



SIRC MYSURU CHAPTER

e-Magazine

May 2023
229th Edition

Vision

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

Motto

सत्यं वद। धर्मं चर। इदंकारं कृतं त्वात्के. ब्रह्मिणे इत्यु कृतं त्वात्के.

Mission

"To develop high calibre professionals facilitating good corporate governance"

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CS Phani Datta D N
CHAIRMAN
MYSURU CHAPTER

P

ear Professional Colleagues

I am happy to meet you all again through this e-magazine and also pen down my thoughts to share with all of you. It's the season of both the holidays and audits, hope the things are at its best with all of you.

After a gap of many years, Mysuru Chapter witnessed the successful students' event, Umang 2023. An event well executed and well received by all the students of in and around Mysuru. We had the privilege of hosting the Vice-President of ICSI CS B Narasimhan joining us for the inauguration of Umang 2023 as the Chief-Guest alongside with CS Dwarakanath C, Central Council Member and the mentor of Mysuru Chapter presiding as the Guest of Honour for the event. It was enthralling to hear CS B Narasimhan speaking and interacting with both Students and Members. I would like to express my sincere gratitude to him for being with us and having an insightful interaction. I would also like to thank all the students from in and around Mysuru, Bengaluru and Chennai who were here in Mysuru for participating in the event and also appreciate the extensive dedication and effort of all the Student Organisers and the members supporting them in making this much awaited event a successful one.

As Professionals, we are now cast with increasing burden and responsibilities by the government day on day. Bringing several activities under PMLA, advisory regarding due diligence before certifying the Incorporation forms, implementation of audit trials for the accounting software and several other similar ones. While the Institute is working on getting more and more recognitions for the profession under several laws on one hand, on the other, we can see the Government passing on the burden and responsibility on us professionals in a bigger way. Since we are looking at the audits, returns and filings for the period, we should be more equipped, cautious and vigilant. Let us exercise proper diligence and uphold the mission of the Institute for the good of ourselves, our clients / companies and the country as a whole.

आचार्यात्पादमादत्ते, पादं शिष्यः स्वमेधया। पादं सब्रह्मचारिभ्यो, पादं कालक्रमेण च।।

A student gets a quarter (knowledge) from his teacher, a quarter by his own intelligence. A quarter from his fellow students and a quarter in due course of time.

Let us continue our pursuit of learning and let us continue to learn and unlearn consistently.

I would also like to wish all our student readers the success and wishing all of them to come out of flying colours in the forthcoming exams of June 2023.

Please take care of your health, do not stress out yourselves and always give the best!

Thank you



THE INSTITUTE OF
Company Secretaries of India

भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE

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Chapter Activities

UMANG – As the name itself states “Enthusiasm”. That was all filled in the Entire Event.

UMANG is an annual event of the Mysuru Chapter of ICSI, which was conducted after a long break of 6 years..!

The 1st step towards the preparation of the event started in the year 2020 in the form of “SPORTS DAY 2020”, which was open for the students and members of the ICSI, ICAI and ICAI. The Event was conducted on the 01st of March, 2020 and inaugurated by the Chairpersons of all Three Esteemed Institutions. But due to the COVID pandemic, the plan of conducting UMANG was dropped..!

The 2nd step was taken after a year in the form of “CORPORATE SATVA 2021”, which was conducted to give the 1st hand experience of the Mock Board Meetings and Annual General Meetings to the students of the various fraternity and college students of in and around Mysuru. But again the COVID pandemic was there..

After continuous efforts, the “UMANG 2023” finally happened as a 2-day event on 15th and 16th April 2023..!

The event was not just limited to CS Students, but it was also open to College students as well as professional institute students like ICAI and ICAI. CS Students from Chennai and Bangalore participated in the event.

We also had CS Narasimhan, Vice President, The ICSI and CS Dwarakanath, Central council member, The ICSI who graced the event with their presence on 16th April 2023, CS Narasimhan, Vice President interacted with the students and shared their insights on studies, Stock Markets and other various topics.

The event comprised of

1. Debate
2. Quiz
3. Business Pitch
4. Technical Presentation
5. Toastmaster session
6. Cultural program

1. Debate

The first event which started off UMANG 2023 was the debate competition where the participants faced each other on the topic of Artificial Intelligence v/s Human Intelligence. The way the participants presented their views and rebutted against arguments was phenomenal to watch and also displayed the amount of research done by them.

The event was done in 2 rounds where round 1 was judged by CS Ajay Madaiah, CS Parvati and CS Vijaya Rao and the final round of debate was judged by CS Prachetha and CS Vijaya Rao.

The Winner of the event were:

- I. 1st Place: Nisha A

- II. 2nd Place: Shreyas D
- III. 3rd Place: Sanjana U Nair

2. Quiz:

The quiz is a one such competition which tested the knowledge of all the participants on topics ranging from politics to geography to history and current affairs. It was divided into 3 rounds.

To make it more interesting the organisers included the aspects of Audio and visuals also the classic bowl of chits which contained questions to be answered by the participants. All in all, the students took part enthusiastically. The organisers witnessed a healthy and stiff competition between the teams. Tiebreakers were also conducted. Not just the participants but the audience were involved too, they were able to answer rapidly. 5 teams qualified to the finals and three teams bagged prizes as winners.

The entire event of Quiz was sponsored by Cyient DLM Private Limited.

The Winner of the event were:

- I. 1st Place: Shreyas D and Suraj
- II. 2nd Place: Bhavesh and Heman
- III. 3rd Place: Supreeth Nag Hegde and Anushree

3. Business Pitch:

A business pitch event was a contest conducted as a part of UMANG 2023 where the participants presented their business concept to a panel of Judges. There were many bright ideas ranging from usage of plastic waste to make clothes, using old wood furniture to make new furniture without cutting of trees, using pineapple waste to make a variety of products, and so on.

The Entrepreneurial zeal of the Business Pitch participants was put to a test by the judges which made the event much more interesting..!

The Competition was judged by CS Abhishek, CS Pavithra P and CS Varun K N and entire Contest was sponsored by CS Madhvesh Acharya and CS Pavithra P.

The winners of the participants were:

- I. 1st Place: Mr. Bhavesh Nagraj and Heman Shekar
- II. 2nd Place: Susan Binu George
- III. 3rd Place: Pooja

4. Technical Presentation:

Technical presentation was a platform for the CS Students to showcase their presentation skills. The students made good use of the platform provided and presented on topics ranging from CSR which was done by multiple students who had their own opinions along with showing their understanding of the topic and other topics presented included Directors, FEMA compliances and others.

Technical presentation was more of an interactive session among the students who started to discuss on the given topics.

5. **Toastmasters Session:**

A toastmaster's demo session was organised by the Executive committee members of the ICSI Mysuru RoyalPro Toastmasters Club, which is one among 2 clubs in entire India which is exclusively for the CS Fraternity.! Toastmasters Club is a non-profit organisation which helps one to improve their communication and leadership skills.

Toastmaster Suma Anil engaged the entire audience which included members and students. She narrated the importance of the communication styles and how a person can improve their communication and leadership skills. The entire session was interactive and informative.

6. **Cultural Program:**

In order to conclude the entire event on a high note there was a cultural program, as the dress code was Ethnic, it added the spark of josh among the students and members.

It was wonderful to see the unique collaboration of the members and the students of the Mysuru chapter of ICSI perform together. There were two musical performances. The first one was a classical mashup which included Mahaganapatim and Varaha roopam. The second one was a medley of Kannada film songs. Both of these performances were blissful to listen to and took the audience to a different world!

With the help of our generous sponsors the event was a grand Success, CS Krishne Gowda C – Secretary was very instrumental in getting the Valuable sponsors, In a nutshell the event was filled with enthusiasm resulting in a truly grand and unforgettable event. In the end Participation certificates were given to all the participants.

The entire organising team was mentored by the Management committee members of the Mysuru Chapter of ICSI i.e., CS Phani Datta D N – Chairman, CS CS Padmanabha – Vice-Chairman, CS Krishne Gowda C – Secretary, CS Abhishek Bharadwaj A B- Treasurer, CS Janhavi A – Member and Student Committee Chairperson, CS Arunkumar – Member, CS Reshma Anwar – Member.

CS Vijaya Rao, CS Pracheta M, CS Ajay Madaiah, CS Parvati, CS Varun, CS Abhishek Bhardwaj A B and CS Pavithra P helped in the screening of the participants and also they were the Judges of the Debate and Business pitch.

The Entire Organising Team of students included: Mr. Dhanvith, leading Debate, Ms. Kinjal Gowda, Leading Quiz, Ms. Mathruka, Leading Business Pitch and Ms. Arya Bitto, Leading Technical Presentation.

Other Organisers in the team were Mr. Chandan, Ms. Aparna U, Ms. Monisha, Mr. Guru Sameera, Ms. Dhanyaa, Mr. Prajwal M S, Mr. Sathvik, Ms. Deepthi, Ms. Sharadha and others.

The Chief Co-Ordinators were Mr Komal Kumar M, Mr Prajwal Rangaraju and Mr Hitesh M Prabhu who managed the overall event.

Overall the UMANG 2023 being an annual event of the Mysuru Chapter of ICSI concluded on a high note.





Toastmasters

ICSI Mysuru RoyalPro Toastmasters Club



The Club held its meetings on:

Sl No	Date	Theme	Winners
1	14 th April, 2023	Train Journey	1. Best Main Role Taker: TM Siddarth, TM Pracheta, TM Pavitra 4. Table Topics Speaker: Guest Diksha 5. Best Auxiliary Role Taker: TM Arya
2	21 st April, 2023	Education Session: Stories: Magic, Mystery and Miracle	NA
3	23 rd April 2023	Participation in International Speech and evaluation competition	1. Evaluation Contest – TM Vijaya Rao 2. Speech Contest – TM Phani Datta
4	28 th April, 2023	IPL Fever	1. Best Prepared Speaker: TM Komal Kumar M 2. Best Evaluator: TM Anita 3. Best Main Role Taker: TM Supradeep 4. Table Topics Speaker: DTM Kavitha M Prakash 5. Best Auxiliary Role Taker: TM Vijaya Rao
5	07 th May, 2023	Connect To Nature (Out Door Meeting)	1. Best Main Role Taker: TM Komal Kumar M 2. Table Topics Speaker: TM Pavithra P and Ramanuja 3. Best Auxiliary Role Taker: TM Phani Datta D N
6	12 th May, 2023	Table Topics Marathon	1. Best Main Role Taker: TM Parvati 2. Table Topics Speaker: TM Pracheta M 3. Best Auxiliary Role Taker: TM Pracheta M

There was a special out door meeting at Kukkrhalli Lake on 07th May, 2023, which was attended by 15 participants To disseminate the knowledge we need to be self-confident and one of the ingredient to be self-confident we need to be an effective communicator and a leader. Most people have fear of public speaking and this stops from pursuing lots of opportunities. Toastmasters is a platform where one can develop communication and leadership skill and it has been successful since about a century. ICSI Mysuru Royal Pro Toastmasters club is providing this opportunity for all members and students of ICSI. To make sure all members and students all over India can take advantage of this, our meeting happens online.

For more information please contact club President CS Vijaya Rao at 98454-22855 or Chapter Chairman CS Phani Datta at 98862-14182 (only through WhatsApp please). We meet every Friday from 7:00 to 8:30 PM online.

Outdoor Physical Meeting



Divisiona Level Evaluation Contest



Division Level Speech Contest



Recognized at the ISC Contest



Liability of Directors in a Cheque Bounce case U/s.138 / 141 of NI Act, 1881

The Directors of a Company perform fiduciary duties and take important decisions for and on behalf of the Company as conferred upon them under the Companies Act, 2013. In addition, their involvement in the day-to-day affairs and operations of the company takes the company forward in its functioning and achieving its objectives. The Minimum & Maximum number of directors on the Board varies from one company to another and when it comes to involvement in the day to day affairs of a company are concerned there are certain directors who are deemed to be involved by virtue of their position such as Managing Director, Joint Managing Director, Whole Time director, Executive director etc. similarly some directors though on the Board may not be directly involved in the day to day functioning of the company such as a non-executive or a non-whole time director. The liability of the directors are vicarious in nature when they perform their duties for and on behalf of the company and they are held liable for any non-compliance, default or commission of offence etc. not only under the Companies Act but also under other applicable laws since a company cannot act on its own and it acts through the Board.

In case of a cheque issued by a drawer gets dishonoured due to insufficiency of funds, stoppage of payment etc. the drawee can initiate a Criminal proceeding against the drawer by filing a cheque bounce case U/s. 138 of Negotiable Instruments Act, 1881. Similarly, if the Cheque is issued by a Company (drawer) and it gets dishonoured then Sec. 141 of the Negotiable Instruments Act, 1881 will come into play since it deals with 'offences by companies'. As per Sec. 141, if the offence U/s. 138 is committed by a company then 'every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.' 'Provided that nothing contained in this sub-section shall render any person liable to punishment if he proves that the offence was committed without his knowledge, or that he had exercised all due diligence to prevent the commission of such offence.' Sub-section (2) of Sec. 141 states that if the offence is committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company shall also be deemed to be guilty of that offence and will be liable for punishment.

“

The liability of the directors are vicarious in nature when they perform their duties for and on behalf of the company and they are held liable for any non-compliance, default or commission of offence etc. not only under the Companies Act but also under other applicable laws since a company cannot act on its own and it acts through the Board”

R. Rajesh,
Advocate Chennai
B. Com, LLB, ACS



From the reading of Sec. 141 it could be understood that it deals with two different situations where a person can escape from the liability if he proves that the said offence U/s. 138 was committed without his knowledge or he exercised due diligence to prevent the offence and on the other hand the Section also imposes liability on a person (including any director, manager, secretary or other officer) if the offence is said to be committed with the consent or connivance or negligence of such person then he is liable to be proceeded and punished accordingly. At this point we must also note that though the term 'person' is referred to in the section it applies not only to a company and its directors but also any person such as manager, secretary or other officer who are responsible for the affairs of the company.

Normally, in a criminal case 'Mens rea' (criminal intent) is an essential ingredient to be proved as against the person who has committed the offence and that is what is indicated in Sub-section (2) of Sec. 141. The two issues which the courts have dealt with which I would like to share in this article are:

- a) Is a complaint U/s. 138 read with Sec. 141 of NI Act, 1881 is maintainable in the absence of the Company (drawer) being a party?
- b) Are all directors of a company liable for an offence committed by a company U/s. 138?

With regard to the first issue is concerned the Supreme Court has dealt with in the case of '**Aneeta Hada Vs. Godfather Travels and Tours Pvt. Ltd.**' reported in '**2012 5 SCC 661**' wherein the court while considering the said issue has placed reliance on the words 'as well as the company' and 'shall be deemed' in Sub-section (1) of Sec. 141 so as to arrive at a finding that in the absence of the company being a party to the complaint U/s. 138 of NI Act, the said complaint is not maintainable. Further, the only exception of applying the principle of 'lex non cogit ad impossibilia' i.e. for some legal snag the company cannot be proceeded against, without obtaining the sanction of a court or other authority wherever required. The Hon'ble Supreme Court has analysed the distinction between where company has not been made accused and where the company could not be proceeded against due to a legal bar. While dealing with this issue the Court had pointed to a similar provision U/s. 10 of Essential Commodities Act, 1955 and referred to its judgment rendered in **C.V. Parekh's case reported in '(1970) 3 SCC 491'**. Similarly, the court has also referred to Sec. 85 of the Information Technology Act, 2000. The Hon'ble Supreme Court therefore came to an irresistible conclusion that, for maintaining a prosecution against any person for an offence committed U/s. 138/141 of NI Act, 1881, it is imperative that the company is arrayed as a party/accused in the complaint, since for the commission of offence by a company, it's condition precedent to attract the vicarious liability on others.

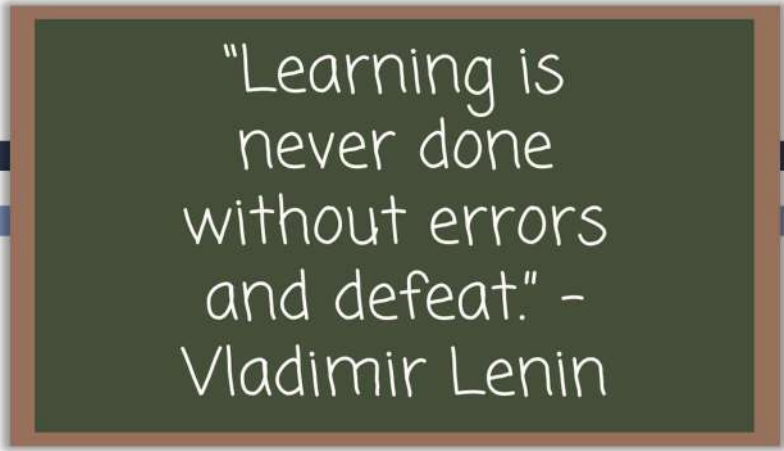
In so far as the second issue is concerned, the Supreme Court in '**S.M.S. Pharmaceuticals Ltd.**' reported in '**(2005) 8 SCC 89**' has held that the first and foremost requirement being there must be an averment as against the person who is shown as an accused in the complaint in order to fasten the vicarious liability against him for the offence committed by the company. Secondly, in order to make a person criminally liable at the time the offence was committed he must be in charge of and responsible for the conduct of the business of the company. The persons who are deemed to be in charge of affairs of the company such as Managing Director, Joint Managing Director, Whole-time Director etc. are necessarily a party to the complaint irrespective of whether they were actually in charge of the affairs of the company or not and irrespective of the fact whether they are signatory to the dishonoured cheque or not. In order to fasten liability on other persons are concerned there must be clear, unambiguous, specific allegations in the complaint of their involvement in the day to day affairs of the company is relevant irrespective of whether they are signatory to the dishonoured cheque or not. Therefore, a director of a company could escape liability if he either proves that the offence was committed without his knowledge or consent or he exercised all due diligence to prevent the commission of such offence hence on such persons the

concept of deemed liability does not apply unless he is a signatory to the cheque. Whereas on the other hand if a person even if not a director can still be held liable for an offence of the company U/s. 138 if he is either a signatory to the cheque or was responsible for the conduct of the business of the company or is proved that the offence has been committed with his consent or connivance or negligence.

The Supreme Court has reiterated the same while dealing with a similar case in '**Gunmala Sales Pvt. Ltd.**' reported in '(2015) 1 SCC 103' and held that a director who has resigned from his position much before the commission of the offence U/s. 138 cannot be asked to face the trial which would amount to abuse of the process of court and law. The prosecution of a director who has resigned or is suffering from a terminal illness or bedridden is merely an arm-twisting tactics and the High Courts are therefore empowered to quash such complaint against such directors in exercise of its powers under Sec. 482 of Cr.P.C.

Conclusion

The Hon'ble Supreme Court has consistently held that the vicarious liability in respect of an offence committed by a company U/s. 138 of Negotiable Instruments Act, 1881 does not automatically fall on all the directors of the company except those directors who participated in the day to day affairs of the company at the time of commission of the offence and in addition the necessary ingredient in a complaint being there must be a specific allegation or averment against such director about his involvement in the offence. Further, in the event of any director or a person who is not a signatory to a cheque is convinced of the fact that he is not a necessary party to the said complaint he can file a petition U/s. 482 of Cr.P.C. at the earliest point of time before the High Court having jurisdiction to quash the Criminal complaint filed against him by the complainant before the Trial court.



"Learning is never done without errors and defeat." - Vladimir Lenin

Business Responsibility and Sustainability Report

Background

Today, we tend to talk a lot about the environment, water issues, air pollution and other problems that humanity faces. But if you look at the fundamentals behind all these problems, you will see there is only one problem on this planet is the human being. We human beings polluted the three elements given by the nature i.e., Earth, Water and Air. Soil degradation is the biggest challenge. Air pollution can be fixed by stopping carbon emissions etc., water pollution can be fixed by stopping chemicals and other wastes going into it. Whereas Soil is not like that, it will take 15 to 20 years to fix it. If Soil is fixed by putting some green cover, automatically other two elements Air and Water are fixed.

All this while, we thought ecological issues are something the next generation will have to suffer, but ecological issues are no longer tomorrow's problems; they are today's problems. Scarcity of water, Air pollution and soil depletion, it is very clear from these parameters that if we do not do something significant in next few years, the size and nature of the problems we will face will be of a magnitude we have never seen before. If only two consecutive monsoons fail, disaster will happen, there will be no drinking water. In India we see this in summer most of the states face scarcity of water. We are the source of the problem; and we can also be the source of the solution.

Laws

Indian Government framed so many laws to protect the environment as mentioned below:

- Water (Prevention and Control of Pollution) Act, 1974.
- Water (Prevention and Control of Pollution) Cess Act, 1974
- Air (Prevention and Control of Pollution) Act, 1977.
- Forest Conservation Act, 1980
- Environmental Protection Act, 1986.
- Public Liability Insurance Act 1991.
- The Biomedical Waste (Management and Handling) Rules, 1998.
- Other laws

Whereas the above-mentioned laws though in force but still we human beings are some way or other polluting the nature and spoiling our own natural habitat.

“

Publishing a BRSR

can have several benefits for a company. It can help to build trust and credibility with stakeholders by demonstrating a commitment to ESG issues. It can also help to identify areas where the company can improve its performance and make changes to become more sustainable”

Dharma Chiranjeevi Raju
FCS, LL.B
Senior Manager – Coromandel International Limited



Case Laws

Mr. M C Mehta, public interest attorney from India and environmentalist. He single-handedly won numerous landmark judgments from India's Supreme Court since 1984. There are landmark cases which created an impact like The Taj Mahal case related to Air Pollution, Ganga Water Pollution case, Oleum Gas leakage case etc.

Government is now coming up with laws making mandatory for the Corporates and making it responsible to protect our environment as well as to protect the human beings from natural disasters.

Rankings of Top 5 Countries Based on SDG Index:

A scorecard that rates countries on 32 different factors ranging from carbon emissions to waste management and air quality, it helps provide policymakers with a snapshot of how well they're moving towards a sustainable future. These world-renowned territories so successful when it comes to green living and environmental awareness and following are the key eco-friendly initiatives they're currently pursuing.

Country Name	Score	Sustainability
Finland	86.51	Ban the use of Coal in power generation
Denmark	85.63	Wastewater Management
Sweden	85.19	Wastewater treatment and Pollution emissions
Norway	82.35	Electric powered – world leader in electric vehicles
Austria	82.32	New energy innovations and environmental technologies

Facts:

E-Waste: Do you know 40% of people replace cell phones every year.

Trees: Do you know approximately 27,000 trees are cut down daily around the world to make toilet paper.

Air Pollution: Do you know Air pollution kills 6.7 million people every year, 3.2 million of whom die from household air pollution.

Water Pollution: Do you know every year; unsafe water kills more people than any form of violence – including war.

Illiteracy: Despite the steady rise in literacy rates over the past 50 years, there are still 773 million illiterate adults around the world, most of whom are women.

Temperature: The global average temperature in 2019 was 1.1 degree Celsius above the pre-industrial period, according to WMO.

Clothing: Do you know 80% of clothes go to land filling, most of them are polyester. Only 1% is recycled.

Plastic: Rag pickers / beggars are picking up plastic bottles etc. and giving it for recycling in India. Whereas other plastic is going to soil.

Securities and Exchange Board of India (SEBI)

SEBI has taken lot of initiatives to protect the Environment, Social and Governance.

2009	MCA issued National Voluntary Guidelines (NVGs) on Corporate Social Responsibility (CSR)
2012	SEBI mandated that top 100 listed companies by market capitalisation file Business Responsibility Report (BRR) based on NVGs along with their annual reports.
2014	CSR was mandated and CSR Rules came into force
2015	SEBI extended the applicability of BRR for top 500 listed companies by market capitalisation
2017	SEBI advised that Integrated Reporting may be adopted on voluntary basis from FY 2017-18 by top 500 listed companies which are required to prepare BRR.
2019	SEBI extended the applicability of BRR for top 1000 listed companies by market capitalisation from FY 2019-20
2019	National Guidelines on Responsible Business Conduct (NGRBC) released in March 2019
2021	Introduction of Business Responsibility and Sustainability Report in May 2021

Requirement of submitting BRR was discontinued after the financial year 2021-22 and from the financial year 2022-23 SEBI vide SEBI (Listing Obligations and Disclosure Requirements) (Second Amendment) Regulations, 2021 made BRSR mandatory for the top 1000 listed companies based on their market capitalisation and it should form part of the Annual Report. In this regard, SEBI also released a Guidance note and format. In future SEBI may come up making it applicable to all the companies irrespective of whether the company is listed, public or private company.

Business responsibility and sustainability have become increasingly important considerations for companies in recent years. As more people become aware of the impact that businesses have on the environment and society, there is a growing demand for companies to take responsibility for their actions and operate in a sustainable way. One way that companies can demonstrate their commitment to these issues is through the publication of a Business Responsibility and Sustainability Report.

A BRSR is a document that outlines a company's policies, practices, and performance in relation to environmental, social, and governance (ESG) issues. The report provides stakeholders with a transparent view of the company's operations and its impact on the world around it. It also highlights the company's efforts to address ESG issues and its progress towards sustainability.

The BRSR typically includes a range of information, such as:

1. **Environmental performance:** This section covers the company's impact on the environment, including its use of natural resources, emissions, waste, and pollution.
2. **Social performance:** This section covers the company's impact on society, including its relationships with employees, customers, suppliers, and communities.
3. **Governance performance:** This section covers the company's governance structure and practices, including its management systems, board composition, number of independent directors, transparency and any other relevant information that is necessary to understand the company's governance practices.

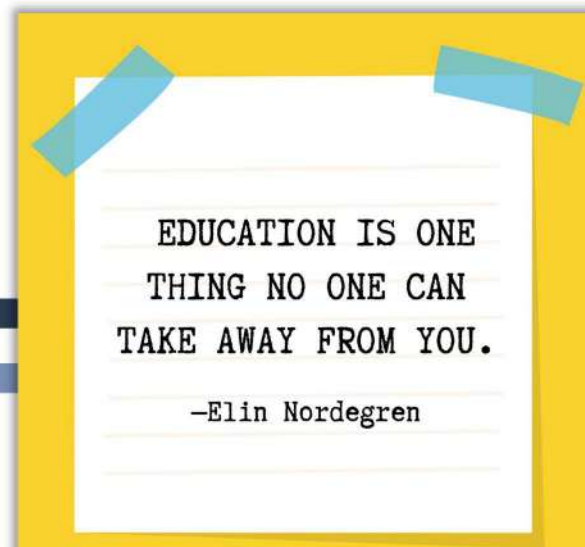
4. **Sustainability initiatives:** This section outlines the company's sustainability goals and initiatives, including its efforts to reduce its environmental footprint, support social and economic development, and promote good governance.
5. **Materiality:** Companies must identify and disclose the material ESG issues that are relevant to their business operations and explain how they are addressing these issues
6. **Stakeholder Engagement:** Companies must disclose their engagement with stakeholders, including shareholders, customers, employees, and communities, and the impact of this engagement on the company's decision-making.
7. **Disclosure of Policies and Initiatives:** Companies must disclose their policies and initiatives related to environmental, social, and governance (ESG) issues, including details of their sustainability goals, targets, and performance metrics.
8. **Reporting Standards:** Companies must follow the reporting standards and guidelines issued by recognized international organizations like the Global Reporting Initiative (GRI) or the Sustainability Accounting Standards Board (SASB).
9. **Independent Verification:** Companies may choose to obtain independent verification of their BRSR from a third-party assurance provider to ensure the accuracy and completeness of the report.

Benefits of Publishing BRSR

Publishing a BRSR can have several benefits for a company. It can help to build trust and credibility with stakeholders by demonstrating a commitment to ESG issues. It can also help to identify areas where the company can improve its performance and make changes to become more sustainable. Additionally, it can provide a framework for reporting on ESG issues in a standardized and consistent way, making it easier for stakeholders to compare the performance of different companies.

However, producing a BRSR can also be challenging. It requires a significant amount of data collection and analysis, as well as a thorough understanding of ESG issues and reporting standards. It also requires a commitment from senior leadership to prioritize ESG issues and allocate resources to address them. It is important to note that SEBI (LODR) Regulations, 2015, require companies to disclose their BRSR on their website and submit a copy to the stock exchange where their shares are listed.

To Be Continued.....



Examining the Effects of the Competition Amendment Act 2023 on Business Operations in India

"Competition is the keen cutting edge of business, always shaving away at costs." - Henry Ford

According to the World Bank's Ease of Doing Business 2020 report, India was ranked 63rd out of 190 countries, marking a significant improvement of 79 places since 2014. This progress can be attributed to a series of reforms implemented by the central government, including the Business Reform Action Plan (BRAP)¹. It is a report published annually by the Department for Promotion of Industry and Internal Trade (DPIIT), which is a branch of the Ministry of Commerce. The DPIIT also provides reports on initiatives such as Make in India, Start-up India, and Production Linked Incentives annually. This BRAP report takes into account various metrics and 15 areas are evaluated to determine the rankings to the states in Ease of Doing Business including the single window system, centralized inspection mechanism, labour and land laws, environmental clearance, law and order situation, ease of starting a business, location, availability of loans, taxes, exports, and other factors.

In terms of the Ease of Doing Business, the Competition Amendment Act 2023 passed¹ (a) on 11th April 2023 will play a crucial role in ensuring that businesses can operate in a fair and competitive environment, which can help attract foreign investment, create jobs, and foster economic growth. It is, therefore, essential that the Act is enforced effectively to promote a healthy and vibrant business environment in India.



“

-In its decision-making practices, the Competition Commission of India (CCI) has recognized various forms of material influence, including shareholding, special rights, status and expertise of an enterprise, board representations, and structural/financial influence over another”

CS Dr. Somu Siva Rama Krishna
FCMA, CA, CIMA UK, LL.M, MBA, MFM, M.Com
ECS & Manager JOCIL Limited



Let's examine in greater detail the significant points and procedures related to the amended act, which impact the ease of doing business in India¹.

Deal Value Threshold

A recently introduced regulation of combinations designed to promote a more favourable environment for conducting business. The addition of new sections 5(d) and 5(e), which introduce a deal value threshold. As per the mandatory notification requirement under 6(2)², if the value of any acquisition, merger, or amalgamation, i.e., any combination, exceeds Rs. 2000 crores², it must be reported, given that the target entity has significant business operations in India. This additional threshold has been primarily established to include deals made by large technology multinational corporations in digital markets that have minimal or no assets or turnover in India.

The weakening of the definition of "control" – Section 5(a) Interpretation:

The definition of control refers to the capacity to exert significant influence in any way on the management affairs, or strategic commercial decisions of one or more enterprises or groups over another. In its decision-making practices, the Competition Commission of India (CCI) has recognized various forms of material influence, including shareholding, special rights, status and expertise of an enterprise, board representations, and structural/financial influence over another.

Relaxation in Procedural Requirements for Combination Notification:

A relaxation in the procedural requirements involves the elimination of the compulsory 30-day time limit for notifying a combination under section 6(2). Instead, it is now mandatory to provide notification before the consummation of the combination

Section 6(2A) of the regulation imposes a standstill obligation aimed at promoting a more favourable business environment in India. The maximum time limit for this obligation has been reduced to 150 days² from the previous duration of 210 days. However, it may be extended for an additional 30 days if a reasonable cause is provided for the time extension request.

Section 6A, which has been recently added, allows for the exemption of standstill obligations in the case of open market purchases. The current standstill obligations related to open offers and the acquisition of convertible shares/securities on a stock exchange can be waived under certain conditions. These include filing a notice for such acquisition with the Competition Commission of India (CCI) within the statutory time limits specified by regulations established by the CCI and refraining from exercising any ownership or beneficial rights or interest or receiving dividends in such shares or securities until approval is received from the CCI.

Penalty for Incomplete or False Disclosures

Section 44 provides for a higher penalty for submitting false or incomplete information in the statutory notice that must be filed before the Competition Commission of India (CCI). There has been an increase in the maximum penalty for providing false or

¹ . <https://pib.gov.in/PressReleaseDetailm.aspx?PRID=1589055>

1(a) <https://egazette.nic.in/WriteReadData/2023/245101.pdf>

² The Competition (Amendment) Act, 2023 No. 9 of 2023 , 11th April 2023 (gazette notification), page 4, point 6 Amendment of Section 5 clause (d) & The Competition (Amendment) Act, 2023 No. 9 of 2023 , 11th April 2023 (gazette notification), page 5, point 7 Amendment of Section 6

incomplete disclosures in the statutory notice to be filed before the Competition Commission of India (CCI) under Section 44, from Rs.1crore to Rs.5 crores³. However, the minimum mandatory penalty of Rs. 50 lakhs remains unchanged.

Penalty for Gun Jumping

In the context of the Competition Act, "gun jumping" refers to the premature implementation of a combination (merger or acquisition) before receiving clearance from the Competition Commission of India (CCI). This is considered a violation of the Act, as it can impact competition in the market. Section 43A provides for a specific penalty in "gun jumping" cases, where failure to file notice under Section 6(2), 6(4), or contravention of Section 6(2A) may result in a maximum penalty of 1% of the total turnover⁴ or assets, whichever is higher.

Enforcement Provisions for Anti-Competitive Agreements and Cartels

The scope of horizontal anti-competitive agreements and cartels is extended to include "facilitators" or "hubs," i.e., entities other than direct competitors, including non-participants.

Section 3(3) of the Competition Act has been amended to expand the scope of enforcement provisions for horizontal anti-competitive agreements and cartels. The changes include:

1. Insertion of a new proviso to cover "Hub & Spoke" cartels
2. Presumption that a facilitator of a cartel is a part of the cartel, even if not engaged in similar/identical trade, provided there is an apparent intention to participate in the agreement (or found participating in the agreement)
3. The inclusion of the element of Mens rea aims to safeguard alleged facilitators, including trade associations. However, in the previous case of CCI vs. Thomas Cook⁵, it was determined that Mens rea is not pertinent.
4. Potential coverage of algorithm-driven collusion in digital markets.

Section 3(4) expands the scope of anti-competitive agreements to include agreements other than vertical agreements between manufacturers and dealers.

1. All other agreements, including those between manufacturers and dealers, are covered if they cause an Appreciable Adverse Effect on Competition in India (AAEC).
2. This provision also captures agreements that may not fall under the horizontal or vertical category, such as Most Favored Nations (MFN), non-compete clauses, and parity clauses used by online travel agents for hotel/air ticket bookings. An example of such a case is the MakeMyTrip-Oyo case, which was decided by the Competition Commission of India (CCI) in October 2022.

Section 19(3) clauses (c) and (d) have been fine-tuned to provide more precise factors for determining Appreciable Adverse Effect on Competition (AAEC).

Section 19(6) now includes clauses (i) and (j), which introduce two additional considerations for identifying the "relevant geographic markets."

³ <https://egazette.nic.in/WriteReadData/2023/245101.pdf> page 14 point 31 Amendment of section 44

⁴ <https://www.cci.gov.in/faqs>

⁵ <https://indiankanoon.org/doc/84791944/>

Section 19(7) has been updated to include clauses (g) and (h), which outline two new factors that must be taken into account when identifying the "relevant product markets," namely, switching costs and customer categories.

Section 26(2A) has been implemented to prevent repeated investigation into allegations under sections 3 or 4 that have already been resolved in a prior case. This provision aims to simplify the inquiry process under section 19 and establish the principle of res judicata.

Section 27(b) has been amended to include two additional explanations that relate to the imposition of penalties based on "Global Turnover⁶."

The maximum percentage of turnover or income upon which penalties can be imposed remains unchanged, with 10% being the maximum or three times the profit per year in the case of a cartel, whichever is higher. However, two new explanations have been added to Section 27(b). The first explanation specifies that "Turnover" or "income" will be defined by regulations established by the Competition Commission of India (CCI). The second explanation clarifies that "Turnover" refers to the global turnover generated by an enterprise or individual from all their products and services.

Settlements, Commitments, and Leniency Plus

In order to Maximizing the Benefits of Antitrust Enforcement Section 48 A introduces settlements as an option for cases involving alleged violations of vertical anti-competitive agreements under section 3(4) and abuse of dominant position under section 4, which are initiated under section 26(1). Parties may apply for settlement at any time after receiving the DG report but before the final order is passed by the CCI under section 27 or section 28, within the timeframe specified by CCI regulations. The CCI will provide an opportunity for concerned parties, the DG, or any other party to submit objections and suggestions.

Revocation of Settlement or Commitment Orders and Associated Penalties

Section 48C deals with the revocation of settlement or commitment orders. The CCI can withdraw the order passed under section 48A or section 48B in the following situations

- a. The applicant fails to comply with the order passed under section 48A or section 48B
- b. The applicant did not disclose full and accurate information, or
- c. There is a significant change in facts.

The party that failed to comply shall be liable to pay legal costs incurred by the CCI, which may extend to Rs. 1 crore. Additionally, the CCI may initiate or restore the inquiry.

Leniency Regime Amendment⁷

The scope of leniency for breaking cartels has been expanded through the introduction of "Leniency Plus." Under section 46(2), the CCI now has the authority to permit the withdrawal of a leniency application, which was previously not an option. However, even if an application is withdrawn, the DG or CCI may still use the evidence provided in that application, according to section 46(3).

"Leniency Plus" has been introduced to encourage cartel members to reveal multiple cartels to save time and resources in the investigation, aligning with similar provisions in the UK, USA, Singapore, and Brazil. Under this, the CCI has the authority to grant

⁶ The Competition Amendment Act 2023 (Gazette Notification) dated 11th April 2023, Page 10, point 20, explanation 2, Amendment to section 27

⁷ http://164.100.58.95/sites/default/files/advocacy_booklet_document/Leniency.pdf

a reduced penalty if a party makes a truthful and significant disclosure of another undisclosed cartel during the investigation into the existing one. Additionally, such disclosure will give the party priority market status in respect of the other cartel, but only if it enables the CCI to form a prima facie opinion and pass an order for investigation under section 26(1).

Section 16 has been modified, and the appointment of the DG by the CCI now requires prior approval from the Central Government. Additionally, a new proviso has been added to Section B, mandating the pre-deposit of a 25% penalty as a prerequisite for the admission of an appeal for a hearing before the National Company Law Appellate Tribunal (NCLAT). Furthermore, Section 2(t) has undergone an amendment, broadening the definition of "relevant product market" to encompass supply-side substitutability⁸.

Section 42(3) of the act covers the compounding of any offense punishable under the act, except for offenses punishable solely with imprisonment or imprisonment with a fine, by the NCLAT or any other court where proceedings related to such offense are on-going. This provision is stated in Section 59 of the act.

Section 64B directs the CCI to issue non-binding guidelines on the provisions of the act, including guidelines on determining the appropriate amount of penalty.

In conclusion, the legal reforms and amendments in the Competition Act have set a solid foundation for promoting ease of doing business in India. With continued focus on improving competition laws and regulations, the Indian economy is well-positioned to attract more investment, drive innovation, and enhance overall economic growth and development in the years to come.



⁸ <https://www.mondaq.com/india/cartels-monopolies/1307514/india-amends-its-competition-law---the-competition-amendment-act-2023-comes-into-force---promoting-ease-of-doing-business>

Advertisement Guidelines - Prevention of Misleading Advertisements

The Central Consumer Protection Authority (CCPA) has issued Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022 to provide for the prevention of false or misleading advertisements and making endorsements. They are applicable to all advertisements regardless of form, format or medium; a manufacturer, service provider or trader whose goods, product or service is the subject of an advertisement, or to an advertising agency or endorser whose service is availed for the advertisement of such goods, product or service.

- **Applicability of the Provisions:**

It shall come into force on the date of its publication in the Official Gazette i.e. 09.06.2022.

- **Applicability Provisions: It applies to -**

- All advertisements regardless of form, format or medium
- A manufacturer, service provider or trader whose goods, product or service is the subject of an advertisement
- An advertising agency or endorser whose service is availed for the advertisement of goods, products or services

- **Key Highlights:**

- The guidelines seek to ensure that consumers are not being fooled with unsubstantiated claims, exaggerated promises, misinformation and false claims. Such advertisements violates various rights of consumers such as right to be informed, right to choose and right to be safeguarded against potentially unsafe products and services.
- The CCPA has been established under section 10 of the Consumer Protection Act, 2019 for regulating matters relating to violation of the rights of the consumers, unfair trade practices and false or misleading advertisements which are prejudicial to the interests of public and consumers and to promote, protect and enforce the rights of consumers as a class.
- The present guidelines define “bait advertisement”, “surrogate advertisement” and clearly provides what constitutes as “free claim advertisements”.
- Misleading advertisement has already been defined under section 2(28) of the Consumer Protection Act, 2019.

“

-The CCPA has been established under section 10 of the Consumer Protection Act, 2019 for regulating matters relating to violation of the rights of the consumers, unfair trade practices and false or misleading advertisements which are prejudicial to the interests of public and consumers and to promote, protect and enforce the rights of consumers as a class.”

CS Lalit Rajput
Company Secretary



- A bait advertisement shall not seek to entice consumers to purchase goods, products or services without a reasonable prospect of selling such advertised goods, products or services at the price offered and the advertiser shall ensure that there is adequate supply of goods, products or services to meet foreseeable demand generated by such advertisement.
- Conditions for advertisements targeting children have been made. Furthermore, an advertisement for junk foods, including chips, carbonated beverages and other such snacks and drinks should not be advertised during a program meant for children or on a channel meant exclusively for children.
- Disclosure of material connection – Where there exists a connection between the endorser and the trader, manufacturer or advertiser of the endorsed product that might materially affect the value or credibility of the endorsement and the connection is not reasonably expected by the audience, such connection shall be fully disclosed in making the endorsement.
- Any endorsement in an advertisement must reflect the genuine, reasonably current opinion of the individual, group or organisation making such representation and must be based on adequate information about, or experience with, the identified goods, product or service and must not otherwise be deceptive.
- In case of any ambiguity or dispute in interpretation of these guidelines, the decision of the Central Authority shall be final.

- **Conditions for “free claims” advertisements**

An advertisement making claims of offering something for free should:

1. not describe any product or service to be “free,” “without charge” or use such other terms if the consumer has to pay anything other than the cost of responding to such advertisement and collecting or paying for the delivery of such item
2. make clear the extent of commitment that a consumer should make to take advantage of a free offer
3. not describe anything to be free, if
 - a) the consumer has to pay for packaging, handling or administration of such free goods, products or services
 - b) the cost of response, including the price of the product or service that the consumer has to purchase to take advantage of such an offer, has been increased, except where such increase results from factors unrelated to the cost of promotion.
 - c) the quality or quantity of the product that a consumer should purchase to take advantage of the offer has been reduced
4. not describe an element of a package as free if such element is included in the package price
5. not use the term “free trial” to describe a “satisfaction or your money back” offer or an offer for which a non-refundable purchase is required

- Duties of advertisers

All Entities to whom these Guidelines Apply should Ensure that:

- all descriptions, claims and comparisons in an advertisement which relate to matters of objectively ascertainable facts should be capable of substantiation if required by the CCPA
- the advertisement indicates the source and date of independent research or assessment in cases where claims are expressly stated to be based on such research or assessments

- the advertisement should not contain any reference to a person, firm or institution in a manner which confers an unjustified advantage on the product so advertised or tends to bring such person, firm or institution to ridicule or disrepute, unless requisite permission has been obtained by the advertiser
 - the advertisement should not contain statements or visual presentations which directly or by implication, omission, ambiguity, or exaggeration are likely to mislead consumers about the product advertised, the advertiser, or any other product or advertiser
 - Advertisement is so framed as not to abuse the trust of consumers or exploit their lack of experience or knowledge.
- **About Disclaimers**

Guidelines stipulates that disclaimer shall not attempt to hide material information with respect to any claim made in such advertisement, the omission or absence of which is likely to make the advertisement deceptive or conceal its commercial intent and shall not attempt to correct a misleading claim made in an advertisement. Further, it provides that, a disclaimer shall be in the same language as the claim made in the advertisement and the font used in a disclaimer shall be the same as that used in the claim.
 - **Penalty Clause (defined by Consumer Protection Act)**
 - CCPA can impose penalty of up to 10 lakh rupees on manufacturers, advertisers and endorsers for any misleading advertisements.
 - For subsequent contraventions, CCPA may impose a penalty of up to 50 lakh rupees.
 - The Authority can prohibit the endorser of a misleading advertisement from making any endorsement for up to 1 year and for subsequent contravention, prohibition can extend up to 3 years.

Disclaimer: The content of this is intended to provide a general guide to the subject matter. Every effort has been made to keep the information cited in this article error-free. Suggestions and feedback to improve the task are welcome. The contents of this write - up are for information purposes only and does not constitute an advice or a legal opinion and are personal views of the author. The opinion may vary according to one's interpretation of the law.

In no event the authors shall be liable for any direct, indirect, special or incidental damage resulting from or arising out of or in connection with the use of this information.



Help Yourself

Food for Thought

Ikigai

- Hector Garcia and Francesc Miralles

Disclaimer: This article does not endorse any book and is not sponsored by any author or publication. Content shared here is for knowledge and learning purposes only.

"He who has a WHY to live can bear almost any HOW" - Friedrich Nietzsche

'Who are we?', 'Where have we come from?' and 'Where are we going?' are on top amongst the questions that nobody really has an answer to. Yet, billions of us have found our own sense of purpose to wake up every day and face everything that life unfolds into.

The philosophy or concept of Ikigai roughly translates to 'a worthwhile life' and it is praised by many who have come to understand it and live by it. This ancient concept of Japan has remained quite popular due to its timeless nature.

The authors of this book met in Tokyo through a mutual acquaintance and their friendship led to penning this book. The authors discussed and contemplated together western trends in philosophy like Victor Frankl's logotherapy; pondered upon questions like "Should we just aim to live longer or seek a higher purpose?", "Why do some people know what they want and have a passion for life while others languish in confusion?" Often, the word Ikigai would come up in these conversations and upon researching they found out that not a single book in the West has been written on this insightful concept that makes Okinawa, in Japan, the place with the world's highest number of centenarians- people who are above the age of hundred. Therefore, this book was written to explain Ikigai to the rest of the world and how it helps to live a long and happy life.

You too may have come across this concept, at least the famous Venn Diagram that pops up the moment you search 'Ikigai' on the internet. Going by just the Venn Diagram, it appears to be only a self-search exercise that one can do to make a career choice. Though this diagram simplifies the concept, this book articulates all that you must know to understand and adopt this philosophy of Ikigai in your life. The book also talks about the lifestyle of the people of Okinawa, their diet, the moderate exercise they do, their close-knit communities, their way of lending financial help, their sense of security besides the sense of purpose they find through Ikigai.

The book also talks about other essential things about life that one must know, about the body and mind. These concepts I have come across in many books recently- 'Atomic Habits' by James Clear, 'The Five Second Rule' by Mel Robbins and 'Master your Emotions' by Thibaut Meurisse to name a few. However, every author has her/his own way of explaining these concepts and each time it is a fresh perspective.

If you are here for the first time, this column intends to impart bite sized knowledge from self-help books, biographies, autobiographies and other related genres, relevant specifically to corporate professionals and aspiring professionals. Not every learning that a book enshrines can be fit in here, so writing a summary or a book review is not the aim of this column. The intent is to give you a touch of acquaintance to a book, in every issue of this e-magazine, hoping that it will make you want to grab it and read for yourself. So, help yourself with food for thought!

Columnist:

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Executive Student
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REGULATIONS

Regulatory Updates

Companies Act, 2013

MCA has amended Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016 which shall be known as Companies (Removal of Names of Companies from the Register of Companies) Amendment Rules, 2023.

These rules have come into force from 1st day of May, 2023.

In the principal rule for rule 4(1) following shall be substituted:

“(1) An application for removal of name of a company under sub-section (2) of section 248 shall be made to the Registrar, Centre for Processing Accelerated Corporate Exit in Form No. STK-2 along with fee of ten thousand rupees.”

In the principal rule after rule 4(3) the following shall be inserted:

“(3A) The Registrar, Centre for Processing Accelerated Corporate Exit established under sub-section (1) of section 396, shall be the Registrar of Companies for the purposes of exercising functional jurisdiction of processing and disposal of applications made in Form No. STK-2 and all matters related thereto under section 248 having territorial jurisdiction all over India.”.

The MCA has introduced new forms STK-2, STK-6 and STK-7.

G.S.R 298(E)

MCA has amended Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016 which shall be known as Companies (Removal of Names of Companies from the Register of Companies) Second Amendment Rules, 2023.

In the principal rule in rule 4(1) following proviso shall be inserted:

Provided that the company shall not file an application unless it has filed overdue financial statements under section 137 and overdue annual returns under section 92, up to the end of the financial year in which the company ceased to carry its business operations

Provided further that in case a company intends to file the application after the action under subsection (1) of section 248 has been initiated by the Registrar, it shall file all pending financial statements under section 137 and all pending annual returns under section 92, before filing the application.

Provided also that once notice under sub-section (5) of section 248 has been issued by the Registrar for publication pursuant to the action initiated under sub-section (1) of section 248, a company shall not be allowed to file the application under this sub-rule.

G.S.R (E)

SEBI Act, 1992

Updates on Circulars

Introduction of Legal Entity Identifier (LEI) for Issuers who have listed and/ or propose to list non-convertible securities, securitised debt instruments and security receipts.

RBI has mandated non- individual borrowers having aggregate exposure of above Rs. 25 crores, to obtain LEI code.

Issuers having outstanding listed non-convertible securities as on August 31, 2023, shall report/ obtain and report the LEI code in the Centralized Database of corporate bonds, on or before September 1, 2023. Similarly, issuers having outstanding listed securitised debt instruments and security receipts as on August 31, 2023, shall report/ obtain and report the LEI code to the Depository(ies), on or before September 1, 2023.

Entities can obtain the LEI code from any of the Local Operating Units (LOUs) accredited by the Global Legal Entity Identifier Foundation (GLEIF). In India, the LEI code may be obtained from Legal Entity Identifier India Ltd (LEIIL), a subsidiary of the Clearing Corporation of India Limited (CCIL), which has been recognised by the Reserve Bank of India as issuer of LEI under the Payment and Settlement Systems Act, 2007 and is accredited by the GLEIF as the LOU in India for issuance and management of LEI codes.

The Depositories shall

- a. map the LEI code to existing ISINs by September 30, 2023; and
- b. for future issuances, map the LEI code provided by the issuers with the ISIN at the time of activation of the ISIN

SEBI/HO/DDHS/DDHS_Div1/P/CIR/2023/64

Investment in units of Mutual Funds in the name of minor through guardian

SEBI Circular no. SEBI/HO/IMD/DF3/CIR/P/2019/166 dated December 24, 2019 has prescribed the uniform process to be followed across Asset Management Companies (AMCs) in respect of investments made in the name of a minor through a guardian.

SEBI has modified above circular as under:

Para 1(a) shall read as under:

“Payment for investment by any mode shall be accepted from the bank account of the minor, parent or legal guardian of the minor, or from a joint account of the minor with parent or legal guardian. For existing folios, the AMCs shall insist upon a Change of Pay-out Bank mandate before redemption is processed”

Irrespective of the source of payment for subscription, all redemption proceeds shall be credited only in the verified bank account of the minor, i.e. the account the minor may hold with the parent/ legal guardian after completing all KYC formalities.

All other provisions mentioned in the aforesaid circular shall remain unchanged.

SEBI/HO/IMD/POD-II/CIR/P/2023/0069

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**Education is the passport
to the future, for tomorrow
belongs to those who
prepare for it today.**

Malcolm X

Students Corner

Issue of Compulsorily Convertible Debentures (CCD)

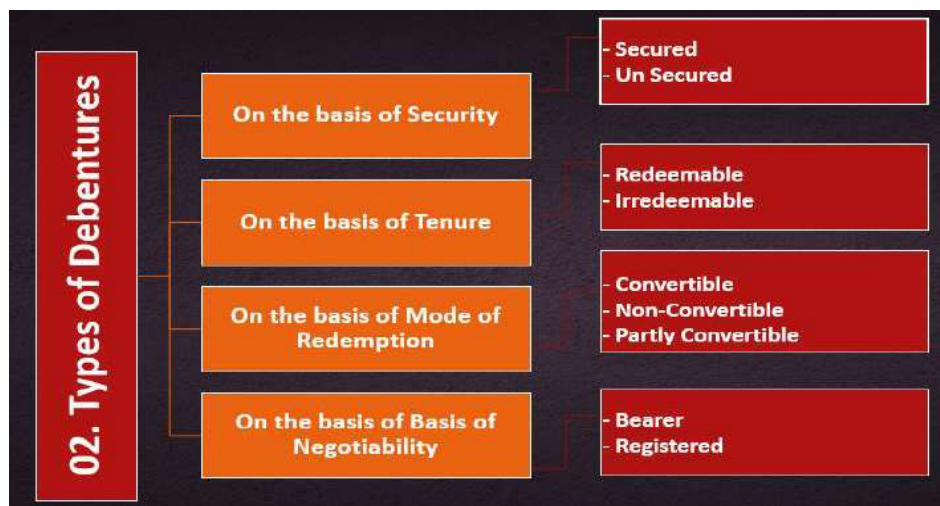
Exam Review

What is Debenture?

Section 2(30) of the Companies Act, 2013 define “debenture” which includes debenture stock, bonds or any other instrument of a company evidencing a debt, whether constituting a charge on the assets of the company or not.

Thus, Debenture is a written instrument acknowledging a debt to the Company. It contains a contract for repayment of principal after a specified period or at intervals or at the option of the company and for payment of interest at a fixed rate payable usually either half-yearly or yearly on fixed dates.

TYPES OF DEBENTURES





COMPULSORILY CONVERTIBLE DEBENTURES (CCD)



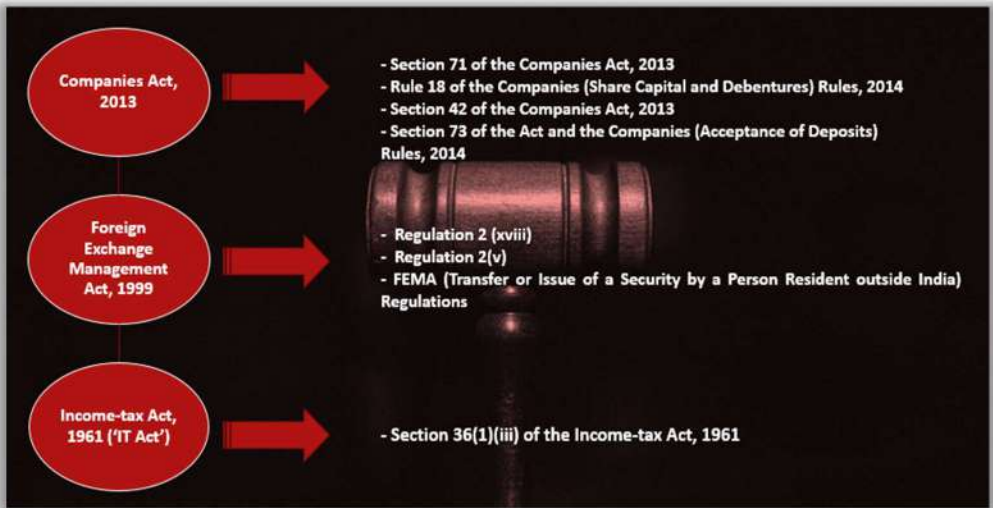
CCDS, are debentures which are to be compulsorily converted in to equity after a certain time period. Being debt at the time of issue along with a certainty to get converted into equity

Company Point of view while issuing CCD

The Company will always look into the business advantages while issuing instruments. There are couple of points listed below:

- Requirement of sufficient capital
- Accessibility to adequate capital at the right time
- Do not have any underlying collateral service as security
- Tax saving
- Yield a lower interest
- No Voting Rights

Provisions governing CCD

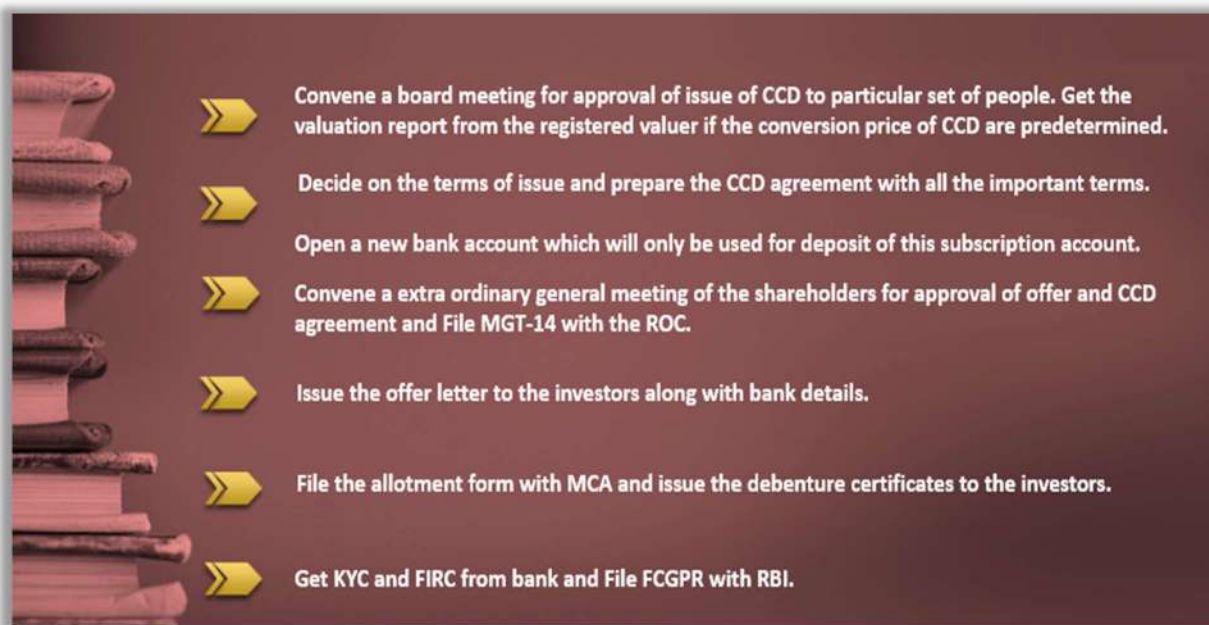


Importantly we need to look into Section 73 of the Act and the Companies (Acceptance of Deposits) Rules, 2014 because, Issuance of debentures is categorized as acceptance of deposits under the provisions of the Companies Act, 2013. Section 73 along with Companies (Acceptance of Deposit) Rules, 2014, prohibits private companies from accepting deposits from the public.

Deposit is defined under Section 2 (31) of the Companies Act, 2013. The definition includes any receipt of money by way of deposit or loan or in any other form by a company. However, certain categories of amount, as prescribed by RBI may be excluded.

Accordingly, Rule 2 (1) (c) (ix) Companies (Acceptance of Deposits) Rules, 2014 states that issue of debentures, compulsorily convertible within 10 (ten) years shall not be considered as deposit and issue of the same will not have to abase by the Companies (Acceptance of Deposit) Rules, 2014.]

Procedure to issue



- Convene a board meeting for approval of issue of CCD to particular set of people. Get the valuation report from the registered valuer if the conversion price of CCD are predetermined.
- Decide on the terms of issue and prepare the CCD agreement with all the important terms.
- Open a new bank account which will only be used for deposit of this subscription account.
- Convene a extra ordinary general meeting of the shareholders for approval of offer and CCD agreement and File MGT-14 with the ROC.
- Issue the offer letter to the investors along with bank details.
- File the allotment form with MCA and issue the debenture certificates to the investors.
- Get KYC and FIRC from bank and File FCGPR with RBI.

Conclusion:

CCD's are very lucrative investment options. Being a long term debt instrument, it attracts tax savings, and it does not dilute the ownership proportion of existing shareholders and also it does not carry voting rights, therefore there is no interference in the management of the company and lastly, interest, unlike dividends, is generally allowed as deduction from the taxable profits of the company.

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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)



Vision

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

Motto

सत्यं वद। धर्मं चर। इत्येके तेऽ नृणाः श्रेष्ठेऽऽपि तेऽ हेतवः

Mission

"To develop high calibre professionals facilitating good corporate governance"



REGISTRATIONS OPEN

24th National Conference of Practising Company Secretaries

Theme : Company Secretary: Stepping Beyond Boundaries



16-17 June, 2023 (Friday & Saturday) | Novotel Visakhapatnam Varun Beach, Visakhapatnam

DELEGATE REGISTRATION FEE* (Non-Residential)		
Delegate Category	Early Bird (24 th April, 2023 to 20 th May, 2023)	Registration (on or after 21 st May, 2023 including on the spot registration)
Members of ICSI	INR 4000	INR 4500
Students/Accompanying Spouse/Child (5 years and above)/ Sr. Member (60 years and above)	INR 3500	INR 4000
Non-Members	INR 5000	INR 6000

*Exclusive of GST @ 18% on non-residential basis.

- The above fee includes Lunch (2), Dinner (1), Morning / Evening Tea, Coffee, and Conference Kit. The Delegate Fee is payable in advance and is not refundable.
- The Delegate fee for accompanying Spouse and Children does not include Conference Kit.
- Registration for the Conference shall be through Online Mode only. Please note that payments will not be accepted through demand draft, cheque, cash, etc.



Registration Link: <https://tinyurl.com/mr33bd2c>

Looking forward to welcome you

CS Manish Gupta
President, The ICSI

CS B. Narasimhan
Vice President, The ICSI

CS Sandip Kumar Kejriwal
Council Member, Chairman
PCS Committee, The ICSI & Chairman,
Conference Committee

CS Dwarakanath Chennur
Council Member, The ICSI
and Chairman Conference
Organising Sub-Committee

CS Asish Mohan
Secretary, The ICSI

CS Damodaran M
Chairman, SIRC, The ICSI

CS GS. Giridharan
Chairman, Visakhapatnam
Chapter, The ICSI

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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)

CSBF

**COMPANY SECRETARIES
BENEVOLENT FUND**



Saathi Haath Badhana
साथी हाथ बढ़ाना

What exactly is CSBF?

The Company Secretaries Benevolent Fund (CSBF) is a Society registered under the Societies Registration Act, 1860 and is recognized under Section 12A of the Income Tax Act, 1961.

The CSBF was established in the year 1976 by the ICSI, for creating a security umbrella for the Company Secretaries and/or their dependent family members in distress.

The amount of ₹ 7,50,000 (in the case of death of a member under the age of 60 years) has been increased to ₹ 10,00,000

The subscription amount is being increased from ₹ 10,000 to ₹ 12,500 soon

Is it the right time to enrol in CSBF?

CSBF is the protection you and your family need to survive the many ups and downs in life, be it a serious illness or a road accident which derails your plans for the future.

Is it a requirement?

Yes, as your dependents need the protection. Your dependents be it your parents, your spouse, or your children will have to bear the brunt of paying off your home/education personal loans and even for managing day-to-day expenses without your contribution.

If you do not want to leave behind such a situation in your absence, enrol in CSBF today.

Advantages of enrolling into CSBF

1 To ensure that your immediate family has some financial support in the event of your unfortunate demise

2 To finance your children's education and other needs

3 To ensure that you have extra resource during serious illness or accident

4 Subscription/Contribution to CSBF qualifies for deduction under Section 80G of the Income Tax Act, 1961

Become a proud Member of CSBF by making a one-time online subscription of ₹ 10,000/- (to be changed soon) through Institute's web portal (www.icsi.edu) along with Form 'A' available at link <https://www.icsi.edu/csbf/home> duly filled and signed.

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