure contracts, including tenders;
- vii) agreements relating to immovable property used exclusively in trade or commerce;
- viii) franchising agreements;
- ix) distribution and licensing agreements;
- x) management and consultancy agreements;
- xi) joint venture agreements;
- xii) shareholders agreements;
- xiii) subscription and investment agreements pertaining to the services industry including outsourcing services and financial services;
- xiv) mercantile agency and mercantile usage;
- xv) partnership agreements;
- xvi) technology development agreements;
- xvii) intellectual property rights relating to registered and unregistered trademarks, copyright, patent, design, domain names, geographical indications and semiconductor integrated circuits;
- xviii) agreements for sale of goods or provision of services;
- xix) exploitation of oil and gas reserves or other natural resources including electromagnetic spectrum;
- xx) insurance and re-insurance;
- xxi) contracts of agency relating to any of the above; and
- xxii) such other commercial disputes as may be notified by the Central Government.

Explanation.--A commercial dispute shall not cease to be a commercial dispute merely because—

- a) it also involves action for recovery of immovable property or for realisation of monies out of immovable property given as security or involves any other relief pertaining to immovable property;
- b) one of the contracting parties is the State or any of its agencies or instrumentalities, or a private body carrying out public functions;

Jurisdiction of the Commercial Court

Commercial Courts

According to Section 6 of the Act, the Commercial Court shall have jurisdiction to try all suits and applications relating to a commercial dispute of a Specified Value arising out of the entire territory of the State over which it has been vested territorial jurisdiction by State Government with the assistance of concerned High Court.

Commercial Divisions of High Courts:

According to Section 7 of the Act, all suits and applications relating to commercial disputes of a Specified Value filed in a High Court having ordinary original civil jurisdiction shall be heard and disposed of by the Commercial Division of that High Court.

Jurisdiction in respect of arbitration matters

According to Section 10 of the Act, in case of matters of international commercial arbitration pertaining to Arbitration and Conciliation Act, 1996 the matters shall be heard and disposed of by the Commercial Division where such Commercial Division has been constituted in such High Court. In matters of arbitration other than international commercial arbitration under Arbitration and Conciliation Act, 1996 that have been filed on the original side of the High Court, matters shall be heard and disposed of by the Commercial Division where such Commercial Division has been constituted in such High Court.

Determination of Specified Value

The Specified Value of the subject-matter of the commercial dispute in a suit, appeal or application shall be determined –

- In case of recovery of money – the value should include interest accrued so far, upto the date of filing of application or suit.
- In case of movable property or right in it – the value shall be computed taking into account market value of the movable property as on the date of filing of the suit or application.
- In case of immovable property or right in it - the value shall be computed taking into account market value of the immovable property as on the date of filing of the suit or application
- In case of other intangible right- - the value shall be computed taking into account estimated market value of such right by plaintiff as on the date of filing of the suit or application.

Pre-Institution Mediation and Settlement

The very purpose of this Act was to resolve the commercial disputes without bringing them to the court of law, through mediation. Prior to approaching a commercial court for dispute commercial in nature, the Act requires that parties attempt to settle their issues through mediation. The Central Government may, authorise the Authorities constituted under the Legal Services Authorities Act, 1987 for the purposes of pre-institution mediation.

Time Period

The process of pre-litigation mediation shall be completed within a period of three months from the date of application made. It can be extended for a further period of two months with the consent of the parties.

Commercial Courts (Pre-Institution Mediation and Settlement) Rules, 2018

Commercial Courts (Pre-Institution Mediation and Settlement) Rules, 2018 provides for the framework governing the process of mediation as in case of commercial disputes.

Initiation of mediation process

Application:

A party to a commercial dispute may submit an application to the Authority in accordance with Form-1 specified in Schedule-I online, by mail, or in person, together with a fee of Rs. 1,000 payable to the Authority either by demand draft or through online process.

Notice:

The Authority shall, after taking into account the territorial and financial jurisdiction and the nature of the commercial dispute, issues a notice, in accordance with Form 2 specified in Schedule-I, to the opposing party requiring appearance and consent to participate in the mediation process on such date not later than ten days from the date of issuance of the said notice.

Where no response is received from the opposite party, the Authority shall issue a final notice to it in the manner as stated above.

Where the notice remains unacknowledged or where the opposite party refuses to participate in the mediation process, the Authority shall treat the mediation process to be a non-starter and make a report as per Form 3 specified in the Schedule-I and endorse the same to the applicant and the opposite party.

If the opposing party requests more time for his appearance after getting the notification, the Authority may, if it sees fit, set a different date no later than ten days after receiving the request.

Failure to appear:

Where the opposite party fails to appear on the date fixed, the Authority shall treat the mediation process to be a non-starter and make a report in this behalf as per Form 3 specified in Schedule-I and endorse the same to the applicant and the opposite party.

Appearance by parties:

If both parties to the commercial dispute appear before it and agree to engage in the mediation process. The Authority will assign the commercial dispute to a Mediator and set a date for the parties' appearance before the said Mediator.

Time-period of Mediation:

The Authority shall ensure that the mediation process is completed within a period of three months from the date of receipt of application for pre-institution mediation unless the period is extended for further two months with the consent of the applicant and the opposite party.

Venue of Mediation:

The venue for conducting of the mediation shall be the premises of the Authority.

Procedure of Mediation:

The mediation shall be conducted as per the following procedure -

1. Before the commencement of mediation, the mediator must take the parties through the mediation procedure. The Mediator shall decide the day and time of each mediation session after consulting with the parties thereto. The Mediator, as he may think fit, may meet with the parties individually or jointly during the mediation process.
2. In separate sessions, the applicant or the opposing party may present their settlement ideas to the mediator, with clear instructions as to which portions may be shared with the other party. During the mediation session, the parties to the dispute may exchange settlement suggestions either orally or written.
3. During the process of mediation, the Mediator shall maintain confidentiality of discussions made in the separate sittings with each party and only those facts which a party permits can be shared with the other party;
4. Once a settlement has been reached by both parties, it must be reduced in writing by the mediator and signed by both parties and the mediator in accordance with Form-4 listed in Schedule-I. All parties to a commercial dispute must receive a signed original of the settlement agreement from the mediator, who will also give it to the Authority.

It may be noted that-

Other than the application for mediation, the notice issued, the settlement agreement, and the Failure report, as the case may be, the Authority or the Mediator, shall not retain the hard or soft copies of the documents exchanged between the parties or submitted to the Mediator or notes prepared by the Mediator for longer than six months.

Mediation Fee:

Before the commencement of the mediation, the parties to the commercial dispute shall pay to the Authority a one-time mediation fee, to be shared equally, as per the quantum of claim as specified in Schedule-II.

Ethical Code of Conduct to be followed by Mediator:

The Mediator shall-

- i) uphold the integrity and fairness of the mediation process;
- ii) ensure that the parties involved in the mediation are fairly informed and have an adequate understanding of the procedural aspects of the mediation process;
- iii) disclose any financial interest or other interest in the subject-matter of the commercial dispute;
- iv) avoid any impropriety, while communicating with the parties to the commercial dispute;
- v) be faithful to the relationship of trust and confidentiality reposed in him;

- vi) conduct mediation related to the resolution of a commercial dispute, in accordance with the applicable laws for the time being in force;
- vii) recognise that the mediation is based on the principles of self-determination by the parties and that mediation process relies upon the ability of parties to reach a voluntary agreement;
- viii) refrain from promises or guarantees of results;
- ix) not meet the parties, their representatives, or their counsels or communicate with them, privately except during the mediation sittings in the premises of the Authority;
- x) not interact with the media or make public the details of commercial dispute case, being mediated by him or any other allied activity carried out by him as a Mediator, which may prejudice the interests of the parties to the commercial dispute.

Settlement Agreement

The settlement agreement of pre-litigation mediation shall be in writing and signed by the parties to the dispute and the mediator. The settlement agreement shall have the same status and effect as of an arbitral award under section 30(4) of the Arbitration and Conciliation Act, 1996.

Where no settlement is arrived at between the parties within the time specified in the sub-section (3) of section 12A of the Act or where the Mediator is of the opinion that the settlement is not possible, the Mediator shall submit a report to the Authority, with reasons in writing as per form-5 specified in schedule-I.

Appeals from decrees of Commercial Courts and Commercial Divisions

Any person aggrieved by the judgment or order of a Commercial Court shall within sixty days of such judgment may file an appeal -

- If he is aggrieved by the judgment of Commercial court below District Judge, he may appeal to the Commercial Appellate Court.
- If he is aggrieved by the judgment of Commercial court at District Judge or Commercial Division of a High Court, he may appeal to the Commercial Appellate Division of that High Court

All the appeals lying with the Commercial Appellate Division shall be disposed of within a period of six month from the date of filing.

Amendments to the Provisions of the Code of Civil Procedure, 1908

Section 16 of the Act provides the provisions of Code of Civil Procedure 1908 that has been amended with this Act. Major amendments are –

- Section 26 – Institution of Suits
- Section 35-A- Compensatory Costs
- Section 35- Costs
- Order 5 – Issuance and Service of Summons
- Order 6, 7 and 8 – Pleadings

- Order 11- Discovery and Inspection of Documents
- Order 18 – Examination of Witness
- Order 20 – Judgment and Decree etc.

Certain provisions were also inserted to enable the fast track process of Commercial Courts.

Case Law

Telangana State Tourism Development Corporation Limited vs. A.A. Avocations Pvt. Ltd. (09.06.2022 - TLHC) : 2022 SCC OnLine TS 1266

The court held that if the specified value of commercial suit is one crore and above it shall be referred to Commercial Courts Act under Section 9 of Arbitration and Conciliation Act 1996.

“On a cumulative reading of Section 2(1)(C)(vii), Section 101 and Section 122, it is apparent that if a dispute arising out of an agreement concerning immovable property which is exclusively used in trade or commerce and whose 'specified value' is more than one crore, then, it is a 'commercial dispute' and only the commercial Court has jurisdiction to deal with application filed under Section 9 of the Act, 1996.”

References

- *Bare act- The Commercial Courts Act, 2015.*
- *The Commercial Courts (Pre-Institution Mediation and Settlement) Rules 2018*
- <https://dashboard.doj.gov.in/eodb/commcourts.html>

Regulatory Updates

COMPANY LAW

- **Ministry of Corporate Affairs - Important Update (January 05, 2023)**

The Ministry of Corporate Affairs vide issuing an important update has informed that the Company Incorporation forms (Spice + Part A, Part B & RUN) will be available for filing purposes in V2 till 06th January 12:00 PM. These forms will be enabled on V3 portal from 09th January 2023 00:00 Hours. Remaining 45 forms will be available for filing purposes in V2 till 06th January 11:59 PM. These forms will be enabled on V3 portal from 23rd January 2023 00:00 Hours. PAS-3 form will be available for filing purposes in V2 till 19th January 11:59 PM and will be enabled on V3 portal from 23rd January 2023 00:00 Hours.

For details: <https://www.mca.gov.in/content/mca/global/en/home.html>

- **Notice inviting comments from various Stakeholders on Consultation papers for refund process of IEPF Authority**

(Ministry of Corporate Affairs notice dated January 05, 2023)

Investor Education and Protection Fund Authority by issuing notice dated January 05, 2023, is inviting comments on the Consultation Paper on refund process at IEPF Authority to simplify and expedite the process of claim refund filed with IEPF Authority under Companies Act 2013. The comments may be suggested through e-consultation module available at MCA website till 27th January 2023.

For details:

<https://www.mca.gov.in/bin/dms/getdocument?mcs=ZLzV7Dztyu69rhlCcNHGLg%253D%253D&type=open>

- **Ministry of Corporates Affairs amended the Rules (January 21, 2023)**

The Ministry of Corporate Affairs (MCA) vide its notifications dated January 21, 2023 has notified below mentioned amended rules:

- i) The Companies (Management and Administration) Amendment Rules 2023;
- ii) The Companies (Share Capital and Debentures) Amendment Rules, 2023;
- iii) The Companies (Appointment and Remuneration of Managerial Personnel) Amendment Rules, 2023;
- iv) The Companies (Incorporation) Amendment Rules 2023;
- v) The Companies (Prospectus and allotment of securities) Amendment Rules, 2023;
- vi) The Companies (Authorised to Register) Amendment Rules, 2023; and
- vii) The Companies (Accounts) Amendment Rules, 2023.

The amended rules shall come into force with effect from January 23, 2023.

According to the amendments Form No. MGT-3, Form No. SH-7, Form No. SH-8, Form No. 9, Form No. MR-1, Form No. MR-2, Form No. RUN, INC-4, INC-6, INC-9, INC-12, INC-13, INC-18, INC-20, INC 20A, INC-22, INC-23, INC-24, INC-27, INC-28, INC-31, SPICE+ (INC-32), INC-33, INC-34, INC-35, RD-1, Form PAS-2, Form PAS-3, PAS-6, URC-1 and Form No. AOC-5 has been substituted. Various others changes in rules/sub-rules are also made pursuant to migration of set of forms from MCA V2 to MCA V3 portal.

Brief Analysis:

1. The Ministry of Corporate Affairs has notified the Companies (Management and Administration) Amendment Rules, 2023 to amend the Companies (Management and Administration) Rules, 2014. The provisions have come into effect from 23.01.2023. Through amendment the Form MGT- 3 relating to Notice of situation or change of situation or discontinuation of situation, of place where foreign register shall be kept, has been substituted and Form MGT- 14 relating to Filing of Resolutions and agreements to the Registrar, has been substituted.
2. The Ministry of Corporate Affairs (MCA) has notified the Companies (Share Capital and Debentures) Amendment Rules, 2023 to further amend the Companies (Share Capital and Debenture) Rules, 2014. The provisions have come into effect from 23.01.2023.

Through amendment in rule 17(14) the changes to the provision relating to buy-back of shares or other securities has been made. The requirement of annexing a certificate along with the return in Form SH.11 has been substituted with submitting of a declaration instead. This declaration must be signed by two directors of the company including the managing director, if any, certifying that the buy-back of securities has been made in compliance with the provisions of the Act and the rules made thereunder.

Additionally, the amendment has also brought about revisions in the following forms:

Form No. SH. 7- Notice to Registrar of any alteration of share capital

Form No. SH. 8- Letter of Offer

Form No. SH. 9 – Declaration of Solvency

3. The Ministry of Corporate Affairs (MCA) has notified the Companies (Appointment and Remuneration of Managerial Personnel) Amendment Rules, 2023 to further amend the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014. The provisions have come into effect from 23.01.2023. Through amendment Form MR-1 (Return of appointment of managerial personnel) and Form MR-2 (Form of application to the Central Government for approval of appointment of managing director or whole-time director or manager) has been substituted.
4. The Ministry of Corporate Affairs (MCA) has notified the Companies (Incorporation) Amendment Rules, 2023 to further amend the Companies (Incorporation) Rules, 2014. The provisions have come into effect from 23.01.2023. According to the amendment Forms INC-3 (One Person Company – Nominee Consent Form), INC-14 (Declaration), INC-15 (Declaration) and RD-GNL-5 (filing addendum for rectification of defects or incompleteness) has been omitted.
Further, Forms RUN, INC-4, INC-6, INC-9, INC-12, INC-13, INC-18, INC-20, INC-20A, INC-22, INC-23, INC-24, INC-27, INC-28, INC-3I, SPICE+ (INC-32), INC-33, INC-34, INC-35 (AGILE-PRO-S) and RD-1 are substituted.
 - (i) The amendment in rule 4(2) provides that the name of the nominee of the owner of an OPC shall be mentioned in the memorandum of One Person Company ((OPC) and such nomination details along with the consent of such nominee shall be filled in Form No. INC-32 (SPICE+) as a declaration and the said Form along with the fee as provided in the Companies (Registration offices and fees) Rules, 2014 shall be filed with

the Registrar at the time of incorporation of the company along with its e-memorandum and e-articles.

- (ii) Rule 6(3)[Conversion of One Person Company into a Public company or a Private company] is amended to reduce the number of attachments which were required be enclosed in e-Form INC-6 by stating that, the company shall file an application in e-Form No. INC-6 for its conversion into Private or Public Company, other than under section 8 of the Act, along with fees as provided in the Companies (Registration Offices and Fees) Rules, 2014 with altered e-MOA and e-AOA i.e.

Further rule 6(4) is modified stating, on being satisfied that the requirements have been complied with, the Registrar after examining the latest audited financial statement shall approve the form and issue certificate.

- (iii) Rule 7 (Conversion of private company into One Person Company) sub-rule 4 is modified to include an additional enclosure in Form no. INC-6 i.e. Copy of NOC of every creditor with the application of conversion.
 - (iv) Rule 20 is modified to introduce additional matter of consideration by the Registrar in case of issuing License under section 8 for Existing Companies i.e. the Registrar shall along with considering the objections, if any received, also consider two years financial statements immediately preceding the date of application or when the company has functioned only for one financial year, for such year including Board's reports and audit reports, relating to the existing companies.
 - (v) Rule 33 (Alteration of Articles) is modified to state that, subject to the provision of sub-rule (1), for effecting the conversion of a public company into a private company, a copy of order of the Tribunal approving the alteration, shall be filled with the Registrar in Form No. INC -27 with fee together with the printed copy of altered articles within fifteen days from the date of receipt of the order from the Tribunal. And the requirement to mention Service Request Number (SRN) of Form No. RD- 1, pertaining to order of the Regional Director approving the alteration in Form No. INC -27 has been done away.
5. The Ministry of Corporate Affairs has notified the Companies (Prospectus and Allotment of Securities) Amendment Rules, 2023 to amend the Companies (Prospectus and Allotment of Securities) Rules, 2014. The provisions have come into effect from 23.01.2023. Through amendment rule 12(6) has been omitted which was earlier requiring, in the case of the issue of bonus shares, a copy of the resolution passed in the general meeting authorizing the issue of such shares shall be attached to the Form PAS-3. Also that, Form PAS-2, Form PAS-3 and Form PAS-6 are substituted.
 6. The Ministry of Corporate Affairs has notified the Companies (Authorised to Register) Amendment Rules, 2023 to amend the Companies (Authorised to Register) Rules, 2014. The provisions have come into effect from 23.01.2023. According to the amendment sub- rule 3 (2) provides the manner in which a company is required to attach and provide documents and information to the Registrar along with Form No. URC 1. In the same context, in sub-rules (a), (b),

(c) and (d), wherever “the written consent or No Objection Certificate from all the secured creditors of the applicant” is mentioned, “No Objection Certificate from secured creditor along-with charge holder, if applicable” has been substituted.

Further, Form URC-1 relating to Application by a company for registration under section 366 has been substituted.

7. The Ministry of Corporate Affairs has notified the Companies (Authorised to Register) Amendment Rules, 2023 to amend the Companies (Authorised to Register) Rules, 2014. The provisions have come into effect from 23.01.2023. According to the amendment the Form No. AOC-5 relating to Notice of Address at which books of account are to be maintained, has been substituted.

For details:

<https://www.mca.gov.in/content/mca/global/en/home.html>

<https://egazette.nic.in/WriteReadData/2023/242156.pdf>

<https://egazette.nic.in/WriteReadData/2023/242155.pdf>

- **Notice inviting Public Comments on Insolvency and Bankruptcy Code, 2016**

(Ministry of Corporate Affairs notice dated January 18, 2022)

Ministry of Corporate Affairs vide issuing notice dated January 01, 2023 has invited public comments on Insolvency and Bankruptcy Code, 2016. Changes under consideration are: to strengthen the functioning of the IBC; changes to the Code are being considered in relation to the admission of corporate insolvency resolution process (“CIRP”) applications; streamlining the insolvency resolution process; recasting the liquidation process; and the role of service providers under the Code.

Suggestion/comments, if any, along with brief justification may be submitted online therein at the below mentioned weblink latest by 5:30 PM on 07.02.2023.
https://ibbi.gov.in/webfront/discussion_paper/invitation_public/

For details:

<https://www.mca.gov.in/bin/dms/getdocument?mds=%252F%252BvFPv8K3F2ph0vVgShgDA%253D%253D&type=open>

- **MCA Important Update dated January 19, 2023**

Ministry of Corporate Affairs vide issuing an important update dated January 19, 2023 has stated that “stakeholders please note that Company Incorporation forms (Spice + Part A, Part B & RUN) will be available for filing purposes in V2 till 21st January 00:00 Hrs. These forms will be enabled on V3 portal from 23rd January 2023 00:00 Hours. Remaining 46 forms will also be available for filing purposes in V3 from 23rd January 2023 00:00 Hours.”

For details: <https://www.mca.gov.in/content/mca/global/en/home.html>

- **MCA Important Update dated January 19, 2023**

Ministry of Corporate Affairs vide issuing an important update dated January 19, 2023 has informed that “in view of the upcoming launch of 56 Company forms, V3 portal will not be available from 21st January 2023 to 22nd January 2023. V2 Portal for Company filing will remain available for all the forms during this period excluding Company Incorporation forms & other 46 forms as referred above.”

For details: <https://www.mca.gov.in/content/mca/global/en/home.html>

- **MCA Important Update dated January 19, 2023**

Stakeholders please note that for hassle free form filings in V3, all Signatories have to register themselves as Business User and associate their DSC in V3.

For details:

<https://www.mca.gov.in/content/mca/global/en/home.html>

- **Ministry of Corporates Affairs amended the Rules (January 23, 2023)**

The Ministry of Corporate Affairs (MCA) vide its notifications dated January 20, 2023 has notified below mentioned amended rules:

- i) The Companies (Registration Offices and Fees) Amendment Rules, 2023; and
- ii) The Nidhi (Amendment) Rules, 2023;

The amended rules shall come into force with effect from January 23, 2023.

According to the amendments, Form GNL-2, GNL-3, GNL-4, NDH-1, NDH-2, NDH-3 and NDH-4 has been substituted pursuant to migration of set of forms from MCA V2 to MCA V3 portal.

Further, through notifying the Companies (Registration Offices and Fees) Amendment Rules, 2023, rule 8A has been inserted stating; e-forms wherever applicable shall be signed by Insolvency resolution professional or resolution professional or liquidator of companies under insolvency or liquidation, as the case may be, and filed with the Registrar along with the fee as mentioned in Table annexed these rules.

For details:

<https://www.mca.gov.in/bin/dms/getdocument?mds=zFrQ4gUbxyNedgbfFLKcdw%253D%253D&type=open>

<https://egazette.nic.in/WriteReadData/2023/242165.pdf>

- **The Companies (Miscellaneous) Amendment Rules, 2023**

(Ministry of Corporate Affairs notification dated January 27, 2022)

The Ministry of Corporate Affairs (MCA) vide its notifications dated January 20, 2023 has notified the Companies (Miscellaneous) Amendment Rules, 2023, the amended rules has come into force with effect from January 23, 2023. According to the amendment, Forms No. MSC-1, MSC-3 and MSC-4 has been substituted pursuant to migration of set of forms from MCA V2 to MCA V3 portal.

Further rule 3 (Application for Obtaining Status of Dormant Company) is modified by stating that, if the company is having any outstanding unsecured loans then enclosure of concurrence from the lender in the form MSC-1 is not required. Also that, the requirement to enclose certificate in Form MSC-1, indicating that there is no management or ownership dispute persisting is also dispensed with. The Form MSC-1 is modified to include these requirements under the heading "declaration" in the form itself.

For details:

<https://egazette.nic.in/WriteReadData/2023/243238.pdf>

SECURITIES LAWS AND CAPITAL MARKETS

- **SEBI (Listing Obligations and Disclosure Requirements) (Amendment) Regulations, 2023**

(Notification No. SEBI/LAD-NRO/GN/2023/117 dated January 17, 2023)

SEBI on January 17, 2023, notified the SEBI (Listing Obligations and Disclosure Requirements) (Amendment) Regulations, 2023 which shall come into force on the date of their publication in the Official Gazette. Vide this notification, sub-regulation (1B) and (1C) has been inserted under regulation 15, namely, -

“(1B) Notwithstanding anything contained in this regulation, in case of an Infrastructure Investment Trust registered under the provisions of the Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014, the governance norms specified under the Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014 shall be applicable.”

“(1C) Notwithstanding anything contained in this regulation, in case of a Real Estate Investment Trust registered under the provisions of Securities and Exchange Board of India (Real Estate Investment Trust) Regulations, 2014, the governance norms specified under the Securities and Exchange Board of India (Real Estate Investment Trust) Regulations, 2014 shall be applicable.”

For details:

https://www.sebi.gov.in/legal/regulations/jan-2023/securities-and-exchange-board-of-india-listing-obligations-and-disclosure-requirements-amendment-regulations-2023_67410.html

- **SEBI (Stock Brokers) (Amendment) Regulations, 2023**

(Notification No. SEBI/LAD-NRO/GN/2023/116 dated January 17, 2023)

SEBI on January 17, 2023, notified the SEBI (Stock Brokers) (Amendment) Regulations, 2023 which shall come into force on the date of their publication in the Official Gazette. Vide this notification, SEBI has designated stock brokers, based on identified parameters, as Qualified Stock Brokers (QSBs) to mitigate this risk.

Certain Stock Brokers in the market handle a very large number of clients, very large amount of client funds and very large trading volumes. Possible failure of such brokers has the potential to cause widespread impact on investors and reputational damage to the Indian securities market.

QSBs would need to comply with enhanced risk management practices/requirements. There would also be enhanced monitoring of such QSBs by SEBI / Market Infrastructure Institutions (MIIs). A detailed framework on QSBs shall be issued separately by way of Circular.

For details:

https://www.sebi.gov.in/legal/regulations/jan-2023/securities-and-exchange-board-of-india-stock-brokers-amendment-regulations-2023_67409.html

- **Facility of conducting meetings of unit holders of REITs and InvITs through Video Conferencing or Other Audio-Visual means**

(Circular No. SEBI/HO/DDHS/DDHS_Div2/P/CIR/2023/13 and SEBI/HO/DDHS/DDHS_Div2/P/CIR/2023/14 dated January 12, 2023)

In order to allow maximum participation of unit holders in the annual meeting and for better governance, SEBI has allowed Manager of the REIT and InvIT to conduct meetings of unit holders through Video Conferencing or Other Audio Visual means. While conducting meetings of unit holders through Video Conferencing or Other Audio Visual means, the Manager of the REIT and InvIT is required to adopt the procedures as prescribed under these circulars in addition to any other requirement specified under the SEBI (Real Estate Investment Trusts) Regulations, 2014 and SEBI (Infrastructure Investment Trusts) Regulations, 2014.

For details:

https://www.sebi.gov.in/legal/circulars/jan-2023/facility-of-conducting-meetings-of-unit-holders-of-reits-through-video-conferencing-or-other-audio-visual-means_67316.html

https://www.sebi.gov.in/legal/circulars/jan-2023/facility-of-conducting-meetings-of-unit-holders-of-invits-through-video-conferencing-or-other-audio-visual-means_67315.html

- **Introduction of future contracts on Corporate Bond Indices**

(Circular No. SEBI/HO/MRD/MRD-PoD-3/P/CIR/2023/11 dated January 10, 2023)

In order to enhance liquidity in the bond market and also to provide opportunity to the investors to hedge their positions, SEBI has permitted Stock Exchanges to introduce derivative contracts on indices of corporate debt securities rated AA+ and above. To start with, the Stock Exchanges are permitted to launch future contracts on corporate bond indices.

For details:

https://www.sebi.gov.in/legal/circulars/jan-2023/introduction-of-future-contracts-on-corporate-bond-indices_67187.html

- **Comprehensive Framework on Offer for Sale (OFS) of Shares through Stock Exchange Mechanism**

(Circular No. SEBI/HO/MRD/MRD-PoD-3/P/CIR/2023/10 dated January 10, 2023)

SEBI has modified certain provisions of the existing OFS framework through Stock Exchange Mechanism and provided the comprehensive OFS framework. Vide this circular it is prescribed that the facility of OFS of shares shall be available on Bombay Stock Exchange (BSE), National Stock Exchange (NSE) and Metropolitan Stock Exchange of India (MSEI). The Sellers would be all promoter(s) or promoter group entities of such companies that are eligible for trading and are required to increase public shareholding to meet the minimum public shareholding requirements in terms of Rule 19(2)(b) and 19A of Securities Contracts (Regulation) Rules, 1957 (SCRR),

read with Regulation 38 of Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015.

For details :

https://www.sebi.gov.in/legal/circulars/jan-2023/comprehensive-framework-on-offer-for-sale-ofs-of-shares-through-stock-exchange-mechanism_67157.html

- **SEBI (Alternative Investment Funds) (Amendment) Regulations, 2022**

(Notification No. SEBI/LAD-NRO/GN/2023/113 dated January 09, 2023)

SEBI on January 09, 2023, notified the SEBI (Alternative Investment Funds) (Amendment) Regulations, 2023 which shall come into force on the date of their publication in the Official Gazette. The amendments have been made in regulation 16, 17, 18 pertaining to conditions for Alternative Investment Funds and regulation 20 pertaining to general obligations of Sponsor or Manager of the Alternative Investment Fund. The following has been provided:

- Category I Alternative Investment Funds may engage in hedging, including credit default swaps in terms of the conditions as may be specified by the SEBI from time to time.
- Category II Alternative Investment Funds may buy or sell credit default swaps in terms of the conditions as may be specified by the SEBI from time to time.”
- Category III Alternative Investment Funds may buy or sell credit default swaps in terms of the conditions as may be specified by the SEBI from time to time.”
- The Sponsor or Manager of the Category I and Category II Alternative Investment Fund transacting in credit default swaps shall appoint a custodian registered with the SEBI and comply with such terms and conditions as may be specified by the SEBI.

For details:

https://www.sebi.gov.in/legal/regulations/jan-2023/securities-exchange-board-of-india-alternative-investment-funds-amendment-regulations-2023_67165.html

- **Operational Circular for Credit Rating Agencies**

(Circular No. SEBI/HO/DDHS/DDHS-RACPOD2/P/CIR/2023/6 dated January 06, 2023)

SEBI (Credit Rating Agencies) Regulations, 1999 prescribes guidelines for registration of Credit Rating Agencies (CRAs), general obligations of CRAs, manner of inspection and investigation and code of conduct applicable on CRAs. Multiple circulars have been issued, over the years, covering the operational and procedural aspects thereof. In order to enable the industry and other users to have access to all the applicable circulars/ directions at one place, Operational Circular for CRAs has been prepared.

For details:

https://www.sebi.gov.in/legal/circulars/jan-2023/operational-circular-for-credit-rating-agencies_67080.html

- **Securities Contracts (Regulation) Amendment Rules, 2022
(Notification No. G.S.R. 03(E) dated January 02, 2023)**

The Ministry of Finance on January 02, 2023, has notified the Securities Contracts (Regulation) Amendment Rules, 2022 to amend the Securities Contracts (Regulation) Rules, 1957. The provisions of this notification shall come into force on the date of their publication in the Official Gazette. The following amendments have been made:

1. The definition “Government Company” means a Government company as defined in Section 2(45) of the Companies Act, 2013.

According to Section 2(45) the Companies Act, 2013, “Government company” means any company in which not less than fifty-one per cent of the paid-up share capital is held by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments, and includes a company which is a subsidiary company of such a Government company.

2. In Rule 19A pertaining to Continuous Listing Requirement, Sub-rule (6) has been substituted which provides that the Central Government may, in public interest, exempt any listed entity in which the Central Government or State Government or public sector company, either individually or in any combination with other, hold directly or indirectly, majority of the shares or voting rights or control of such listed entity, from any or all of the provisions of this rule.

For details:

https://www.sebi.gov.in/legal/rules/jan-2023/securities-contracts-regulation-amendment-rules-2022_67099.html

DIRECT TAX

Notifications

- **Addendum to Notification 2 of 2021: Format, Procedure and Guidelines for submission of Statement of Financial Transactions (SFT) for Interest income (Abolishing of limit of Rs. 5000) [Notification No. 1 Dated January 5, 2023]**

Section 285BA of the Income Tax Act, 1961 and Rule 114E requires specified reporting persons to furnish statement of financial transaction (SFT). For the purposes of pre-filing the return of income, CBDT has issued Notification No. 16/2021 dated 12.03.2021 to include reporting of information relating to interest income as per which the information is to be reported for all account/deposit holders where cumulative interest exceeds Rs. 5,000 per person in the financial year.

The limit has been modified and may be read the information is to be reported for all account/deposit holders where any interest exceeds zero per account in the financial year excluding Jan Dhan Accounts". Accordingly the limit of Rs. 5000 has been abolished.

For details:

<https://incometaxindia.gov.in/communications/notification/notification-1-2023-systems.pdf>

- **Indian Institute of Science Education and Research, Tirupati notified as 'Scientific Research' for Section 35 [Dated January 16, 2023]**

The Central Government approves 'Indian Institute of Science Education and Research, Tirupati (PAN: AAAAI9820P)' under the category of 'University, College or Other Institution' for 'Scientific Research' for the purposes of clause (ii) of sub-section (1) of Section 35 of the Income-tax Act, 1961 read with Rules 5C and 5E of the Income-tax Rules, 1962.

For details:

<https://incometaxindia.gov.in/communications/notification/notification-so-270.pdf>

- **CBDT notifies California Public Employees Retirement System Pension Fund u/s 10(23FE) [Notification No. 2 Dated January 25, 2023]**

The Central Government specifies the pension fund, namely, the California Public Employees Retirement System (PAN: AAATC6038J), as the specified person for the purposes of the sub-clause (iv) of clause (c) of the Explanation 1 to clause (23FE) of section 10 of the Income-tax Act, 1961 in respect of the eligible investment made by it in India on or after the date of publication of this notification in the Official Gazette but on or before the 31st day of March, 2024 subject to the fulfillment of the certain conditions.

For details:

<https://incometaxindia.gov.in/communications/notification/notification-2-2023.pdf>

Circular

- **Extension of time limit for compliance to be made for claiming any exemption under Section 54 to 54GB of the Income-tax Act, 1961 ('Act') in view of the then-Covid-19 pandemic –reg [Circular No.1 Dated 6th January, 2023]**

The Central Board of Direct Taxes had vide Circular No. 12 of 2021 dated 25.06.2021 provided relaxation in respect of certain compliances to be made by taxpayers including inter alia investment, deposit, payment, acquisition, purchase, construction or such other action, by whatever name called for the purpose of claiming any exemption under the provisions contained in Section 54 to 54GB or the Income tax Act, 1961. By point 7 of the Circular it was provided that the aforementioned compliances for which the last date of such compliance fell between 1st April, 2021 to 29th September 2021 (both days inclusive), may be completed on or before 30th September, 2021.

In view of the representations received and on further consideration of the then prevailing COVID-19 pandemic and resultant restrictions imposed, causing genuine hardship faced by taxpayers in making the aforementioned compliances under the Act, for the purpose of claiming any exemption under the provisions contained in Section 54 to 54GB of the Act, for which the last date of such compliance falls between 01st April, 2021 to 28th February, 2022 (both days inclusive), has been extended and may be completed on or before 31st March 2023.

For details:

<https://incometaxindia.gov.in/communications/circular/circular-1-2023.pdf>

INDIRECT TAX LAWS

Goods and Services Tax (GST)

- **Clarification regarding GST rates and classification of certain goods (Circular No. 189/01/2023-GST, dated January 13, 2023)**

CBIC makes clarifications, with reference to applicability of GST based on the recommendations of GST Council in its 48th meeting held on December 17, 2022, related to the various items like; Rab, by-products of milling of Dal/ Pulses, Carbonated Beverages of Fruit Drink, fryums, Sports Utility Vehicles (SUVs) etc.

For details:

<https://www.cbic.gov.in/resources//htdocs-cbec/gst/cir-189-01-2023-cgst.pdf>

- **Clarifications regarding applicability of GST on certain services-(Circular No. 190/02/2023- GST, dated January 13, 2023)**

CBIC makes clarifications, regarding accommodation services supplied by Air Force Mess to its personnel qualify to be considered as services supplied by Central Government, State Government, Union Territory or local authority hence are exempt from GST. Further, Govt. is clarified that incentives paid by MeitY to acquiring banks under the Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions are in the nature of subsidy and thus not taxable

For details

<https://www.cbic.gov.in/resources//htdocs-cbec/gst/cir-190-02-2023-cgst.pdf>

Customs

- **Exchange Rate Notification No. 02/2023 - Customs (N.T.) (January 05, 2023)**

In exercise of the powers conferred by section 14 of the Customs Act, 1962, and in supersession of the Notification No. 109/2022-Customs(N.T.), dated December 15, 2022 except as respects things done or omitted to be done before such supersession, the Central Board of Indirect Taxes and Customs hereby determines that the rate of exchange of conversion of each of the foreign currencies into Indian currency or vice versa, shall, with effect from January 06, 2023, be the rate for the purpose of the said section, relating to imported and export goods.

For details:

<https://taxinformation.cbic.gov.in/view-pdf/1009608/ENG/Notifications>

- **Faceless Assessment – Standard Examination Orders (SEOs) through RMS - Phased implementation of Standardized Examination Orders through RMS (Circular No. 02/2023-Customs-New Delhi, dated January 11, 2023)**

Considering the on track implementation and feedback from the National Customs Targeting Centre (NCTC) in Assessment Groups 4, the Board has decided to implement Standard Examination Orders (SEOs) through the Risk Management System across other assessment groups, National Assessment Centre (NAC) wise as per specified schedule.

For details:

<https://taxinformation.cbic.gov.in/view-pdf/1003142/ENG/Circulars>

- **Customs (Assistance in Value Declaration of Identified Imported Goods) Rules, 2023 (CAVR, 2023) (Notification No. 03/2023-Customs (N.T.) January 11, 2023)**

After information to and feedback from public and stakeholders, including Directorates involved in implementation CBIC has notified the Customs (Assistance in Value Declaration of Identified Imported Goods) Rules, 2023. The rules provide guidance to both, the person making the reference to the Board, as well as in the undertaking of detailed examination. The operation of the CAVR, 2023 dated 11th January 2023 shall come into effect on February 11, 2023.

For details:

<https://taxinformation.cbic.gov.in/view-pdf/1009611/ENG/Notifications>

- **Exemption of COVID-19 vaccine (Notification No. 01 /2023 - Customs, dated January 13, 2023)**

Central Government exempts the goods (COVID-19 vaccine) when imported into India by Central Government or State Governments, from the whole of the duty of customs leviable thereon. The said notification shall come into force on January 14, 2023 and remain in force upto and inclusive of the March 31, 2023.

For details:

<https://taxinformation.cbic.gov.in/view-pdf/1009613/ENG/Notifications>

BANKING LAWS

- **Operational Risk Management : Price / Yield range setting in e-Kuber (RBI/2022-23/163IDMD.No.S2800/08.02.032/2022-23 dated January 11, 2023)**

The “Price / Yield range setting” facility provided on the e-Kuber platform is a risk management measure. This facility allows a market participant to define a range i.e., a maximum and a minimum value for bids they intend to submit in an auction. The range can be set in either price or yield terms, for each security in every auction, which can be set before the auction and can also be modified during the auction.

For details: <https://rbi.org.in/Scripts/NotificationUser.aspx?Id=12436&Mode=0>

- **Guidelines on Acquisition and Holding of Shares or Voting Rights in Banking Companies (Notification dated January 16, 2023)**

In terms of sub-section (1) of Section 12B of Banking Regulation Act, 1949, every person, who intends to acquire shares or voting rights and intends to be a major shareholder of a banking company, is required to obtain previous approval of the Reserve Bank. The person, who intends to be a major shareholder of a banking company, is required to make an application to the Reserve Bank along with the declaration in specified form. The Reserve Bank would undertake a due diligence to assess the ‘fit and proper’ status of the applicant.

For details: <https://rbi.org.in/Scripts/NotificationUser.aspx?Id=12440&Mode=0>



Legal Maxims

<i>S.No.</i>	<i>Legal Maxim</i>	<i>Meaning</i>	<i>Usage & Example</i>
1.	<i>Doli incapax</i>	Incapable of guilt	Presumption that young children or persons with diminished mental capacity cannot form the intent to commit a crime. Example: Children below the age of seven cannot commit crime being doli incapax.
2.	<i>Ei Incumbit Probatio, Qui Dicit</i>	Proof lies on him who asserts.	The concept that one is innocent until proven guilty. Example: Burden of Proof lies on the person due to the operation of legal maxim Ei Incumbit Probatio, Qui Dicit.
3.	<i>Ex post</i>	From after	Based on knowledge of the past. Example: Ex post decisions are beneficial.
4.	<i>Gravamen</i>	Things weighing down	The basic element or complaint of a lawsuit. Example: The judge asked the professional, what is the gravamen?
5.	<i>Iipse dixit</i>	He himself said it	An assertion given undue weight solely by virtue of the person making the assertion. Example: He cannot deny the facts as the matter is ipse dixit.



Legal World

CORPORATE LAWS

Landmark Judgement

ARCHEAN GRANITES LTD v. RPS BENEFIT FUND LTD. & ORS [SC]

Civil Appeal No. 2354 of 2010 [@ SLP(C) No.5028/2006

R.V. Raveendran & R.M. Lodha, JJ. [Decided on 09/03/2010]

Equivalent citations: (2010) 155 Comp Cas 473.

Companies Act,1956- section 531A - company under liquidation- sale of property at lower value- whether proper-Held, No.

Brief facts: The first respondent Company ('Company' for short), was the owner of an odd shaped (triangular) plot of land 9315 sq. ft. The first respondent had mortgaged the said property in favour of Bank of Madura Ltd. in the year 1998 for a loan of Rs.60 lakhs. The first respondent decided to sell the said property to pay its depositors and the secured creditor. It took out advertisements on 22.11.1998 and 21.3.1999 for sale of the property. After considering the responses, on 22.4.1999, the Board of Directors of first respondent passed a resolution to sell the said property to the appellant for a consideration of Rs.1.65 crores and entered into an agreement of sale with appellant on the same day. In pursuance of it, the first respondent, under a Sale Deed dated 13.8.1999, sold the said property to the appellant herein for a consideration of Rs.1.65 crores. The sale deed recited that out of the sale price, Rs.95,80,275/- was paid to the vendor (first respondent); and as the property was subject to a mortgage in favour of Bank of Madura Ltd, Rs.69,19,725/- was retained for payment to the said Bank towards full and final settlement of the dues of the vendor. On 9.9.1999, the appellant paid Rs.10 lakhs towards the Bank's dues. The appellant offered the balance amount due to the Bank by a demand draft under cover of its letter dated 17.9.1999 with a request to the Bank to accept the same and discharge the mortgage.

In the meanwhile in July, 1999, Company Petitions No.233 to 238 of 1999 were filed against the first respondent in the Madras High Court for winding up. By order dated 7.9.1999, the High Court appointed the Official Liquidator as the Provisional Liquidator, to take over the assets of the company into custody. In view of the pendency of the liquidation proceedings, the Bank refused to accept the balance amount and discharge the mortgage. The appellant therefore made an application to the High Court and sought confirmation and validation of the sale in its favour. It also sought permission to pay the balance money due to the secured creditor and receive the title deeds from the bank.

The learned company Judge by order dated 30.4.2002 dismissed the appellant's application. The learned company Judge held that the transfer of the said property was made during the pendency of the petition for winding up; that there was no material to show that the entire sale proceeds had been used to discharge the liabilities of the first respondent company; that the payment of a deficit stamp duty of Rs.23,60,956/- in regard to the sale deed by the appellant without demur, demonstrated that the property was undervalued in the sale deed; and that the transaction was not bona fide. Consequently, the learned company Judge held that the sale was void under section 531 A of the Companies Act, 1956 ('Act' for short). The appeal filed by the appellant was dismissed by a Division Bench of the High Court on 7.10.2005. The said judgment is challenged in this appeal by special leave.

Decision : Partly allowed.

Reason : The appellant contended inter alia that it was a bona fide purchaser for value; that the price paid by it was the prevailing true market value having regard to the peculiar shape and size; that when the property had earlier been put up for sale with a minimum bidding price of Rs.2.25 crores, it could not be sold due to want of response; that the sale was made in pursuance of a Board Resolution dated 22.4.1999 and sale agreement dated 22.4.1999, for the benefit of the company and in the interests of the depositors; and that the High Court had misled itself by taking note of subsequent increase in land prices, ignoring the market value on the date of the sale.

Having regard to the market value as disclosed by the enquires by the official liquidator, we are of the view that what has been offered may not be adequate. Keeping in view the present value of the amount already spent/incurred by the appellant (that is the consideration plus stamp duty paid with the interest thereon), it would be fair and reasonable if the appellant is required to pay Rs.2.5 crores to the ICICI Bank in full and final settlement of the amount due to the Bank and a sum of Rs.3.5 crores to the Official Liquidator representing the first respondent, in all Rs.6 crores. Having regard to the fact that the issue is being examined with reference to an application under section 531A of the Act, and the facts and circumstances, payments as aforesaid would result in a permanent solution doing complete justice among the parties.

In view of the above, we allow this appeal in part and set aside the impugned judgment dated 7.10.2005 of the Division Bench of the High Court confirming the order dated 30.4.2002 of the learned Company Judge. The application by appellant for approval and validation of the sale deed dated 13.8.1999 in its favour is allowed subject to the following:

- a) The appellant shall pay Rs. 2.5 crores (Rupees Two and half crores) to second respondent (ICICI Bank) on or before 30th March 2010 in full and final settlement of the mortgage loan of first respondent;
- b) The appellant shall pay Rs.3.5 crores (Rupees Three and half crores) to the official Liquidator representing the first respondent company on or before 30th March 2010, to enable the official Liquidator to disburse the amount in accordance with the direction of the Company Court.
- c) On payment of six crores as aforesaid, the second respondent shall deliver the title deeds of the property to the appellant and discharge the equitable mortgage. On such payment, the official Liquidator shall also deliver possession of the property of the appellant.
- d) If the payments as aforesaid are not made, this appeal shall stand dismissed and the judgment of the High Court shall stand confirmed.

IFB AGRO INDUSTRIES LTD v. SICGIL INDIA LTD [SC]

Civil Appeal No. 2030 of 2019

A.S. Bopanna & .P.S. Narasimha, JJ. [Decided on 04/01/2023]

Companies Act, 2013- section 59 (S.111A of 1956 Act)-rectification of members register- application filed for rectification of register raised violations of SEBI (PIT) regulations as well- NCLAT allowed the same- whether proper-Held, No.

Brief facts : The short question for our consideration in this appeal relates to the scope of the rectificatory jurisdiction of the National Company Law Tribunal under Section 59 of the Companies Act, 2013. In this context, we are called upon to determine the appropriate forum for adjudication and determination of violations of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeover) Regulations, 1997, and Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992, framed under the Securities and Exchange Board of India Act, 1992.

This was an appeal against the judgment of the National Company Law Appellate Tribunal (hereinafter referred to as 'Appellate Tribunal') whereby the Appellate Tribunal set aside the judgment of the National Company Law Tribunal (hereinafter referred to as the 'Tribunal'), allowing the company petition filed by the Appellant under Section 111A of the Companies Act, 1956, (which is Section 59 of the 2013 Act), for rectification of Members Register. The Tribunal while allowing the petition, directed the Appellant to buy-back its shares which were held by the Respondents. In appeal, the Appellate Tribunal set aside this direction on the ground that the Tribunal exceeded its jurisdiction. It is this order of the Appellate Tribunal which was challenged before the supreme Court.

Decision : Dismissed.

Reason : Having heard both sides, we formulate the following questions for our consideration.

What is the scope and ambit of Section 111A of the 1956 Act, as amended by Section 59 of the 2013 Act, to rectify the register of members?

Which is the appropriate forum for adjudication and determination of violations and consequent actions under the SEBI (SAST) Regulations 1997 and the SEBI (PIT) Regulations 1992?

Re: Interpretation and scope of Section 111A of the 1956 Act as replaced by Section 59 of the 2013 Act:

The declaration to hold the acquisition of shares by the Respondents as null and void in a petition under Section 111A has to be examined in the context of the scope and ambit of the rectificatory jurisdiction of the Tribunal and, in particular, the specific wordings of the said provision.

The rectificatory powers of a Board/Company Court under Section 38 of the Companies Act, 1913, then under Section 155 of the 1956 Act, followed by Section 111A introduced by the 1996 Amendment to the 1956 Act, and finally, Section 59 of the 2013 Act, demonstrate that its essential ingredients have remained the same. It is a summary power to carry out corrections or rectifications in the register of members. The rectification must relate to and be confined to the facts that are evident and need no serious enquiry.

While interpreting Section 155, this Court has held that the power of CLB is narrow and can only consider questions of rectification. If a petition seeks an adjudication under the garb of rectification, then the CLB would not have jurisdiction, and it would be duty-bound to re-direct the parties to approach the relevant forum. The Court also held that the words 'sufficient cause' cannot be interpreted in a manner which would enlarge the scope of the provision.

The decision in Ammonia Supplies Corporation (P) Ltd. v. Modern Plastic Containers Pvt. Ltd. & Ors was followed by this Court even after the deletion of Section 155 and insertion of Section 111A. This Court, in Standard Chartered Bank v. Andhra Bank Financial Services Ltd. & Ors, and Jai Mahal Hotels (P) Ltd. v. Devraj Singh & Ors held that even though Section 111(7) of the 1956 Act seemingly enlarges the power of the CLB, the power of rectification continues to remain summary in nature and if any seriously disputed questions arise, the Company Court

should relegate parties to a forum which is more appropriate for investigation and adjudication of such disputed questions.

The principle enunciated in Ammonia's case relating to the jurisdiction of a Tribunal with respect to the rectification of the register is well-recognized and consistently followed. Sub-section (3) of Section 59 recognizes the overarching right to hold and transfer securities with the concomitant entitlement of voting. This is a precious right, and that is the reason why the Parliament found it necessary to caution that the provision of this Section shall not restrict the right of a holder of securities, to transfer such securities. This is another feature which is indicative of the limited scope and extent of the power of rectification of the register.

For the reason stated above, we are of the opinion that the company petition under Section 111A of the 1956 Act for a declaration that the acquisition of shares by the Respondents as null and void is misconceived. The Tribunal should have directed the Appellant to seek such a declaration before the appropriate forum. The Appellate Tribunal is, therefore, justified in allowing the appeal and setting aside the order of the Tribunal.

Re: appropriate forum for enquiry and adjudication of violations of the SEBI Regulations:

There is another perspective in which the legality and propriety of the company petition under Section 111A for declaring the acquisition of shares as null and void for violation of SEBI Regulations could be judged - Which is the appropriate forum for adjudication and determination of violations and consequent actions under the SEBI (SAST) Regulations and the SEBI (PIT) Regulations?

Having considered the comprehensive role of the SEBI in regulating the securities market with respect to insider trading, we are of the opinion that the important role of the Regulator cannot be circumvented by simply asking for rectification under Section 111A of the 1956 Act. Such an approach is impermissible. The scrutiny and examination of a transaction allegedly in violation of the SEBI (PIT) Regulations will have to be processed through the regulations and remedies provided therein.

Having considered the matter from a different perspective, we are of the opinion that the Appellant is not justified in invoking the jurisdiction of the CLB under Section 111A of the Act for violation of SEBI regulations. We are also of the opinion that the Tribunal committed an error in entertaining and allowing the company petition filed under Section 111A of the 1956 Act. Though we are not in agreement with the reasoning adopted by the Appellate Tribunal in the impugned order, we are in agreement with its conclusion that the Tribunal exceeded its jurisdiction and therefore, the Appellate Tribunal was correct in setting aside the judgment dated 05.07.2017.

SHAHI MD KARIM v. KABAMY INDIA LLP & ANR [NCLAT]

Company Appeal (AT) (CH) (Ins.) No. 16 of 2023

M. Venugopal & Shreasha Merla. [Decided on 25/01/2023]

Insolvency and Bankruptcy Code, 2016- Section 9 - CIRP petition- admitted by NCLT- whether correct- Held, Yes.

Brief facts : Aggrieved by the 'Order' dated 05.01.2023 passed by the Learned Adjudicating Authority (National Company Law Tribunal, Hyderabad Bench - I), whereby the Adjudicating Authority has admitted the application filed under Section 9 of the Insolvency and Bankruptcy

Code, 2016 (hereinafter referred to as 'The Code'), the Suspended Director of the 'Corporate Debtor' preferred this Appeal.

Decision : Dismissed.

Reason : From the aforementioned Orders, it is clear that the Corporate Debtor had appeared on both the dates and that the copy of the Petition and the supporting documents were served on them on 02.11.2022, hence the Adjudicating Authority had closed the opportunity to file the Counter vide Order dated 21.11.2022; the matter was posted for hearing' on 05.12.2022 and thereafter on 05.01.2023, the CIRP was initiated. When the matter came up for hearing on 05.12.2022, the Corporate Debtor could have been present and submitted his arguments. Though, his right to file the counter was closed, he was not set 'Ex Parte' as on the date 21.11.2022 and therefore he could have appeared on 05.12.2022 when the matter was posted for final hearing and having been present as on 11.12.2022, the Counsel was very much aware that the matter was posted for hearing' on 05.12.2022. Though, the Adjudicating Authority does not have the 'Power of Review' it can, based on the facts and circumstances of the case, recall the order. In the instant case, this Tribunal, sitting in appeal, does not find any tangible/substantial grounds to interfere with the impugned order.

Further, the Appellant, has challenged the admission order on merits, on the ground that there was an arbitration clause', in the C & F Agreement, and that the Respondent, ought to have invoked this Clause. There is no embargo on the Operational Creditor, to file a Section 9 Petition, under I & B Code, 2016, even if there is an arbitration clause, in the Agreement. The scope and objective of the Code is 'Resolution', and not a 'Recovery Mode / Forum'.

In the instant case, the Adjudicating Authority, based on the material on record, had arrived at a conclusion that there were recurring defaults on behalf of the Corporate Debtor and that the Operational Creditor, has requested for full and final payment of the outstanding dues. The Corporate Debtor vide reply dated 01.02.2022, requested for dispatch of the inventory stocked in the warehouse in Mumbai. The Operational Creditor in reply to the email, sent an email dated 02.02.2022, highlighting the outstanding dues, along with the ledger attached. But there was no response and the Operational Creditor sent one more email dated 29.03.2022, demanding the outstanding total dues of Rs.3,12,81,028/- and therefore issued a legal notice dated 28.06.2022, for which, the Corporate Debtor sent a reply dated 12.07.2022, but the amounts were not paid.

For all the aforementioned reasons and discussions, this Tribunal, does not find any illegality or infirmity, in the passed by the Adjudicating Authority and this Appeal is dismissed accordingly.

SUPRIYO KUMAR CHAUDHURI & ANR v. JHUNJHUNWALA OIL MILLS LTD. & ANR [NCLAT]

Company Appeal (AT) (Ins) No. 794 of 2021 with Company Appeal (AT) (Ins) No. 04 of 2022

Rakesh Kumar Jain & Alok Srivastava. [Decided on 23/01/2023]

Insolvency and Bankruptcy Code,2016- moratorium period- rent demanded from corporate debtor- whether tenable- Held, No.

Brief facts : These appeals have been filed by the Appellants, who are aggrieved by the order dated 6.8.2021 (hereinafter called 'Impugned Order') passed by the Adjudicating Authority (National Company Law Tribunal, Allahabad Bench) in the three interlocutory applications.

Two IAs were filed by Jhunjhunwala Oil Mills Limited (in short 'JOML') praying for direction to the Resolution Professional (in short 'RP') of the corporate debtor JVL Agro Industries Pvt. Ltd. (in short 'JVL Agro') to pay the rent along with interest of the premises owned by JOML which was used by JVL Agro and also to vacate the premises of JOML. One IA was filed by the liquidator

of JVL Agro with prayer for direction to Respondents No. 1 to 5 to open the padlocks inserted at the entry gate of the office premises of the corporate debtor situated at Village Tilmapur, Gazipur Road, Ashapur, Varanasi and further to restore the physical possession of the said office to the liquidator.

The Appellant/JOML was aggrieved by the part of the order whereby vacant possession of the said premises has not been directed to be handed over to JOML and further the rent directed to be paid is as per the assessment done by the District Magistrate and not the amount of Rs. six lakhs plus GST per month, which was agreed to between the two parties.

Decision : Allowed.

Reason : The issues that arise for consideration in the present appeal are two-fold:-

- (i) Whether the 'said premises' of JOML being used as Registered Office of the corporate debtor JVL Agro could be recovered by the landlord JOML during the subsistence of moratorium after the initiation of CIRP, and
- (ii) Whether any monthly rent was agreed upon and is payable to the landlord JOML by the corporate debtor JVL Agro whether before the imposition of moratorium or during the moratorium period?

We first look at the issue whether 'said premises' owned by JOML, situated at Village Tilmapur, Gazipur Road, Ashapur, Varanasi were being used by the corporate debtor prior to the initiation of CIRP of JVL Agro. We note that JVL Agro started using the 'said premises' belonging to JOML since 14th February, 2018. Therefore, on the basis of above stated letters (after referring to various communications), we are of the clear view that the 'said premises' were definitely in possession of JVL Agro from 14.2.2018, if not earlier, and was definitely in the possession of the corporate debtor on 25.7.2018 when the CIRP of the corporate debtor was initiated.

We now consider the issue whether the insertion of padlocks on the gates of the 'said premises' was permitted in view of moratorium which was in force.

18. Section 14(1)(d) of the IBC stipulates that during the period of moratorium, recovery of any property by an owner or lessor, where such property occupied by or in the possession of the corporate debtor is prohibited. We also note that the provision in section 14(2-A) which stipulates that where the Interim Resolution Professional considers the supply of goods and services critical to protect and preserve the value of the corporate debtor and manage the operations of such corporate debtor as a going concern, the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except when the corporate debtor has not paid dues arising from such supply of services during the moratorium period.

In the instant case, we have already noted that the 'said premises' owned by JOML were in possession of the corporate debtor JVL Agro at least from 14.2.2018 which is about five months prior to the date of initiation of CIRP of the corporate debtor. Therefore, the recovery of any property by the owner was expressly prohibited under section 14(1)(d) of the IBC during the period when moratorium was in force. The insertion of padlocks by JOML at the 'said premises' happened on 28.7.2020, which is as is stated in the complaint made by the RP to the Officer In-charge, Sarnath Thana, Varanasi and later to SSP, Varanasi and hence complaints are not disputed by JOML. Thus, this recovery which was done by the owner JOML of the 'said premises' on 28.7.2018, is clearly after the initiation of CIRP on 25.7.2018 and therefore, during the

period of enforcement of moratorium and thus, such a recovery is a clear infringement of section 14(1)(d) of the IBC.

We do not think that section 14(2-A) is attracted in the present case as the RP had not considered the renting of the 'said premises' critical to protect and preserve the value of the corporate debtor nor had made any request to JOML to continue renting of the 'said premises' to the corporate debtor. The 'said premises', therefore, should have lawfully been with the RP/corporate debtor and continue in its lawful possession during the continuation of the CIRP of the corporate debtor.

The second issue to be considered is whether any rent was payable to the owner of the 'said premises' JOML by the corporate debtor during the period of subsistence of moratorium.

In this connection, we note the no objection certificate given by JOML regarding the use of this premises to the corporate debtor, JVL Agro does not mention payment of any monthly rent to the owner of the premises.

We further peruse the NOC which is claimed to be issued by JVL Agro addressed to JOML (attached at pg. 246 of appeal paperbook Vol.II). Evidently, this NOC is undated and the letterhead is also different from the letterhead used by JVL Agro, which is attached at pg. 48 of the appeal paperbook, Vol.I). Further, the letter does not disclose the name/identity of the director, who has signed this NOC. In the face of such uncertainties, this NOC appears to be of doubtful origin and does not inspire confidence to place reliance upon it. Further e-mail dated 28.8.2018 and reminder e-mails dated 31.8.2018 and 24.9.2018 sent by the JOML to RP do not indicate if any rent was being paid prior to date of sending of these e-mails. Therefore, on the basis of documents submitted both the parties, we are of the view that no rent was agreed upon to be paid by the corporate debtor to JOML nor any such payment was made for any period starting from 14.2.2018. It is clear that the issue of payment of rent was created by JOML only after the corporate debtor went into CIRP.

Thus, we are convinced by the arguments of the corporate debtor JVL Agro/RP that no rent was agreed upon to be paid for use of 'said premises' when the 'said premises' were offered to be used as registered office of the corporate debtor nor any rent was paid prior to the initiation of the CIRP of the corporate debtor. We also take note of section 14(2-A) of the IBC, which the landlord JOML has placed reliance upon regarding payment of rent during the moratorium period. A plain reading of this provision makes it clear that supply of certain goods and services has to be considered critical by IRP/IP to protect and preserve the value of the corporate debtor. Quite clearly in this case, the IRP/RP has neither recorded such a need nor requested the landlord JOML for continuing the supply of rental services to the corporate debtor. Therefore, we are of the view that section 14(2-A) is not attracted in the present case. Moreover, we have already seen how the present case is covered under section 14(1)(d) of the IBC, whereby the recovery of the 'said premises' in the possession of the corporate debtor, though owned by JOML, is expressly prohibited during the moratorium period.

In view of the detailed discussion on the issues framed by us, we hold the clear view that the Adjudicating Authority has gone beyond its jurisdiction in ordering payment of rent by the corporate debtor during the period of moratorium. We also find that the Adjudicating Authority did not adjudicate on the prayer made by the RP in IA No. 199/2020 for restoration of the possession of the 'said premises', which it should have done to settle the dispute early. In view of the fact that liquidation order with respect to the corporate debtor has already been passed by the Adjudicating Authority, no orders are now necessary in connection with IA 199/2020 in the present appeals.

We thus hold that the Impugned Order is erroneous, and therefore, liable to be set aside. We set aside the Impugned Order. The appeal is disposed of accordingly.

SHAPOORJI PALLONJI FINANCE PVT LTD v. REKHA SINGH & ORS [NCLAT]

Company Appeals (AT) (Insolvency) No. 397-399 of 2022

Ashok Bhushan & Barun Mitra. [Decided on 18/01/2023]

Insolvency and Bankruptcy Code, 2016- Section 3 (7) and 227- financial service provider- threshold of asset limit of Rs.500 Cr- whether includes all assets besides loans - Held, Yes.

Brief facts : The appellant is the financial creditor who advanced loan facility to the corporate debtor, who was a financial service provider. The respondents are the personal guarantors who stood guaranty to the loan availed by the corporate debtor. When the corporate debtor defaulted in making payments, the appellant filed an application for initiating CIRP against the corporate debtor in which the respondents had filed application to dismiss the application on the ground that the corporate debtor being a financial service provider having an asset size of less than Rs. 500 crores cannot be considered to be a corporate debtor. The Adjudicating Authority had allowed the applications against which the appellant had approached the appellant Tribunal under the present appeals.

Decision : Allowed.

Reason : The provision of Section 3(7) of the Code provides for exclusion of any Financial Service Provider from the definition of Corporate Person. Thus, any Financial Service Provider cannot be a Corporate Debtor when we read Section 3(7) and 3(8). However, Section 227 dealing with Power of Central Government to notify financial service providers starts with non-obstante clause "Notwithstanding anything to the contrary contained in this Code". Thus, Section 227 has been given overriding effect to the provisions contained in the Code itself for a purpose and object. Thus, Financial Service Providers can be brought under the insolvency code for the purpose of their insolvency and liquidation if the Central Government deems fit after consultation with the financial sector regulator. Notification dated 18.11.2019 is within the exercise of power under Section 227 by which Financial Service Providers have been brought into the insolvency and liquidation proceedings. The Notification, however, contains a rider i.e. "with asset size of Rs.500 crore or more, as per last audited balance sheet". Thus, a Financial Service Provider who has asset size of Rs.500 crore or more can only be proceeded for insolvency and liquidation as per law as exist on date.

We, thus, have to first examine as to whether "Jumbo Finvest (India) Ltd. (JFIL)" is a Financial Service Provider against which insolvency can be proceeded with under the Notification dated 18.11.2019 which is the question which has been considered by the Adjudicating Authority in the impugned order. The Adjudicating Authority after noticing the provisions and Notification as well as the Insolvency and Bankruptcy (Insolvency and Liquidation Proceedings of Financial Service Providers and Application to Adjudicating Authority) Rules, 2019 came to the conclusion that as per last audited Balance Sheet year ending 31.03.2020 the asset size is approx. Rs.487 Crore. In Note 17, when we add current and non-current assets, the total comes to Rs.487,80,22,601/-. The Adjudicating Authority has relied on this figure of Rs.487,80,22,601/- which is details of loan receivables.

Now, the question to be considered is as to whether the expression used in the Notification dated 18.11.2019 "asset size of Rs.500 crore or more" can be confined to the loan receivables

only or asset shall include non-current and current assets. We have noticed that in the Balance Sheet as on 31.03.2020 under the heading 'Assets' both 'non-current assets' and 'current assets' have been included. Word 'asset size' indicate that what is meant is total assets. When total assets are looked into, as are given under heading 'Assets', the amount comes to more than Rs.600 Crores in the Balance Sheet as on 31.03.2020. The Adjudicating Authority has committed an apparent error in only considering the loan receivables. A Financial Service Provider admittedly have loan receivables but what is meant by asset size in Notification dated 18.11.2019 cannot be confined to loan receivables. We, thus, are of the view that the Adjudicating Authority committed error in applying the Notification dated 18.11.2019 by taking the figure of only loan receivables as referred to in Note 17 but has ignored the details of the Assets as given in the Balance Sheet as on 31.03.2020, as extracted above. Due to the above, the Adjudicating Authority incorrectly came to the conclusion that JFIL cannot be included in the definition of 'Corporate Person' so as to become Principal Borrower. On the above premise, the Adjudicating Authority jumped to the conclusion that application filed under Section 95 against the Personal Guarantor(s) is not maintainable since the JFIL cannot be treated to be Corporate Debtor. Had the finding of Adjudicating Authority that asset size of JFIL is Rs.487 Crore been correct, the conclusions recorded by the Adjudicating Authority could have been flawless but as noted above, the Adjudicating Authority committed error in taking figure of only loan receivables i.e. Rs.487 Crores and not considered the figure of assets as contained in Balance Sheet as on 31.03.2020 as required by the Notification dated 18.11.2019. The very basis of the Adjudicating Authority for allowing the applications filed by the Personal Guarantors being unfounded, the ultimate decision suffers from error.

We may, as observed above, for argument sake if we take a case where asset size of the Financial Service Provider which on the date of filing the application as per last Balance Sheet was more than Rs.500 Crore and if it is reduced from Rs.500 Crore during the pendency of the application as per any further audited Balance Sheet available, whether the Adjudicating Authority shall lose jurisdiction is the question to be answered.

As noted above, consequent to asset size going down during pendency of the application is the basis of the contention of the Respondent that Adjudicating Authority shall lose jurisdiction to proceed with the application. In view of the foregoing discussion, we are of the view that submission of learned counsel for the Respondent that since the asset size of JFIL became less than Rs.500 Crore as on 31.03.2021, the Adjudicating Authority shall lose jurisdiction to proceed further and this Tribunal shall also have no jurisdiction to proceed in the matter, cannot be accepted. We are of the view that jurisdiction will be there with the Adjudicating Authority, as per Notification dated 18.11.2019, which has to exercise on the date when application can be filed against the Financial Service Provider for insolvency. As a corollary, an application under section 95 can be filed against the Personal Guarantor only when on the same date insolvency can be commenced against the Financial Service Provider.

The question is as to whether the Section 95 application which was filed by the Financial Creditor against the Personal Guarantor was maintainable or not. We, having held that on the date when application was filed under Section 95 by the Financial Creditor against the Personal Guarantor an application could have filed against the Financial Service Provider on the basis of last Balance Sheet which had asset size of more than Rs.500, the application filed by the Financial Creditor against the Personal Guarantor was fully maintainable.

In view of the foregoing discussion, we hold that the Adjudicating Authority has committed error in allowing the applications filed by the Personal Guarantors and dismissing the Company Petitions. All the Appeals are allowed.

TAX LAWS

HEWLETT PACKARD INDIA SALES PVT LTD v. COMMISSIONER OF CUSTOMS (IMPORT) NHAVA SHEVA [SC]

Civil Appeal No 5373 of 2019

Surya Kant & Vikram Nath, JJ. [Decided on 17/01/2023]

All-in-one Integrated Desktop Computer- principles of interpretation- whether it is portable computer - Held, No.

Brief facts : The question that arises for our consideration pertains to correct classification of Automatic Data Processing Machines (hereinafter, 'ADP') which are popularly known as 'All-in-One Integrated Desktop Computer'. The assessee classified it as non-portable computer while the Revenue considered as portable computer. The main question was how the word "portable" has to be interpreted.

Decision : Allowed.

Reason: We have heard learned counsel for the parties and perused the documents produced on record. It must be noted that both sides have not disputed the findings of the adjudicating authorities except in respect of the aspect of portability of Concerned Goods. Hence, the only limited question that falls for consideration before us in these proceedings is whether the Concerned Goods are 'portable' or not under "Tariff Item 8471 30 10".

On a conjoint reading of the relevant material and inputs, it is explicitly clear that weight cannot be the sole factor to determine the factum of portability. Instead, the essential ingredients to logically establish whether an ADP is 'portable' are twofold. The first ingredient is their ability to be carried around easily which includes all aspects such as weight and their dimensions. We must hasten to add that in appropriate cases, this assessment would also take into consideration the necessary accessories which are required for safe and efficient usage such as mounted stands or any power adapters. The second ingredient is that the ADP must be suitable for daily transit of a consumer and would include aspects such as durability to withstand frequent commute and damage protection. An example of the same would be the availability of protection cases which allows users to carry the ADPs in hand or possibility of carrying the same in normal briefcases or shoulder bags.

On applying these core ingredients to the characteristics of Concerned Goods there is no room to doubt that they are not 'portable'. Firstly, the dimensions of the Concerned Goods make it illogical and unviable for daily transit. While it is true that classification of the goods must not be usually made on the advertisement material of the manufacturer, the user guides produced before us showcase that placing the product in other than the specified orientation could lead to damage to the Concerned Goods. The user guides also emphatically highlight that the Concerned Goods were meant to be used at a fixed place and contained specifications that made them ideal for being mounted on a wall.

Secondly, the inability of the consumer to carry these goods around in the absence of any protective case or any covering bags, which makes the Concerned Goods vulnerable to damage during transit. As noted in the literature relied upon before us, the weight was not the sole consideration for being considered as 'portable'. For example, there used to be computers which are now no longer in common use which were popularly known as 'luggable'. They used to weigh more than 10 kilograms. These old predecessors of laptops were designed at the

relevant time to be portable and used to fold up neatly in one box with a handle. Despite their weight and the size comparable to small suitcase, they could still be transported, albeit without a wagon.

Furthermore, we must also use this opportunity to highlight the impact of technological advancement on law. It's a matter of fact that at the time when the relevant entries of the First Schedule came into effect, weight was definitely an important criterion for deciding whether any ADPs was 'portable'. Scientific progress has greatly reduced the weight associated with high performance in the context of ADPs. It is not surprising that the advent of LED technology, faster microchips, etc. has made it possible for mobile phones to have performance specifications which merely a decade ago was possible only on high end laptops. We must therefore be cognizant of such an impact on the consumer's understanding of any good or trade.

Keeping in view the applicable understanding of the element of 'portable' as understood in common parlance used in the trade of ADPs, we must hold that the Concerned Goods are not portable for the reasons that Firstly, the diagonal dimension of the Concerned Goods being minimum of the length of 18.5 inches and the same needs to be transported along with the power cable as well as the applicable stand in most cases if it is to be mounted and; secondly there being no protective case designed by the markets for daily transport for these Concerned Goods. Such requirements make the Concerned Goods unable to be carried around easily during daily transit. We, thus, hold that the Concerned Goods are not 'portable'.

LABOUR LAWS

THE STATE BANK OF INDIA v. KAMAL KISHORE PRASAD [SC]

Civil Appeal No. 175 of 2023 (@ SLP (C) No. 9819 of 2018)

Krishna Murari & Bela Trivedi, JJ. [Decided on 09/01/2023]

Dismissal of employee after conducting disciplinary proceedings- upheld by High Court- direction to pay all consequential benefits- whether correct- Held, No.

Brief facts : The present appeal was directed against the judgment and order passed by the High Court of Judicature at Patna, whereby the High Court had dismissed the appeal filed by the Appellant-Bank and confirmed the order passed by the Single Bench. The Single Bench of the High Court quashed and set aside the order of dismissal passed by the Appellant-Bank and directed the Appellant-Bank to pay all the consequential benefits i.e., arrears of salary and retiral benefits within 3 months thereof. The aggrieved appellant-bank filed LPA , which came to be dismissed by the Division Bench vide the impugned order.

Decision : Allowed.

Reason : So far as the facts of the present case are concerned, the disciplinary proceedings against the respondent were already initiated and had stood concluded, culminating into dismissal from service as per the order dated 11.08.1999 passed by the Appointing Authority. The said order was challenged by the respondent by filing the Writ Petition, which came to be allowed by the Single Bench on 26.03.2009 whereby the order of dismissal was set aside, nonetheless the Appellant-Bank having preferred the LPA No. 378 of 2003, the Division Bench had stayed the operation and implementation of the said order passed by the Single Bench on 09.05.2003. The said LPA came to be dismissed on 22.04.2010, in the meantime on 30.11.2009, the respondent attained the age of superannuation i.e., during the time, when the operation of the order of Single Bench was stayed. Thus, the order of Single Bench setting aside the order of dismissal passed by the Appointing Authority having been stayed by the Division Bench, the respondent could not be deemed to have continued in service, and also when he had attained

the age of superannuation on 30.11.2009. Thereafter, the order of Division Bench dated 22.04.2010 passed in the LPA 378 of 2003 having been set aside by this Court while allowing the appeal filed by the Appellant-Bank vide the order dated 25.11.2013, again it could not be said that the respondent was continued in service, till he attained the age of superannuation.

The reliance placed by the learned counsel for the respondent on Rule 19(3) of the Rules is also thoroughly misplaced in as much as Rule 19(3) contemplates a situation, when the disciplinary proceedings against a bank officer, have already been initiated, and are pending when the officer ceases to be in the Bank's service, and in that case the Managing Director in his discretion may continue and conclude the disciplinary proceedings against the officer as if the officer continues to be in service. However, in the instant case, there was no question of Managing Director exercising such discretion under Rule 19(3) as the disciplinary proceedings initiated against the respondent had already culminated into his dismissal as per the order dated 11.08.1999 passed by the Appointing Authority. Though the said order of dismissal was set aside by the Single Bench, the order of Single Bench had remained stayed pending the LPA filed by the Bank; and though the LPA was dismissed by the Division Bench, the said order in LPA was set aside by this Court, observing that the person who hears the matter has to decide it.

It was only pursuant to the direction given by this Court vide the order dated 25.11.2013, the Appointing Authority was expected to hear the respondent and pass appropriate order. This Court had kept all the contentions of all the parties open. Hence the Appointing Authority after issuing show-cause notice and granting opportunity of hearing to the respondent had passed the order imposing the penalty of "Dismissal from Service" w.e.f. 11.08.1999, i.e., from the date when the first order of dismissal was passed by the Appointing Authority. Since all the contentions were kept open by this Court while allowing the appeal filed by the Appellant-Bank, as such no affirmative action was expected from the Appellant- Bank, as sought to be submitted by the learned counsel for the respondent. The said order of Appointing Authority dismissing the respondent from service after granting opportunity of hearing to the respondent was in consonance with the direction given by this Court and could not be said to be arbitrary illegal or in violation of Rule 19(3) of the said Rules. The impugned order of the High Court setting aside the said order of dismissal being under misconception of facts and law deserves to be quashed and set aside.

GENERAL LAWS

TATA SONS PVT LTD v. SIVA INDUSTRIES & HOLDINGS LTD & ORS [SC]

Miscellaneous Application No 2680 of 2019 in Arbitration Case (Civil) No 38 of 2017

D.Y.Chandrachud & P.S. Narasimha, JJ. [Decided on 05/01/2023]

Arbitration and Conciliation Act, 1996 - section 29A- extension of the period to make award- whether applicable to international arbitration-Held, Yes.

Brief facts : Arbitration proceedings were under progress between the Appellant and the respondents. The sole arbitrator could not deliver the award within the prescribed period. Meanwhile, section 29A, by way of an amendment Act 2019 provided for the extension of the period to deliver award. Respondents contented that the amended provisions do not apply to an international arbitration.

Decision : Allowed.

Reason: The provisions of Section 29A, as originally introduced into the statute, mandated that all awards shall be made within a period of twelve months from the date on which the arbitral tribunal enters upon the reference. The explanation clarified when the arbitral tribunal would be deemed to have entered upon the reference, namely, the date on which the arbitrator has received written notice of the appointment. The mandatory nature of the provisions of Section 29A(1) and their application to all arbitrations conducted under the Act, domestic or international commercial, was evident from the use of the word “shall”. In terms of Section 29A(4), in case the arbitral award was not rendered within the twelve or eighteen month period as the case may be, the mandate of the arbitrator(s) would stand terminated, unless on an application made by any of the parties, the court extended time on sufficient cause being shown.

After the amendment, Section 29A(1) stipulates that the award “in matters other than international commercial arbitration” shall be made by the arbitral tribunal within a period of twelve months from the date of the completion of the pleadings under Section 23(4).¹⁰ The expression “in matters other than an international commercial arbitration” makes it abundantly clear that the timeline of twelve months which is stipulated in the substantive part of Section 29A(1), as amended, does not apply to international commercial arbitrations. This is further reaffirmed in the proviso to Section 29A(1) which stipulates that the award in the matter of an international commercial arbitration “may be made as expeditiously as possible” and that an “endeavour may be made to dispose of the matter within a period of 12 months” from the date of the completion of pleadings. The expression “as expeditiously as possible” coupled with the expression “endeavour Section 23(4) of the Arbitration Act, as inserted by Act 33 of 2019, provides that “The statement of claim and defence under this section shall be completed within a period of six months from the date the arbitrator or all the arbitrators, as the case may be, received notice, in writing of their appointment.” may be made” demonstrate that the intent of Parliament is that the period of twelve months for making the award is not mandatory in the case of an international commercial arbitration. In an international commercial arbitration, the arbitral tribunal is required to endeavour, that is, make an effort to render the arbitral award within a period of twelve months or in a timely manner. In a domestic arbitration, Section 29A(1) stipulates a mandatory period of twelve months for the arbitrator to render the arbitral award. In contrast, the substantive part of Section 29A(1) clarifies that the period of twelve months would not be mandatory for an international commercial arbitration. Hence, post amendment, the time limit of twelve months as prescribed in Section 29A is applicable to only domestic arbitrations and the twelve-month period is only directory in nature for an international commercial arbitration.

Having clarified that the 2019 Amendment Act has excluded international commercial arbitrations from the statutorily prescribed mandatory time limits, the question arises whether the amended Section 29A would apply prospectively or retrospectively.

Procedural law establishes a mechanism for determining rights and liabilities of a party and a machinery for enforcing them. Generally, procedural laws are presumed to be retrospective, unless there is a clear indication that such was not the intention of the legislature, or the procedural law imposes new obligations qua transactions already concluded or creates new rights or liabilities.

The 2019 Amendment Act does not contain any provision equivalent to Section 26 of Act 3 of 2016 evincing a legislative intent making the application of the amended provision prospective. The amended provisions of Section 29A, in terms of which the arbitral tribunal has to endeavour to dispose of the proceedings in an international commercial arbitration as expeditiously as possible within a period of twelve months from the completion of the pleadings are remedial in nature. The amended provision has excepted international

commercial arbitrations from the mandate of the twelve-month timeline which governs domestic arbitrations. The amendment is intended to meet the criticism over the timeline in its application to international commercial arbitrations. The amendment is remedial in that it carves out international commercial arbitrations from the rigour of the timeline of six months. This lies within the domain of the arbitrator and is outside the purview of judicial intervention. The removal of the mandatory time limit for making an arbitral award in the case of an international commercial arbitration does not confer any rights or liabilities on any party.

Consistent with the amended provisions of Section 29A, the sole arbitrator in the present case would be acting within his domain and jurisdiction to decide upon any further extension of time beyond what is originally stipulated at the meeting which was held on 21 March 2018. The sole arbitrator may issue appropriate procedural directions for extension of time while at the same time endeavouring an expeditious conclusion of the arbitration.



Case Snippets

DIRECT TAX

<i>03.02.2023</i>	<i>DCIT, Circle-1 vs. Respondent : Shyam Kundandas Gyanchandani</i>	<i>ITAT Mumbai Bench</i>
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Disallowance of purchases on ad-hoc basis does not tantamount to furnishing inaccurate particulars of income under the provisions of Section 271(1)(c) of the Income Tax Act, 1961 (The Act).

Fact of the Case:

The assessee is engaged in the business of reseller in chemicals & fuels. The assessee has filed the return of income for the A.Y. 2009-10 on 30.09.2009 disclosing a total income of Rs. 6,06,148. Subsequently the AO has received the information from Sales Tax Department, that the assessee has obtained bogus purchase bills from M/s. Neptune Corporation aggregating to Rs. 5,44,589. The Assessing Officer (AO) has reason to believe that the income has escaped assessment and issued notice u/s 148 of the Act, in compliance the assessee has filed the revised return of income disclosing total income of Rs. 6,06,148 further the notice u/s 143(2) and 142(1) of the Act are issued. In compliance, the Ld. AR of the assessee appeared from time to time and submitted the information and the case was discussed. Whereas, the AO has issued notice u/s 133(6) of the Act on the party to examine the genuineness of the purchases but there was no response. The assessee has filed detailed letters on 26.03.2015 & 27.03.2015 with the supporting evidences. But the AO was not satisfied with the explanations and the information and finally made an addition of Rs. 5,44,589 and assessed the total income of Rs. 11,50,740 and passed the order u/s 143(3) r.w.s. 147 of the Act dated 30.03.2015.

Subsequently, the AO has initiated the penalty proceedings u/s. 271(1)(c) of the Act. In the course of penalty proceedings it was brought to the knowledge of the Assessing officer that the assessee has filed an appeal with the CIT(A) on quantum addition of bogus purchases. Whereas, the CIT(A) has relied on the facts and judicial decisions and restricted the addition to the extent @ 25% of purchases and on further appeal the Honble Tribunal has restricted the addition to the extent of 12.5%. The A.O. has considered these facts and observed that none appeared on behalf of the assessee nor any explanations were filed in respect of penalty notice. The A.O. dealt on the facts and the findings of the scrutiny assessment and levied a penalty of Rs. 21,034 and passed the order u/s. 271(1)(c) of the Act dated 21.03.2018.

CIT (appeals) observed that no penalty can be levied on estimated income and directed the A.O. to delete the penalty and allowed the assessee's appeal. Aggrieved by the order of the CIT(A), the revenue has filed an appeal with the Hon'ble Tribunal.

Judgement: ITAT held that when the addition is on estimated basis, penalty u/s. 271(1)(c) of the Act cannot be levied on such ad hoc estimated income. The disallowance of purchases on ad-hoc basis does not tantamount to furnishing inaccurate particulars of income under the provisions of Section 271(1) (c) of the Act.

The Assessing officer has not doubted the sales and made disallowance of bogus purchases. Further the assessing officer made an addition based on the information received from Sales tax department Maharashtra since the said information could not conclusively be proved. Accordingly, ITAT are not inclined to interfere with the order of the Ld. CIT(A) and upheld the same and dismiss the grounds of appeal of the revenue.

For details: <https://indiankanoon.org/doc/182402452/>

31.01.2023	<i>Pr. Commissioner of Income Tax (Exemptions) Delhi vs. Respondent: Servants of People Society</i>	<i>Supreme Court</i>
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Supreme Court asks Assessing Officer to examine whether Servants of the People Society, set up by Lala Lajpat Rai, is charitable trust entitled to exemption of its income under the Income Tax Act, 1961 (The Act).

Fact of the Case:

The Assessee society was founded in the year 1921 by the legendary freedom fighter Lala Lajpat Rai during the freedom struggle for the nation building, general awareness and welfare of the people. In 1928 the famous freedom fighter of Odisha Shri Pt. Gopa Bandhu Dass made a will of his property and his printing press which is managing the Oriya newspaper "Samaj"-for people's welfare. The Assessee was enjoying exemption under section 11 of the Act but the same was denied during the A.Y. 1973-74 and later allowed by the ITAT and affirmed by the High Court. The assessee was also earlier allowed exemption for three years i.e. 1990-91 to 1992-93 under section 10(23C)(iv) of the Act. The Assessee has established and is running schools in the name of Balwant Rai Mehta Vidya Bhawan in Lajpat Nagar and in Greater Kailash in New Delhi and one Medical Centre in Lajpat Nagar and old age home in Dwarka in Delhi. The Assessee is also building a hospital in the name of Gopa Bandhu Medical Research Centre in Odisha. The Assessee was also allowed exemption under section 11(1) but the same has been denied during the A.Y. 2010-11 and 2011-12 invoking the proviso to section 2(15) on the ground that the assessee is involved in trade, commerce or business as it manages and runs a printing press and a newspaper. The assessee argued that it was primarily a non-profit institution involved in charitable activities and did not engage in any trade, commerce or business or any such activity and approached the Appellate Commissioner who allowed its plea and directed that the income earned by it ought to enjoy the benefit of exemption. The revenue carried the matter in appeal to the ITAT and the High Court, both unsuccessfully. As a consequence, it has approached the Supreme Court in appeal by the special leave.

Analysis and Findings: During the relevant assessment year, the Assessee society claimed exemption, inter alia, in respect of income from newspapers, which included advertisement revenue, to the extent of Rs. 9,52,57,869 and surplus of Rs. 2,16,50,901 from its activities in Delhi.

Judgement: It is clarified that an assessee advancing general public utility cannot engage itself in any trade, commerce or business, or provide service in relation thereto for any consideration ("cess, or fee, or any other consideration"). However, in the course of achieving the object of general public utility, the concerned trust, society, or other such organization, can carry on trade, commerce or business or provide services in relation thereto for consideration, provided that

- (i) the activities of trade, commerce or business are connected ("actual carrying out..." inserted w.e.f. 01.04.2016) to the achievement of its objects of GPU; and
- (ii) the receipt from such business or commercial activity or service in relation thereto, does not exceed the quantified limit, as amended over the years (Rs. 10 lakhs w.e.f. 01.04.2009; then Rs. 25 lakhs w.e.f. 01.04.2012; and now 20% of total receipts of the previous year, w.e.f. 01.04.2016);

Generally, the charging of any amount towards consideration for such an activity (advancing general public utility), which is on cost-basis or nominally above cost, cannot be considered to be "trade, commerce, or business" or any services in relation thereto. It is only when the charges are markedly or significantly above the cost incurred by the assessee in question, that they would fall within the mischief of "cess, or fee, or any other consideration" towards "trade, commerce or business".

In the present case, the Appellate Commissioner, the ITAT and the High Court merely followed the judgment of the Delhi High Court in India Trade Promotion Organisation. However, the law with regard to interpretation of Section 2(15) has undergone a change, due to the decision in Ahmedabad Urban Development Authority (supra). As a result, this Court is of the opinion, that matter should be remitted for fresh consideration of the nature of receipts in the hands of the Assessee, in the present case. As a result, the matter requires to be re-examined, and the question as to whether the amounts received by the Assessee qualify for exemption, Under Section 2(15) or Section 11 needs to be gone into afresh.

In view of the foregoing discussion, the revenue's appeal succeeds in part. The AO shall examine the documents and relevant papers and render fresh findings on the issue whether Respondent is a charitable trust, entitled to exemption of its income. The AO shall complete the hearing and pass orders within four months. The appeal is allowed to the above extent.

For Details:

https://main.sci.gov.in/supremecourt/2022/16773/16773_2022_14_6_41407_Judgement_31-Jan-2023.pdf



Student Services

IMPORTANT ALERTS / ANNOUNCEMENTS FOR STUDENTS

- Announcement regarding Digital Professional Programme Pass Certificate
https://www.icsi.edu/media/webmodules/Announcement_03012023.pdf
- Paper wise Exemption for June 2023 session of Examination
https://www.icsi.edu/media/webmodules/Attention_Students_paperwise_exemption.pdf
- Cut-Off Dates for the year 2023
Please visit : https://www.icsi.edu/media/webmodules/CUT_off.pdf
- Chartered Secretary Journal
The “Chartered Secretary” Journal is published by the ICSI, with a view to ensure continuous up-gradation of the knowledge of the Members and students. Visit : <https://www.icsi.edu/cs-journal/>
- Details Regarding conduct of Class Room Teaching Centres at Regional Councils/Chapters
Visit: <https://www.icsi.edu/crt/>
Pre-exam test is exempted for students who undergo Classes at Regional and Chapter offices (Subject to meeting the conditions)
- Number of Class Room Teaching Centres at Regional Councils/Chapters
Visit: <https://www.icsi.edu/media/webmodules/websiteClassroom.pdf>
- “Join CSEET classes at ICSI Regional/Chapter Offices”
Visit:
https://www.icsi.edu/media/webmodules/28102022_SCHEDULE_OF_CSEET_JAN23_classes_at_RO_CHAPTERS.pdf
**For any clarification/Assistance/Guidance you may mail to r.bhandari@icsi.edu
- Study Centres: Visit Given Link for Details:
https://www.icsi.edu/media/webmodules/Study_Centre.pdf
- Fee Schedule: Visit Given Link for Details
https://www.icsi.edu/media/webmodules/student/FeeDetails_Concession.pdf
- Donate for the Noble Initiative of the Institute - "SHAHEED KI BETI SCHEME"
Visit: https://www.icsi.edu/media/webmodules/Shahed_ki_beti.jpg
- Concession in Fee for Registration to CS Course to the Widows and Wards of Martyrs, Permanent Disability cases, Serving / Retired Personnel of Indian Army, Indian Air Force, Indian Navy and all para military forces. Visit the given link
<https://www.icsi.edu/media/webmodules/student/Concession%20in%20Fee%20to%20the%20Serving%20and%20Retired%20Personnel%20of%20Indian%20Armed%20Forces.pdf>

REGISTRATION

1. Registration for CS Executive Programme:

For details please visit:

https://www.icsi.edu/media/webmodules/11112022_ICSI_Students_leaflet.pdf

2. Registration For CS Executive Entrance Test :

Link to register: https://smash.icsi.edu/Scripts/CSEET/Instructions_CSEET.aspx

For details visit:

https://www.icsi.edu/media/webmodules/Flyer_2023_01.jpg

3. Renewal of Registration

Registration Denovo (for Executive Programme & Professional Programme Students)

Registration of students registered upto and including February, 2018 stands terminated on expiry of five-year period on 31st January, 2023. All such students whose registration has been expired are advised to seek Registration De novo via <https://smash.icsi.edu/Scripts/login.aspx>

Kindly visit the following link to check the process of Denovo:

https://www.icsi.edu/media/webmodules/user_manual_for_reg_denovo.pdf

Opportunity for students to validate their registration three months prior to Expiry of Registration

https://www.icsi.edu/media/webmodules/14112022_Denovo3monthspriortoexpiryofRegistration.pdf

4. Continuation of Registration w.e.f. 3rd February 2020

Students will have to keep their registration renewed from time to time even after passing Professional Programme Stage till completion of all the training requirements so as to become entitled to be enrolled as member of the Institute. Guidelines and process are available at the following url:

https://www.icsi.edu/media/webmodules/student/Guidelines_ContinuationRegistration.pdf

https://www.icsi.edu/media/webmodules/Detailed_notification_continuation_of_reg_ofpass_stud.pdf

5. Re-Registration to Professional Programme

Students who have passed Intermediate Course/ Executive Programme under any old syllabus and are not eligible for seeking Registration Denovo may resume CS Course from Professional Programme Stage. Detailed FAQ, Prescribed Application Form, etc. may be seen at <https://www.icsi.edu/media/webmodules/REREGISTRATION.pdf>

6. Registration to Professional Programme

Students who have passed/completed both modules of Executive examination are advised to seek registration to Professional Programme through online mode.

The prescribed registration fee is Rs. 12,000/- . Students are also required to remit Rs. 1000/- towards Pre-exam test at the time of registration. Eligibility of students for appearing in the Examinations shall be as under: -

Session	Modules	Cut-off date for Registration	Illustrative Example
June	<i>All</i>	<i>30th November (Previous Year)</i>	<i>All students registered upto 30th November, 2022 shall be eligible to appear in examination of All Modules in June, 2023 Session.</i>
	<i>One</i>	<i>31st January (Same Year)</i>	<i>All students registered upto 31st January, 2023 shall be eligible to appear in examination of any One Module in June, 2023 Session.</i>
December	<i>All</i>	<i>31st May (Same Year)</i>	<i>All students registered upto 31st May, 2023 are eligible to appear in examination of All Modules in December, 2023 Session</i>
	<i>One</i>	<i>31st July (Same year)</i>	<i>All students registered upto 31st July, 2023 are eligible to appear in examination of any One Module in December, 2023 Session.</i>

While registering for Professional Programme, students are required to submit their option for the Elective Subject under Module 3.

Notwithstanding the original option of Elective Subject, students may change their option of Elective Subject at the time of seeking enrolment to the Examinations. There will be no fee for changing their option for elective subject, but the study material if needed will have to be purchased by them against requisite payment. Soft copies of the study materials are available on the website of the Institute. Guidelines for Option to change the Elective Subject under module-3 of Professional Programme are available at URL: https://www.icsi.edu/media/website/Guidelines_Switchover.pdf

Important: The students shall also be required qualify online pre-exam test in such manner and mode as may be determined by the Council.

EXEMPTIONS AND SWITCHOVER

1. Clarification Regarding Paper wise Exemption

- (a) Paperwise exemption based on the higher qualifications (ICAI Cost/LLB) acquired by student(s) are granted only on the basis of specific request received online through website from a registered student and complying all the requirements. There is one time payment of Rs. 1000/- (per subject). For details and Process please visit:

https://www.icsi.edu/media/webmodules/Paperwise_exemption_syllabus17.pdf

https://smash.icsi.edu/Documents/Qualification_Based_Subject_ExemptionandCancellation_Student.pdf

- (b) Last date of for submission of requests for exemption, complete in all respects, is 9th April for June Session of examinations and 10th October for December session of Examinations. Requests, if any, received after the said cut-off dates will be considered for the purpose of subsequent sessions of examinations only.
- (c) The paper wise exemption once granted holds good during the validity period of registration or passing/completing the examination, whichever is earlier.
- (d) Paper-wise exemptions based on scoring 60% marks in the examinations are being granted to the students automatically and in case the students are not interested in availing the exemption they may seek cancellation of the same by submitting request through the Online facility available at <https://smash.icsi.edu/scripts/login.aspx> 30 days before commencement of examination.

Session	Cut-off date for Cancellation of Exemption/ Re-submitting the Call-For Documents for Granting Exemption
June Session	01st May
December Session	20th November

User manual for cancellation of Exemption

<https://www.icsi.edu/media/webmodules/USER%20MANUAL%20FOR%20CANCELLATION%20OF%20EXEMPTION.pdf>

If any student appears in the examinations disregarding the exemption granted on the basis of 60% marks and shown in the Admit Card, the appearance will be treated as valid and the exemption will be cancelled.

- (e) It may be noted that candidates who apply for grant of paper wise exemption or seek cancellation of paper wise exemption already granted, must see and ensure that the exemption has been granted/cancelled accordingly. Candidates who would presume automatic grant or cancellation of paper wise exemption without obtaining written confirmation on time and absent themselves in any paper(s) of examination and/or appear in the exempted paper(s) would do so at their own risk and responsibility and the matter will be dealt with as per the above guidelines.

- (f) Exemption once cancelled on request in writing shall not be granted again under any circumstances.
- (g) Candidates who have passed either module of the Executive/Professional examination under the old syllabus shall be granted the paper wise exemption in the corresponding subject(s) on switchover to the new/latest syllabus.
- (h) No exemption fee is payable for availing paper wise exemption on the basis of switchover or on the basis of securing 60% or more marks in previous sessions of examinations.

2. Syllabus Switchover

Revision of syllabus is a constant exercise by the Institute to ensure up-gradation of knowledge amongst the student community.

Please Note:-

1. That, all switchover students are eligible to appear in Online Pre-Examination Test which is compulsory under New syllabus before enrolling for any examinations. Process For Remitting the Fee for Pre-Examination Test is available in the URL:
<https://www.icsi.edu/media/webmodules/PreExamTestProcess.pdf>
2. Study material is not issued free of cost to the switchover students. Therefore, the student need to obtain study material, at a requisite cost.
3. Revert Switchover is not Permissible.
4. Other details regarding Exemptions and Switchover are available at the student page at the website of the Institute.

User manual on switchover Process:

https://www.icsi.edu/media/webmodules/switchover_process.pdf

Corresponding paper-wise exemptions on Switchover:

https://www.icsi.edu/media/webmodules/Correspondingexemptionafterswitchover%20-Fnd_ExePrg.pdf

https://www.icsi.edu/media/webmodules/Switchover_17092016.pdf

ICSI syllabus 2022 for Company Secretary Executive and Professional Programme:

<https://www.icsi.edu/media/webmodules/ICSI%20New%20Syllabus%202022.pdf>

Enrollment to Executive & Professional Programme Examination (Regulation 35)

- (i) The examinations for the Executive & Professional Programme Stage of CS Course are conducted in June and December every year.
- (ii) The schedule for submission of online application along with the prescribed examination fee for enrolment to June and December Sessions of Examinations are as under :

Session	Period during which the students can submit examination form and fee	Period during which the students can submit examination form and fee (with prescribed fee)
June	The online examination enrollment window is opened tentatively on 27th February and the students may submit the forms upto 25th March without late fee	Students may submit the examination form during 26th March to 9th April with Late Fee.
December	The online examination enrollment window is opened tentatively on 26th August and the students may submit the forms upto 25th September without late fee	Students may submit the examination form during 26th September to 9th October with Late Fee.

The eligibility conditions for seeking enrollment to Executive & Professional Programme Examination are as per the cut off available at https://www.icsi.edu/media/webmodules/CUT_off.pdf

- (iii) Students who have registered in Foundation/Executive Programme on or after 1st June, 2019 are required to complete a One Day Orientation Programme in order to become eligible for enrollment to June/December Examinations.
- (iv) Students who have registered in Executive/Professional Programme are required to complete Pre-Examination Test in order to become eligible for enrolment to June/December Examinations.

PROCEDURAL COMPLIANCE

CHANGE OF ADDRESS/CONTACT DETAILS/CREATION OF PASSWORD

Process 1: Manual for Change of Mobile number, Email Id

Step 1: Log in with valid credentials at <https://smash.icsi.edu/scripts/login.aspx>

Step 2: Change Mobile Number and Email address

Process 2: Process to change correspondence /permanent address

Step 1: Log in with valid credentials at <https://smash.icsi.edu/scripts/login.aspx>

Step 2: To change Correspondence address

Step 3: Click on Save Button

Process 3: Change/Reset Password

Step 1: Log in with valid credentials on smash.icsi.edu

Step 2: Click on Profile > Change Password

Or

Forget password/Reset Password: <https://smash.icsi.edu/scripts/GetPassword.aspx>

Process 4: Change Name/Photograph/Signature

https://www.icsi.edu/media/webmodules/Change_of_name_photograph_signature_requests_for_students_are_payable_now.pdf

STUDENT IDENTITY CARD

Identity Card can be downloaded after logging into the Student Portal at :
www.icsi.edu.

Step 1: Log in with valid credentials on smash.icsi.edu

Step 2: Click on Module >Student Services>Identity Card

DEDUCTION OF 30% OF THE TOTAL FEE REMITTED BY THE APPLICANT IN RESPECT OF REGISTRATIONS LYING PENDING FOR MORE THAN A YEAR

Visit for details:

https://www.icsi.edu/media/webmodules/Fees_Refund_Guidelines_Admission_Fees.pdf

“शहीद की बेटी” (Martyr's Daughter)

Dear Students,

It is indeed an honour to be a part of an Institute which has attained institutional excellence and is a torch bearer for the cause of Good Corporate Governance.

As part of social responsibility and in alignment towards the initiatives of Government of India the scheme “Shaheed Ki Beti” was launched during the Golden Jubilee ceremony and the Institute got the privilege to confer the first certificate under this scheme to the Prime Minister of India, Sh. Narendra Modi on 4th October 2017.

Under 'Shaheed Ki Beti' scheme, the Institute is providing financial support to the girl child of martyrs for her higher education.

A separate fund has been created and the amount accumulated under the Fund “Shaheed ki Beti” is donated to the concerned wing of Ministry of Defence. Institute has already donated Rs. 15 lac under the scheme in the recent past.

The Institute acknowledges the contribution of the stakeholders who are generously donating towards the “Shaheed Ki Beti” initiative of the Institute on their Birthdays or otherwise.

Shaheed Ki Beti scheme has given us an opportunity to support our courageous martyred soldiers and their bereaved families. Through this unique scheme, Institute will definitely bring a radical change in the life of families of the valiant martyrs who have laid their lives while upholding the sovereignty and integrity of the country.

We request all other members and students of ICSI to come forward and contribute for this noble initiative.

The amount can be transferred online as per details given below.

National Electronic Fund Transfer (NEFT) Mandate Form	
(Mandate for Receiving Payment Through NEFT/RTGS)	
Vendor Name	THE INSTITUTE OF COMPANY SECRETARIES OF INDIA
Address of Vendor	C-36-37, ICSI HOUSE, INSTITUTIONAL AREA, SECTOR 62 NOIDA UP 201309
Permanent Account Number (PAN)	AAATT1103F
Particulars of Bank Account	
A. Name of Bank	Indian Bank
B. Name of Branch	Sector 61
C. Address	D-211/2 SECTOR 61 NOIDA 201301
D. City Name	NOIDA
E. IFSC Code (11 digits)	IDIB000N108
F. 9 digit MICR Code appearing on the Cheque Book	110019035
G. Type of Account (10/11/13)	SAVINGS (10)
H Account No.	706959465

Our small gesture can bring smile to the faces of many bereaved families.

Team ICSI.

!! Attention Students !!

Guidelines for Concession in Fee for Registration to CS Course to the Widows and Wards of Martyrs, Permanent Disability cases, Serving / Retired Personnel of Indian Army, Indian Air Force, Indian Navy and all para military forces

The sacrifice of the personnel of Indian Armed forces and para military forces for maintaining the security and sovereignty of the country is commendable.

In a humble endeavor of the Institute in recognizing the contribution of the serving and retired personnel and as a goodwill gesture to the families of martyrs, the Institute has decided to grant the following concessions for registration to the CS Course :

- i. 100% concession in full Fee payable at the time of Registration to various Stages of CS Course and Examination Fee to the wards and widows of martyrs of Indian Army, Indian Air Force, Indian Navy and all para military forces
- ii. 100% concession in full Fee payable at the time of Registration to various Stages of CS Course and Examination Fee to the personnel of Indian Army, Indian Air Force, Indian Navy and all para military forces with permanent disability as a result of participating in act of war and other missions.
- iii. 50% concession in full Fee payable at the time of Registration to various Stages of CS Course and Examination Fee to all In Service/ Retired personnel of Indian Army, Indian Air Force, Indian Navy and all para military forces.
- iv. All other fee payable by the aforesaid category of students shall be as per the rates applicable to the general category students.

These guidelines shall be applicable effective from 1st April, 2019.



**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)

***Join online classes at the Regional/Chapter offices & Study Centres of
The ICSI and excel in Examination***

Pre-exam test is exempted for Class Room Teaching Students (Condition apply)

Dear Student,

As you are aware, the CS Course allows the flexibility of undergoing professional education as per the convenience of the students through distance learning mode.

However, keeping in view the requests of the students, the institute has been arranging Class Room Teaching facility as its Regional Offices and many of the Chapter Offices and Study Centres. A list of Offices presently providing the Class Room Teaching facility may be seen at the following link of the Institute's website:

<https://www.icsi.edu/crt>

We recommend the students of the Institute to join the classes conducted by the Regional & Chapter Offices and Study Centres for quality education at nominal fee.

Most of the Regional Chapter offices have commenced classes for June 2023 session of examination. Kindly contact your nearest Regional/Chapter Office/ Study Centre. The contact details are available at the following link.

<https://www.icsi.edu/media/webmodules/websiteClassroom.pdf>

Besides regular classes, Institute is also conducting demo classes, mock tests, revision classes, classes on individual subjects which help students in preparing for the main examination.

The Coaching Classes are organized throughout the year corresponding with each session of CS Examination held in June and December every year.

As you are aware Pre-Examination Test is compulsory for all students of Executive and Professional Programme under new syllabus. The students undergoing the Class Room Teaching and pass the requisite tests forming part of the coaching are exempted from appearing in the Pre-Exam Test. The standard procedure for joining the coaching classes at the Regional/Chapter Offices is as under:

Step - 1	Contact the nearest Regional/Chapter Office of the Institute from the list given at the link <i>https://www.icsi.edu/media/webmodules/websiteClassroom.pdf</i>
Step - 2	Ascertain the Date of Commencement of Coaching Class and the timings of the classes
Step - 3	Enquire about the availability Demo Classes and if available attend the same as per the schedule
Step - 4	Remit the applicable fess at the Regional/Chapter Office
Step - 5	Attend the Coaching Classes as per the schedule and appear in the CS Main examinations

The Institute shall be able to commence Class Room Teaching facility at the remaining Chapter Offices also subject to the participation of students.

Team ICSI

Watch Yuvotsav-2023 at social media handles of ICSI

YouTube ICSI : <https://youtu.be/pZq1Gd8jV30>

Facebook ICSI : <https://fb.watch/i4GZeuuYQI/>

Twitter ICSI :

https://twitter.com/icsi_cs/status/1613408201743159300?s=20&t=3s43P7RdF6Ef8lqcWKY9tg

Hurry up! Registration open for Company Secretary Executive Entrance Test (CSEET) May 2023 Session

ICSI 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)

75
Azadi Ka Amrit Mahotsav

Vision
"To be a global leader in promoting good corporate governance."

Motto
सत्यं वद। धर्मं चर।
speak the truth; abide by the law

Mission
"To develop high calibre professionals facilitating good corporate governance."

"UGC Recognises CS Qualification as Equivalent to a Post Graduate Degree."

COMPANY SECRETARY EXECUTIVE ENTRANCE TEST (CSEET)

Hurry Up
LAST DATE for REGISTRATION
SATURDAY
15TH APRIL 2023

MINIMUM ELIGIBILITY
Passed or appearing in the Senior Secondary (10+2) Examination or equivalent.

EXEMPTED FROM CSEET
(Eligible to Take Direct Admission in CS Executive Programme)
Foundation passed of ICSI/Final passed of ICAI/
Final passed of ICMAI/Graduates
(having minimum 50% marks)/Post Graduates

MAY 2023 SESSION OF CSEET
is proposed to be held on Saturday, 6th May 2023.

Register Now: https://smash.icsi.edu/Scripts/CSEET/Instructions_CSEET.aspx

Connect with ICSI | www.icsi.edu | [f](#) [t](#) [in](#) [@](#) [v](#) | Online Helpdesk : <http://support.icsi.edu>

https://www.icsi.edu/media/webmodules/Announcement_cutoff31may2023.pdf

!!ATTENTION STUDENTS!!

Cut- off- Date for Acceptance of Applications for Admission to Executive/ Professional Programme is 31.05.2023 (for appearing in All modules in December 2023 Examination)

Register online through <https://smash.icsi.edu>

**Result of Online Competitions for Non-CS Students of Universities with whom ICSI has entered into MoU
(held in December 2022 under the banner of Yuvotsav-2023)**



G20
भारत 2023 INDIA



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इष्टकारं कुरु। तृप्तौः श्रेयं कुरु।

Mission
"To develop high calibre professionals facilitating good corporate governance"

Result of Online Competitions for Non-CS Students of Universities with whom ICSI has entered into MoU
(held in December 2022 under the banner of Yuvotsav - 2023)

Congratulations

Online Painting Competition Winners

Rank	Name	College Name	City
1 st	Ms Janhavi Jadhav	PE Society's Mudhoji College, Phaltan	Satara
2 nd	Mr Shubham	Central University, Dharamshala	Kangra
3 rd	Ms Srijita Kashyap	Sri Sri University, Cuttack	Cuttack

Online Slogan Writing Competition Winners

Rank	Name	College Name	City
1 st	Ms Ritika Anand	Bhilai Institute of Technology, Durg	Durg
2 nd	Mr Aman Godwani	Bhilai Institute of Technology, Durg	Durg
3 rd	Mr V.Heymonth Kumar	Palanisamy College of Arts, Erode	Erode

Online Quiz Winners

Rank	Name	College Name	City
1 st	Ms Gayatri Pd. Yarguddi	Dhananjayrao Gadgil College of Commerce, Satara	Satara
2 nd	Ms Priyadarshini Maharana	SCS (Autonomous) College, Puri	Puri
3 rd	Mr Santosh Das	SCS (Autonomous) College, Puri	Puri

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Examination



1. LIST OF RANK HOLDERS WHO HAVE PASSED ALL PAPERS OF EXECUTIVE PROGRAMME EXAMINATIONS WITHOUT EXEMPTION IN ANY PAPER, IN ONE SITTING, IN JUNE, 2022 :

ALL INDIA MERIT LIST

LIST OF RANK HOLDERS WHO HAVE PASSED ALL PAPERS OF EXECUTIVE PROGRAMME EXAMINATIONS WITHOUT EXEMPTION IN ANY PAPER, IN ONE SITTING, IN JUNE , 2022 :

EXAMINATION: EXECUTIVE PROGRAMME

S. NO.	RANK	NAME OF THE CANDIDATE	ROLL NO
1	1	LAKSHAY CHAWLA	509174
2	2	RAKESH KUMAR CHOUDHURY	511755
3	3	SONIA BOOB	508887
4	4	A SREEKANTH	534187
5	5	ARYAN RAY	515300
6	6	ADITI JAIN	520503
7	7	RANJOT SINGH	506436
8	8	NAVYA P K	531560
9	9	SANCHARI MUKHERJEE	501016
10	10	SAHIL SINGAL	513539
11	10	FIZA	520585
12	11	ELIZA MOHAMMED BAHRAINWALA	551415
13	12	MOHAMMAD MOIN MANSUR JALIYAWALA	568368
14	13	MAYANK SHARMA	527360
15	13	YASH SANTOSHBHAI JAIN	542847
16	14	TEJASWINI M	533417
17	15	SARTHAK RAJ SHARMA	536654
18	16	GOKUL SRIRAM V	533025
19	17	HIMANSHI ADHIKARI	513545
20	18	MONIKA SINGH	504092
21	18	RONAK N CHAWLA	533055

EXAMINATION: EXECUTIVE PROGRAMME

S. NO.	RANK	NAME OF THE CANDIDATE	ROLL NO
22	19	MAYUR ASHOK MAYKAR	544403
23	20	SOURAV PAHARIA	504994
24	20	AKSHAY NANA NERKAR	566934
25	21	SALONI CHAUHAN	523093
26	21	IRAM KHAN	523100
27	22	GUNGUN GOEL	518523
28	22	RENU SAHU	563622
29	23	ANJALI SONI	502263
30	24	TEJAS SURYAKANT JUNGADÉ	543592
31	25	BHAVYA AGGARWAL	515305
32	25	VARSHA SINGH	537643
33	25	MONIKA KHATRI	546496

2. LIST OF RANK HOLDERS WHO HAVE PASSED ALL PAPERS OF PROFESSIONAL PROGRAMME EXAMINATIONS WITHOUT EXEMPTION IN ANY PAPER, IN ONE SITTING, IN JUNE, 2022 :

ALL INDIA MERIT LIST

LIST OF RANK HOLDERS WHO HAVE PASSED ALL PAPERS OF PROFESSIONAL PROGRAMME EXAMINATIONS WITHOUT EXEMPTION IN ANY PAPER, IN ONE SITTING, IN JUNE , 2022 :

EXAMINATION: PROFESSIONAL PROGRAMME

S. NO.	RANK	NAME OF THE CANDIDATE	ROLL NO
1	1	NIKITA RAMESHBHAI CHANDWANI	632525
2	2	GIRISHKAR D MARUR	617173
3	3	HARSH DEV CHAUDHARY	633531
4	4	SARIKA SINGH	611776
5	5	DIVYA SINGHAL	609565
6	6	DEEPIKA	614433
7	7	BHAVYA LAKHOTIA	609568
8	8	JEVIN SHAMJI PATEL	632856
9	9	ANUSHREE MANAK DHIRAN	632527
10	10	SIDDH SUBHASH JAIN	623548
11	11	PRIYA LADDA	618470
12	11	PALAK MANOJ AGRAWAL	622844
13	12	PALLAVI KUMARI	602847
14	12	SUMAN KUMARI D	615815
15	13	KASHISH TEKCHANDANI	618471
16	13	EKTA MOTWANI	625597
17	14	RONARCH CHHIPA	609594
18	14	PUSHPA YADAV	612509
19	14	NEHAL KIRAN GALA	626993

3. INTRODUCTION OF NEW PRIZE AWARD FOR COMPANY SECRETARIES EXAMINATIONS :

i. **Late CS Deepak Kumar Khaitan Memorial Prize**

(ALL INDIA)

Cash Prize of Rs.10,001/- per session of Examination to be awarded to a candidate who passes in all papers of **Professional Programme Examination**, at first attempt, in one sitting, without claiming exemption in any subject and obtaining the **highest percentage of marks** in the aggregate taking into account the performance of all such successful candidates on **All India basis** effective from June, 2023 session of Examinations for 20 Examination sessions.

ii. **Late CS Deepak Kumar Khaitan Memorial Prize**

(ALL INDIA)

Cash Prize of Rs.10,001/- per session of Examination to be awarded to a candidate who passes in all papers of **Executive Programme Examination**, at first attempt, in one sitting, without claiming exemption in any subject and obtaining the highest percentage of marks in the aggregate taking into account the performance of all such successful candidates on **All India basis** effective from June, 2023 session of Examinations for 20 Examination sessions.

iii. **Late CS Deepak Kumar Khaitan Memorial Prize**

(EIRC PRIZE AWARD)

Cash Prize of Rs.5,001/- per session of Examination to be awarded to a candidate who passes in all papers of **Professional Programme Examination**, at first attempt, in one sitting, without claiming exemption in any subject and obtaining the **highest percentage of marks** in the aggregate taking into account the performance of all such successful candidates from Examination Centres within the **Eastern Region** effective from June, 2023 session of Examinations for 20 Examination sessions.

iv. **Late Kishan Lal Surana Memorial Award**

(EIRC PRIZE AWARD)

Cash amount of Rs. 5,001/- per session of Examination to be awarded to a candidate who passes all the papers of **Professional Programme Examination** at first attempt, in one sitting, without claiming exemption in any subject and obtaining the **highest percentage of marks** in the aggregate taking into account the performance of all such successful candidates from Examination Centres within the **Eastern Region** effective from June, 2023 session of Examinations for 20 Examination sessions.





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ICSI SECRETARIAL EXECUTIVE CERTIFICATE

The ICSI Secretarial Executive Certificate is a unique initiative of the Institute of Company Secretaries of India (ICSI) for the CS Students to create a pool of semi qualified professionals.

ELIGIBILITY

A student who has:-

- passed the Executive Programme;
- completed EDP or any other equivalent programme;
- completed Practical Training as prescribed or exempted therefrom; and
- made an application along with such fee as applicable.

VALIDITY OF CERTIFICATE

- One calendar year from the date of issue
- Renewable on completion of 4 PDP Hours and payment of annual renewal fee of Rs.1000/-.
- The certificate will be renewed for a maximum period of two years only.

BENEFITS



Entitled to use the description "ICSI Secretarial Executive".



Seek employment with Practising Company Secretaries



Gain relevant experience with India Inc.



Serve the nation while preparing to become a full-fledged professional.



Eligible to receive the coveted ICSI Journal 'Chartered Secretary'.

Procedure to apply shall be available at <http://bit.do/secicsi>

For queries, please write to member@icsi.edu or contact on Phone No.: **0120-4522000**

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LAUNCHING OF ONLINE LICENTIATE ENROLLMENT



ELIGIBILITY

A student who has:-

- (i) A person who has completed the Final examination or Professional Programme examination of the Institute may, within six months from the date of declaration of results in which he has passed the Final examination or Professional Programme examination can apply for enrolment as a licentiate.
- (ii) An Online application for enrolment as a Licentiate is to be made along with annual subscription of Rs. 1180/- (Rs. 1000/- Licentiate subscription + Rs. 180/- towards GST @18% applicable w.e.f. 1st July, 2017)

VALIDITY OF CERTIFICATE

- (i) A licentiate shall not ordinarily be allowed to renew his enrolment for more than five years after passing the Final examination or Professional Programme examination.
- (ii) The annual subscription of a licentiate shall become due and payable on the first date of April every year
- (iii) Non-payment of annual subscription on or before the thirtieth of June of a year shall disentitle the person to use the descriptive letters Licentiate ICSI & from 1st July of that year, until his annual subscription for the year is received by the Institute. The name of the person so disentitled shall be published in the Journal

The Institute of Company Secretaries of India launches the online module of Licentiate enrollment as a Licentiate of The Institute of Company Secretaries of India in accordance with Regulation 29 of the Company Secretaries Regulations, 1982.

BENEFITS

Recognition as
'Licentiate ICSI
or entitled to use the
descriptive letters
Licentiate ICSI

Subscription of
Chartered Secretary
Journal

Participate in the activities
of the Institute, its Regional
Council or Chapter as the
case may be, subject to such
conditions as may be imposed
by the Council, Regional Council
or Chapter, as the case may be

Entitled to use
Library facilities
of the Institute,
Regional Council
or Chapter

Procedure to apply shall be available at <http://stimulate.icsi.edu/>

For queries, please write to member@icsi.edu or contact on phone number 0120-4522000

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News From Regions

SIRC



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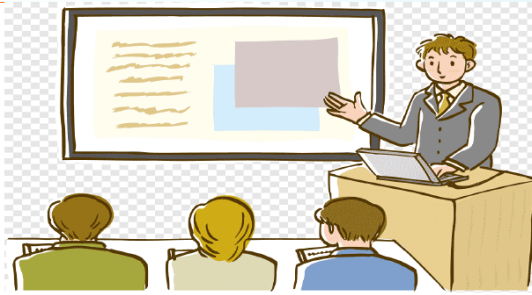
Vision
"To be a global leader in
promoting good
corporate governance"

Motto
सत्यं वद। धर्मं चर। इष्टार्थं चेत् त्वात्तः श्लेषेत् क्षु चेत् हतः।

Mission
"To develop high calibre
professionals facilitating
good corporate governance"

Announce

The Institute of Company Secretaries of India, Southern India Regional Council is conducting 2nd Batch of Class Room Teaching (in Physical Mode) for CS Executive Programme Students of Module I & II who are appearing in June, 2023 Examination from Tuesday, 24th January, 2023 at ICSI-SIRC House, No.9, Wheat Crofts Road, Nungambakkam, Chennai – 600 034.



Date of Commencement of 2nd Batch
Tuesday, 24th January, 2023 for Both Modules
(Classes may end by 3rd Week of May, 2023)

**Experienced
Faculties**



**2nd Batch of Class Room Teaching
for CS Executive Programme
for June, 2023 Examination**

(Physical Mode)

Fees: Rs. 9,000/- (Per Module)

(Fees will not be refunded once
classes commenced)

Module - I Timing:
6.30 AM to 8.30 AM
(Monday to Saturday)

Module - II Timing:
6.00 PM to 8.00 PM
(Monday to Saturday)

Students attending the Physical Classes conducted by SIRC are exempted from pre examination test. Students have to pass the test to be conducted by SIRC.

Mode of Payment (Online Transfer)

HDFC Bank: Poonamallee High Road Branch
Account Name: SIRC of the ICSI
SB Account No: 04921110000013
IFSC Code: HDFC000492

Students are required to enter the details in the link after making the payments.

Google Form Link: <https://forms.gle/QQfbggmXay8uAoRi8>

For Further Details Contact:

Mr. C. Murugan, Southern India Regional Office, The Institute of Company Secretaries of India
ICSI-SIRC House, No.9, Wheat Crofts Road, Nungambakkam, Chennai-600034.
044-28268685/28279898 / siro@icsi.edu; chelliah.murugan@icsi.edu

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Vision
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corporate governance."

सत्यं वद। धर्मं चर।

Motto
Speak the truth; abide by the law.

Mission
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professionals facilitating
good corporate governance."

Announces

ICSI-SIRC is conducting Online Classes for CSEET for May, 2023 Examination. Students who have registered for CSEET may join the Online Classes. So far 20 Batches completed successfully with 1081 Students.



21st Batch of Online Classes

for
CSEET

(Company Secretary Executive Entrance Test)
for May, 2023 Examination)

Date of Commencement

Thursday, 16th February, 2023

(Classes may end by Wednesday, 22nd March, 2023)

Fees: Rs. 3,500/-

(Fees once paid, will not be refunded)

Timing of Classes

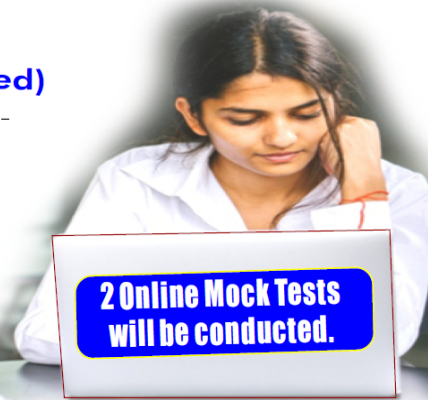
07.00 A.M. to 09.00 A.M.

&

06.00 P.M. to 08.00 P.M.

(Monday to Saturday)

(Subject to Minimum 15 Students)



**2 Online Mock Tests
will be conducted.**

Mode of Payment (Online Transfer)

HDFC Bank:Poonamallee High Road Branch
Account Name:SIRC of the ICSI
SB Account No:04921110000013
IFSC Code : HDFC0000492

Above registered students will be provided the log in ID & Password for online classes separately by email.

Students are required to enter their details in the link after making the payment.

Google Form Link: <https://forms.gle/TMnx6Yyd4wTA9fhN9>

For further details contact :

Mr. C Murugan, Executive (Admin), Southern India Regional Office, The Institute of Company Secretaries of India
ICSI-SIRC House, No.9, Wheat Crofts Road, Nungambakkam, Chennai – 600034.
Phone: 044-28268685/28222212 / Email ID : siro@icsi.edu; chelliah.murugan@icsi.edu

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EIRC



भारत 2023 INDIA



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professional services"

ICSI Motto
"सत्यं धर्मः धर्मं धर्मः"
spread the truth; abide by the law

ICSI Mission
"To develop high calibre
and ethically sound
professionals"



Join Online Classes for **CSEET**

Conducted by ICSI-EIRC
MAY 2023
SESSION OF CSEET

Admission going on

Link for online payment:
<https://paytm.com/education/src-1&q-fees>

Date of Commencement: 15th March, 2023

Fees: 2000/-*

PAYMENT MAY ALSO BE MAD BY CASH AT ICSI-EIRC HOUSE

* Students who have already paid Rs. 1,000/- during CSEET registration and opted for Online Tuition Classes at ICSI-EIRC need to pay the balance amount Rs. 1,000/- in the below mentioned account:

The Institute of Company Secretaries of India-EIRC
Bank name:
Punjab National bank
Branch: Shakespeare Sarani, Kolkata
A c. No. 3190000100070126
IFSC: PUNB0319000

Students are required to send their details with Payment Transaction Id at uma.joarder@icsi.edu after payment of fees.

Registered students will be provided the log in Id & password for online classes separately by email

For further details, please contact:
Ms. Uma Banik Joarder/ Mr. Bipin Kumar Choudhary
ICSI- EIRC HOUSE 3A, Ahiripukur 1st Lane, Kolkata-700019
Ph: (033) 22902179 / 22901065
Email Id: uma.joarder@icsi.edu;
bipin.choudhary@icsi.edu

Key Highlights:

- Online coaching with renowned faculties
- Affordable fees
- Revision Classes
- Exam Oriented
- Exclusive doubt clearing classes



ACHIEVE
YOUR DREAMS
WITH US

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ICSI Mission
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professionals facilitating
good corporate governance"

ADMISSION OPEN

**Join CS EXECUTIVE classes
(Both modules) for June
2023 session by ICSI-EIRC**

**Batch recently commenced
in physical mode
Registration
Going on!**



- Students attending classes at EIRC are exempted from Pre-exam Test

Fees: ₹ 8,000/- for each module
₹ 15,000/- for both modules
₹ 3,500/- for single paper

Link for online payment:

<https://paytm.com/education?src=1&q=fees>



KEY HIGHLIGHTS

- Experienced Faculties
- Doubt Clearing Sessions
- Nominal Fees
- Revision Classes
- Exam Oriented Preparation
- Attractive welcome kit

*** Students desirous to pay through online transfer pay in the below mentioned account:**

A/c. Name: The Institute of Company Secretaries of India-EIRC
Bank name: Punjab National bank
Branch: Shakespeare Sarani, Kolkata
A/c. No. 3190000100070126
IFSC: PUNB0319000

Students are required to send their details with Payment Transaction Id at sumanta.dutta@icsi.edu after payment of fees.

Students can also pay in cash at ICSI-EIRC counter.

Registered students will be provided the schedule and timing of classes by email.

For further details, please contact:

Mr. Sumanta Dutta / Mr. Bipin Kumar Choudhary
ICSI- EIRC HOUSE 3A, Ahiripukur 1st Lane, Kolkata- 700019
Ph: (033) 22902973 / 22901065
Email Id: sumanta.dutta@icsi.edu; bipin.choudhary@icsi.edu

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MANAGEMENT SKILLS ORIENTATION PROGRAMME

138th MSOP Batch of ICSI-EIRC

Tuesday, 28th February, 2023 to Saturday, 18th March, 2023 (Tentative)

Venue

“ICSI-EIRC House”, 3A, Ahiripukur 1st Lane, Kolkata 700 019

- For registration, please go through: <https://stimulate.icsi.edu/>
- The Participation Fee is Rs.7, 500/- (including tea, snacks etc.)
- The outstation participants have to arrange accommodation on their own.
- Duration of training shall be 15 days and attendance on all the days is compulsory.
- Only 50 students will be registered on first cum first basis.
- Wearing mask and social distance to be follow strictly.
- There will be two sessions each day, you have to report before 10am for the sessions and it will conclude at 5.30pm.
- Dress Code for Male participants: Full sleeve white shirt + Navy blue colour trouser + matching tie. For Female participants: Formal decent Indian Attire of sober colour or as prescribed for male.
- The duration of the programme may be altered/extended/changed depending upon other programme of ICSI-EIRC and the participants have to adhere with such modifications.
- The schedule is tentative, please take written confirmation before proceeding.
- In case by any reason if not able to attend the programme, the information should be made in written before 5 days of commencement of programme. Accordingly refund will be processed after deduction of bank charges.

For More details please contact:

For any assistance, guidance and clarification please call Ms. Rukmani Nag
on 033-22901065 / 22902179 / 22832973 or email at rukmani.nag@icsi.edu

Note: the batch is tentative, will commence subject to fulfilment of sufficient registrations.



P.S. Please adhere to the Guidelines and National Directives for COVID-19 management issued by the Government.



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ICSI Motto
सत्यं वद। धर्मं चरत। *Speak the truth, abide by the law*

ICSI Mission
"To develop high calibre
professionals facilitating
good corporate governance"

EXECUTIVE DEVELOPMENT PROGRAMME

13th Batch

(15 Days Classroom Mode)

Tuesday, 28th February, 2023 to Saturday, 18th March, 2023

Venue

"ICSI-EIRC House", 3A, Ahiripukur 1st Lane, Kolkata 700 019

- For registration, please go through: <https://stimulate.icsi.edu/>
- The Participation Fee is Rs.7, 000/- (including tea, snacks etc.)
- The outstation participants have to arrange accommodation on their own.
- Duration of training shall be 15 days and attendance on all the days is compulsory.
- Only 50 students will be registered on first cum first basis.
- Wearing mask and social distance to be follow strictly.
- There will be two sessions each day from 10am to 5pm.
- Formal dress code to be maintain on each and every day.
- The duration of the programme may be altered/extended/changed depending upon other programme of ICSI-EIRC and the participants have to adhere with such modifications.
- The schedule is tentative, please take written confirmation from us before proceeding.
- In case by any reason if not able to attend the programme, the information should be made in written before 5 days of commencement of programme. Accordingly refund will be processed after deduction of bank charges.

For More details please contact:

For any assistance, guidance and clarification please call Ms. Rukmani Nag
on 033-22901065 / 22902179 / 22832973 or email at rukmani.nag@icsi.edu

P.S. Please adhere to the Guidelines and National Directives for COVID-19 management issued by the Government.



**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)

EASTERN
INDIA
REGIONAL
COUNCIL



ONE DAY ORIENTATION PROGRAMME

FOR EXECUTIVE PROGRAMME STUDENTS



Wednesday
22nd February, 2023



10:00am to
4:00pm



Last Date for Registration
21st February, 2023
(till 1 p.m.)

Applicability:

One day Orientation programme is applicable to all the newly registered students who have registered in Executive programme after 1st June, 2019. The students are required to attend the One Day Orientation programme within 15 days of Registration in CS course.



**NO Participation
Fee**

Interested and eligible students are required to submit response for registering in ODOP

Please follow the link given below to register for ODOP.



<https://forms.gle/PuRLrvcEfu54GTxAA>

Note: Invitation for attending ODOP will only be sent to the registered students only

Address:

ICSI-EIRC House, 3A,
Ahiripukur 1st Lane,
Beckbagan, Kolkata-700019

For further query please contact:

Mr. Goutam Karmakar
at goutam.karmakar@icsi.edu
Student Services, EIRO of ICSI,
Phone: 033-2290 2179/ 2290 1065

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EASTERN INDIA REGIONAL COUNCIL



ICSI Vision
"To be a Global leader in providing good corporate governance"

सत्यं वाचं सत्यं वाचं।

ICSI Motto
speak the truth; abide by the law

ICSI Mission
"To develop high caliber professionals, cultivating good corporate governance"

ICSI-EIRC LIBRARY

Dear Students & Members,

Keeping in view for the benefit of Students & Members the EIRC of ICSI is promoting the revamped Library at ICSI-EIRC, House. The EIRC library is equipped with English and Hindi News Papers, Latest Books, Reference Materials & Subscriptions of Leading Journals. You all are requested to please come forward with the suggestions for new inclusions.

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Books Available

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- MCQ Books ● General Books ● News Papers

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Particulars	Securities Deposit	Annual Subscription	Documents
Students	Rs.500/-	Rs.200/-	Student's / Member's ID Card & 2 Passport size photograph
Member	Rs.2500/-	Rs.200/-	
CRT Students	Rs.500/-	Exempted	

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 - (a) If the issued book is not returned by the due date, the library member may be required to pay a fine of Rs.5/- for each day of default.
 - (b) Where a book is lost or damaged current publisher's price and a surcharge of not exceeding 25% of the price to meet the cost of acquisition shall be charged.
2. The security deposit shall be refundable on cessation of membership of library provided there is no book standing in the name of the person and there are no outstanding dues.
3. The annual library subscription once paid shall not be refunded under any circumstances.
4. The library membership shall be valid for the financial year and may be renewed on the 1st of April each year by paying annual fee.
5. Each member of the Library shall observe necessary and due care while handling books and other material.
6. Members or readers shall maintain strict discipline inside and around the Library and conduct themselves in a manner conducive to congenial atmosphere for study.
7. Every member of the library shall intimate in writing, changes if any, in his/her professional or residential address and contact number or status i.e. a registered student becoming a licentiate or member or a licentiate becoming a member of the Institute within 14 days

For further details and registration, please contact:

Ms. Rukmani Nag / Ms. Uma Banik Joarder, ICSI-EIRC Library

Phone: 033-2290 1065/2283 2973, Mail at rukmani.nag@icsi.edu, uma.joarder@icsi.edu

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Motto

सत्यं वद | धर्मं चर।

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Vision

"To be a global leader in promoting good corporate governance"

Mission

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