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FOCUS

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Dear All,

We have completed another eventful month witnessing completion of some of the much-awaited projects such as renovation of first floor office of WIRO, conduct of first campus placement by WIRO, launch of revamped web-portal of ICSI-WIRO. Let me present some of the major initiatives of ICSI-WIRC undertaken since my last communiqué.

- ✓ Renovation : ICSI-WIRC inaugurated the renovated first floor office of WIRO at Jolly Maker Chamber-II, Mumbai on 27th July, in the hands of Shri Nesar Ahmad, President, ICSI in the presence of S/Shri S N Ananthasubramanaian, Vice President, ICSI, B Narasimhan, Umesh Ved, Atul Mehta, Central Council members, various other regional council members, WIRC chapter office bearers, former council members and other distinguished guests.
- ✓ ICSI-WIRC web-portal : ICSI-WIRC launched its revamped web-portal with several value-added features. The web-portal would enable effective and smooth dissemination of information and knowledge to members and students, and at the same time serve as a vital platform connecting various stakeholders of ICSI-WIRC. Please do visit our new web-portal available on ICSI website – http://www.icsi.edu/wirc/index.html
- ✓ Campus Placement : ICSI-WIRC organised its first campus placement on 18th July and the response was encouraging. We would attempt to broad-base and increase campus placements further.
- ✓ ICSI-WIRC Coaching Classes (OTC) : We launched new OTC with various useful services to our students and initial response is very encouraging. I take this opportunity to once again invite your interest in becoming faculty to OTC and also request all members to spread awareness about our OTC.
- ✓ ICSI-WIRC Students' Conferences : ICSI-WIRC jointly with Raipur Chapter organised students' conference alongwith celebration of Foundation Day of Raipur Chapter on 12th August. ICSI-WIRC's annual regional students' conference is scheduled to be held jointly with Nagpur Chapter on 18th and 19th August at Nagpur.

- ✓ Meetings : Various meetings were held across region with Government functionaries / ministers such as meeting of Nagpur Chapter with Dr. V Moily, Hon'ble Minister, MCA, meeting of Bhopal Chapter with His Excellency, Shri R N Yadav, Hon'ble Governor, MP and meeting of Raipur Chapter with Shri Brijmohan Agrawal, Hon'ble Minister for Public Works Department, School Education, Religion, Culture, Tourism and Parliamentary Affairs, Chattisgarh.
- ✓ ICSI-WIRC MP State Conference : We are pleased to inform that the first State Conference of ICSI-WIRC is scheduled to be organised in Bhopal, Madhya Pradesh by ICSI-WIRC alongwith the Chapters of MP on 15th & 16th September on the theme 'Business, Governance & Madhya Pradesh'.
- ✓ ICSI National Convention, 2012 : As you would be aware, ICSI National Convention would be hosted by ICSI-WIRC at Aamby Valley, Lonavla on 4th-6th October. I request all members to participate in the biggest program of our Institute and make this a grand success.

Please do write at cschairman.wirc@gmail.com Your suggestions and inputs would help achieve the overall objectives towards our theme of the year 2012 – ***"Educate, Empower & Execute"***.

Best Wishes,

Cordially –Mahavir Lunawat
18th August 2012

Requests...

- Become a member of ICSI Benevolent Fund (CSBF)
- Help in fund-raising initiatives of ICSI-WIRC
- Become a member of WIRC Professional Membership Scheme (PMS)

Dear Readers,

"A good company delivers excellent products and services, and a great company does all that and strives to make the world a better place."

- William Ford Jr.

In the world of Corporatization and Globalization, Corporate Social Responsibility (CSR) has emerged as an inevitable need and drawn attention from CEOs, CFOs, boards of directors of the corporates. CSR is now being considered as an important activity globally in achieving good business practices and effective leadership - with globalization, the companies who are serving at an international platform have recognized the benefits of CSR, the brand image it creates and creating a well functioned system where various strata of the society are able to gel together resulting in sustainable global economy.

Today is the age of Stakeholders and not of Shareholders, unlike in past, where people were not anxious and more concerned in their personal life. Stakeholders are now much aware and know their interest.

Every individual gets the inner peace not by the appreciation or achievement of material task, but by giving sincere efforts and achieving something that satisfies his soul and gives the sense of accomplishment. Corporate Social Responsibility is much talked off everywhere, and it will be the part of New Companies Act, and on the professional level we should be pro-active to upgrade ourself to the level of expectation of stakeholders in terms of knowledge and skills to perform the duties and responsibilities efficiently and effectively and take the early bird opportunity to grab this field. Institute is also taking all initiative to upgrade its members, to cope up with the opportunity through Seminars, Articles, literature etc.

To achieve that self satisfaction, one should start the CSR activity from its home, community, professional fraternity and society he belongs. Every member can start this by giving atleast one day in a Quarter to the Institute, may be by doing Career Awareness Programme in their own School/College or nearby Institutions. Various big houses had already initiated CSR way back and now it's the turn of every corporate and professionals to take this initiative forward.

Happy reading!!!

CS Amit Kumar Jain

"The trouble with our times is that the future is not what it used to be." - Paul Valery

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CASE LAWS AT A GLANCE

RECENT JUDGEMENTS ON COMPANY LAW

CS Ajay Kumar, Practising Company Secretary, Mumbai

1. POWER OF, HIGH COURT TO GRANT RELIEF

High Court under section 633 has power to grant relief which includes power to dismiss complaint and to discharge accused and this power can be exercised before exercising power to exonerate accused; exoneration is ordered after Court is satisfied that accused is likely to be guilty. When a section 633(2) application is pending in High Court, within period of limitation, Central Government should seek an injunction under section 470(2) of Code of Criminal Procedure, instead of allowing limitation to set in, particularly so, when it follows practice of not prosecuting an accused during pendency of a section 633 (2) proceeding. Where Central Government had deliberately not chosen to take steps within period of limitation, Petitioner-director who was charged for alleged offences was entitled to be discharged on ground of limitation. – BOC INDIA LTD., V. REGISTRAR OF COMPANIES [2011] 110 SCL 46 (CAL)

2. OPPRESSION AND MISMANAGEMENT

In a Petition filed under sections 397 and 398, CLB is required to come to a positive finding as per section 399 whether petitioners before it have requisite qualifying shares or not. CLB has no jurisdiction to defer determination till conclusion of trial. If there is a dispute between shareholders regarding holding or transfer of shares, or an ordinary dispute between a shareholder or director and company, it is a private dispute and Company Law Board (CLB) should not go into it in a sections 397 and 398 proceeding. In making a determination of qualification issue CLB should in all genuine cases involving consideration of substantial evidence, relegate parties to a civil forum by dismissing sections 397 and 398 proceeding with liberty to reapply in accordance with law. **– MURAT VINIYOG LTD. V. BIJAY KUMAR KAJARIA [2011] 110 SCL 53 (CAL)**

3. CONSTRUCTION OF REFERENCES TO OFFERING SHARES OR DEBENTURES TO PUBLIC ETC.

Where appellant company offered OFCDs to more than 50 persons, in view of provisions of section 67 of the Companies Act, 1956, it was to be regarded as a public issue requiring compulsory listing in stock exchange. In such a case, SEBI had jurisdiction to regulate said issue in exercise of power conferred on it by section 55A. **– SAHARA INDIA REAL ESTATE CORPN. LIMITED V. SECURITIES AND EXCHANGE BOARD OF INDIA [2011] 110 SCL 217 (SAT-MUMBAI)**

4. MATTER INVOLVING COMPLICATED/DISPUTED QUESTIONS OF LAW AND FACTS NOT CAPABLE OF BEING ADJUDICATED IN SUMMARY MANNER – ARE PETITIONS MAINTAINABLE BEFORE COMPANY LAW BOARD – SECTION 111

Disputed and complicated questions of law and facts cannot be decided by the Company Law Board ('Board') in the summary jurisdiction under section 111. Complicated questions of law and facts, relating to claim for transmission/transfer of shares based on succession certificate the validity of which has been challenged, arise in a petition under section111, the same cannot be adjudicated in the summary manner but could be decided only on trial by evidence. The Board would, therefore, relegate the parties to civil court and dismiss the petition as not maintainable with the observation that if so advised the parties might get their disputes adjudicated before an appropriable forum. **– MAHARAJ ADEVRAJ V. S M S INVESTMENT CORPORATION (P.) LTD. [2011] 105 CLA 354 (CLB)**

5. PETITIONER SEEKING INTERIM RELIEFS FROM COMPANY LAW BOARD ('BOARD') BY WAY OF STAY OF RESOLUTION REMOVING POWERS AND DESIGNATIONS OF CERTAIN PETITIONER FAMILY EDITORIAL DIRECTORS, AND PURPORTED APPOINTMENT OF CERTAIN RESPONDENT IN THE NAME OF PROFESSIONALISATION, ETC. – INTERIM ORDER BY BOARD RESTRAINING COMPANY FROM IMPLEMENTING RESOLUTION TO BE PASSED AT EXTRAORDINARY GENERAL MEETING ('EGM') – CAN SHAREHOLDERS OBJECT TO DAY-TO-DAY FUNCTIONING OF COMPANY EMERGING AS MAIN QUESTION FOR DETERMINATION BY HIGH COURT IN THE APPEAL – SECTIONS 397, 398, 402 AND 403

The Company Law Board ('Board') cannot issue injunction staying implementation of decision taken by the shareholders at its meeting without any prima facie finding that the decision is prejudicial to public interest or the company at large. The shareholders can only watch the proprietary interest in the company and cannot object to the day-to-day decision and functioning of the company. The Memorandum and Articles of Association of the company do not stipulate the family succession, and as the Act also does not in any way project the family succession or bar decision by the Board of Directors and shareholders to run the company in a professional manner, the impugned order of the Company Law Board cannot be sustained. – **N RAM V. N RAVI [2011] 105 CLA 254 (MAD.)**

"There's time enough, but none to spare." - Charles W. Chesnutt

CIRCULARS AND NOTIFICATIONS

CS Piyush Bindal, Practicing Company Secretary, Bhopal

MINISTRY OF CORPORATE AFFAIRS

1. THE INVESTOR EDUCATION AND PROTECTION FUND (UPLOADING OF INFORMATION REGARDING UNPAID AND UNCLAIMED AMOUNTS LYING WITH COMPANIES) RULES 2012.

General Circular No. 17/2012

Source: www.mca.gov.in

The following clarifications are issued with reference to the Investor Education And Protection Fund(Uploading Of Information Regarding Unpaid And Unclaimed Amounts Lying With Companies) Rules 2012, published in the Gazette of India Part II Section 3 sub-section (i) vide Notification No. G.S.R. 352 (E) dated the 10th May, 2012:-

a) As per these rules, information is to be filed in Form 5 INV. The cut-off date for filing of information in Form 5 INV refers to the Date of AGM upto which the information relating to a particular year is to be updated and then filed. Example: for the financial year ended 31.03.2012, where date of AGM is 30.09.2012, the complete information regarding unpaid and unclaimed has to be updated till the date of AGM i.e. upto 30.09.2012 and then this information has to be filed through eform 5 INV within 90 days of the date AGM i.e. by 29.09.2012.

b) The Companies will have to file Form 5 INV for the year 2010-2011 upto 31st July, 2012 or within 90 days of the date of the Annual General Meeting, whichever is later.

c) Any company which has filed Form 5 INV but could not upload the correct excel within 14 days from the date of filing of Form 5 INV, can file details of investors in excel template upto 31st August, 2012.

d) The Companies are required to file one Form 5 INV each year for furnishing information on unpaid/ unclaimed amounts lying with companies as on the date of Annual General Meeting.

2. FILING OF COST AUDIT REPORT AND COMPLIANCE REPORT IN THE EXTENSIBLE BUSINESS REPORTING LANGUAGE (XBRL) MODE.

General Circular No. 18/2012

Source: www.mca.gov.in

1. Vide MCA's General Circular No. 8/2012 dated 10th May, 2012 [as amended on 29th June, 2012], it has already been mandated by the Ministry of Corporate Affairs that all cost auditors and the concerned companies shall file their Cost Audit Reports and Compliance Reports for the year 2011-12 onwards [including the overdue reports relating to any previous year(s)] only in the XBRL mode. For this purpose, the applicable taxonomy, business rules, validation tools, etc. and also the "Product Group" classification required for preparing the cost audit reports and compliance reports as per the notified Cost Accounting Records Rules, 2011 and Cost Audit Report Rules, 2011 are under preparation and would soon be made available by the Ministry. The actual date for enabling XBRL filing will be intimated separately.

2. It has now been decided by the Ministry that all cost auditors and the concerned companies will be allowed to file their Cost Audit Reports and Compliance Reports for the year 2011-12 [including the overdue reports relating to any previous year(s)] with the Central Government in the XBRL mode, without any penalty, upto 31st December, 2012.

3. INVESTOR EDUCATION AND PROTECTION FUND (UPLOADING OF INFORMATION REGARDING UNPAID AND UNCLAIMED AMOUNT LYING WITH COMPANIES) RULES 2012.

General Circular No. 20/2012

Source: www.mca.gov.in

As per the Circular No. 17/2012 dated the 23rd July, 2012, the Companies are required to file one Form 5 INV each year for furnishing complete information on unpaid/ unclaimed amounts lying with companies as on the date of Annual General Meeting of that year. In pursuance of the Investor Education and Protection Fund (Uploading Of Information Regarding Unpaid And Unclaimed Amounts Lying With Companies) Rules 2012, published in the Gazette of India Part II Section 3 sub-section (i) vide Notification No. G.S.R. 352 (E) dated the 10th May, 2012. However it has come to the notice of the Ministry that some companies have filed multiple Form no. 5 INV in respect of unpaid/unclaimed amounts lying with them instead of filing one form. To remove this anomaly and for better understanding of the issue, it is clarified:

(a) Any company, which has filed multiple Form 5 INV while uploading the Information for the Year 2010-2011 on or before the date of issue of this circular, should again file Form 5 INV (single) and upload the details of investors in excel template. This process should be completed by 31st August, 2012.

(b) All Companies which have not yet filed Form 5 INV are allowed to file Form 5 INV along with details of investors in excel template upto 31st August, 2012.

4. FILING OF BALANCE SHEET AND PROFIT AND LOSS ACCOUNT BY COMPANIES IN NON-XBRL FOR ACCOUNTING YEAR COMMENCING ON OR AFTER 01.04.2011.

"Time = Life, Therefore, waste your time and waste of your life, or master your time and master your life." - Alan Lakein

General Circular No. 21/2012

Source: www.mca.gov.in

Notification No. S.O-447 (E) dated 28.02.2011 on revised schedule VI is effective from 1st April, 2011. The current year filing is based on revised schedule VI is due for filing. The revised 23AC and ACA is under finalization and will be notified shortly on the MCA website.

All Companies who are required to file non XBRL E-form 23AC & ACA as per revised schedule VI be allowed to file their financial statement without any additional fee/ penalty upto 15th September, 2012 or within 30 days from the date their of AGM, whichever is later.

SERVICE TAX

1. ACCOUNTING CODE FOR PAYMENT OF SERVICE TAX UNDER THE NEGATIVE LIST APPROACH TO TAXATION OF SERVICES, WITH EFFECT FROM THE FIRST DAY OF JULY 2012 - REGARDING.

Circular No.161/12/2012 –ST

Source: www.servicetax.gov.in

Negative List based comprehensive approach to taxation of services came into effect from the first day of July, 2012. For payment of service tax under the new approach, a new Minor Head - 'All taxable Services' has been allotted under the Major Head "0044-Service Tax".

Accounting codes for the purpose of payment of service tax under the Negative List approach, with effect from 1st July, 2012 is as follows:

Name of Services	Accounting codes			
	Tax collection	Other Receipts	Penalties	Deduct refunds
All Taxable Services	00441089	00441090	00441093	00441094

NOTE: (i) service specific accounting codes will also continue to operate, side by side, for accounting of service tax pertaining to the past period (meaning, for the period prior to 1st July, 2012); (ii) Primary Education Cess on all taxable services will be booked under 00440298 and Secondary and Higher Education Cess on all taxable services will be booked under 00440426; (iii) a new sub-head has been created for payment of "penalty"; the sub-head "other receipts" is meant only for payment of interest etc. leviable on delayed payment of service tax; (iv) the sub-head "deduct refunds" is not to be used by the assesses, as it is meant for use by the Revenue/ Commission rates while allowing refund of tax.

CUSTOMS

1. CLARIFICATION ON THE SCOPE OF EXEMPTION NOTIFICATION NO.146/94-CUSTOMS DATED 13-07-1994.

Circular No. 21/2012-Customs

Source: www.cbec.gov.in

1. Please draw your attention towards Notification No.146/94-Customs dated 13.7.1994 wherein duty concessions have been extended to certain specified sports goods, equipments and requisites.

2. The matter has been examined by the Board. From the wordings of the notification no. 146/64-Customs dated 13.07.1994, it is seen that the exemption covers two broad categories of goods. First category covering sports goods required for training purposes by a sports person of outstanding eminence, which are listed in specified terms under each item or sport such as Archery, Athletics, Badminton etc. The second category being the goods that are described in general as 'sports goods, sports equipments and sports requisites' and their 'spares, accessories and consumables' for import by specified sports bodies for national or international completion/ championship.

3. In the second category of goods earlier Board has examined the scope of exemption for 'sports requisite' in the above said notification and clarified vide Circular No. 70/2002-Cus as follows:

"the exemption provided under Notification No. 146/94-Cus. is wide enough to include all kind of sports requisites falling within any chapter of the Customs Tariff and therefore, exemption may not be denied to such goods merely on a technical ground or taking a narrow meaning of the term sports requisite."

In view of this and since the notification covers all goods of the description specified therein and falling under any of the chapter of the first schedule, the issue of classification of imported item would not be relevant for the purpose of extending the exemption.

4. In view of the above, it is to clarify that the description of the goods exempted under S. No. 1(a) is "Sports goods, sports equipments and sports requisites" and under 1(b) is "spares, accessories and consumables of (a)", Hence, all types of goods, whether it is an equipment or simple item required for sport are covered under the category 1(a). It is also clear that the sport equipment covered here includes its spares, accessories and consumables. Hence it could be concluded that the scope of coverage of goods under the category 'sports goods, sports equipment, sports requisites' is comprehensive. The said exemption entry is subject to specific conditions such as production of certificate from specified sports bodies/federations for its usage in National or International championship or competition and an undertaking from the importer that the said goods are required for the intended purpose of use. There is no distinction between mandatory or optional accessory for inclusion or exclusion in the exemption notification. Further there is no distinction between general purpose equipment or specialized equipment to the extent it is a sport equipment for extending the notification benefit. Apparently it excludes only those types of equipments which are general purpose machines.

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STATUTES

- Filing of Cost Audit Report and Compliance Report in the Extensible Business Reporting Language (XBRL) Mode - GENERAL CIRCULAR NO. 18/2012, DATED 26-7-2012
- Imposing fees on certain e-forms filed with ROC, RD OR MCA (HQ) under MCA-21 where at present no fee is prescribed - PRESS RELEASE, DATED 24-07-2012
- Direct Investment by Residents in Joint Venture (JV)/Wholly Owned Subsidiary (WOS) Abroad - MASTER CIRCULAR NO. 11/2012-13, DATED 02-07-2012
- Establishment of Liaison/Branch/Project Offices in India by foreign entities - MASTER CIRCULAR NO. 7/2012-13, DATED 02-07-2012
- Relaxation from compulsory E-Filing of return of income for Assessment year 2012-13 for representative assessees of Non-Residents and in the case of private discretionary trusts - PRESS RELEASE, DATED 31-07-2012
- Change of Article 26 (Exchange of Information) of OECD Model Tax Convention and its Commentary - DATED 18-07-2012
- Inadmissibility of expenses incurred in providing freebees to medical practitioner by pharmaceutical and allied health sector industry - CIRCULAR NO. 5/2012 [F. NO. 225/142/2012-ITA.II], DATED 1-08-2012
- Lifting the lid on Tax Avoidance Schemes - DATED 23-07-2012

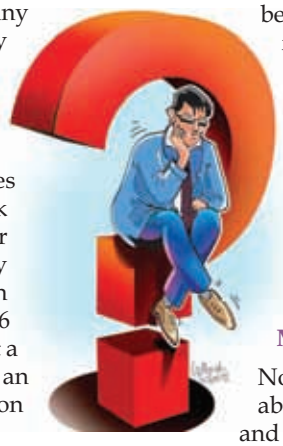
CASE LAWS

- Vodafone's underhand scheme of arrangement to avoid payment of taxes can't be permitted - VODAFONE ESSAR GUJARAT LTD., IN RE [2012] 23 taxmann.com 207 (GUJ.)
- Azadi Bachao ruling is 'Tax Bachao' for Mauritius Tax residents at least till GAAR comes into force - DYNAMIC INDIA FUND-I, IN RE [2012] 23 taxmann.com 266 (AAR)
- Charitable objects and application of income, both should be in India for sec. 11 Exemption - INDIA BRAND EQUITY FOUNDATION *v.* ASSTT. CIT [2012] 23 taxmann.com 323 (DELHI - ITAT)
- If loss not claimed in original return, it can't be claimed through revised return either - KARNATAKA FOREST DEVELOPMENT CORP. LTD. *v.* CIT [2012] 23 taxmann.com 314 (BANG. - ITAT)
- Reimbursement of secondment's salary by 'economic employer' to parent company has no profit element and involves no FTS - ABBEY BUSINESS SERVICES (INDIA) (P.) LTD. *v.* DEPUTY COMMISSIONER OF INCOME-TAX [2012] 23 taxmann.com 346 (BANG. - ITAT)
- Belated return can't nix sec. 54F exemption if investment is made within specified time limit - R.K.P. ELAYARAJAN *v.* DY CIT [2012] 23 taxmann.com 206 (CHENNAI - ITAT)
- ITAT allows ESOP expenses, Ranbaxy's case differentiated on grounds of 'expenditure' and 'notional loss' - ADDL. CIT *v.* SPRAY ENGINEERING DEVICES LTD. [2012] 23 taxmann.com 267 (CHD. - ITAT)
- Capital gains from sale of 'multiple houses' can be invested in a new house for sec. 54 deduction - DY. CIT *v.* RANJIT VITHALDAS [2012] 23 taxmann.com 226 (MUM. - ITAT)
- No HRA exemption to employee on 'rent reimbursed' to employer for rent-free accommodation - DY. CIT *v.* KULDEEP D. KAURA [2012] 23 taxmann.com 225 (AHD. - ITAT)
- 'Share issue expense', though not deductible from business income, yet can be claimed from 'capital gains' - USHARANI RAGHUNATHAN *v.* CIT [2012] 23 taxmann.com 123 (CHENNAI - ITAT)
- Allowance for additional department prerequisites 'existence of eligible business' on date of purchase of asset - SHIVA CARGO MOVERS LTD. *v.* DY CIT [2012] 23 taxmann.com 184 (CHENNAI - ITAT)
- No immunity from concealment penalty if CA's opinion lacks credibility - DARWABSHAW B CURSETJEE SONS LTD. *v.* ITO [2012] 23 taxmann.com 149 (KOL. - ITAT)(TM)
- No penalty if tax not deducted on payment made by NR to NR, reasonable cause exists due to Vodafone's case - DY. DIT (INTERNATIONAL TAXATION)-2(1) *v.* SATELLITE TELEVISION ASIAN REGION LTD. [2012] 23 taxmann.com 100 (MUM. - ITAT)
- Parallel possession' with owner and transferee is sufficient to constitute deemed 'transfer' - ASSTT. CIT *v.* A. RAM REDDY [2012] 23 taxmann.com 59 (HYD. - ITAT)
- Income roofed but couldn't be taxed under other articles, can't be taxable under 'Residuary Clause' too - EMIRATES SHIPPING LINE, FZE *v.* ASSTT. DIT [2012] 22 taxmann.com 400 (KOL. - ITAT)
- AAR is 'Tribunal' within meaning of constitution, HC can entertain writ against advance rulings - COLUMBIA SPORTSWEAR COMPANY *v.* DIT [2012] 23 taxmann.com 444 (SC)
- Business loss to be set-off with a commercial profit even if it is taxable under any other head - LAVISH APARTMENT (P.) LTD. *v.* ASSTT. CIT [2012] 23 taxmann.com 414 (DELHI)
- Tact to detour Goetze's case, raise additional claim before appellate authority to avoid revision of return - CIT *v.* PRUTHVI BROKERS & SHAREHOLDERS [2012] 23 taxmann.com 23 (BOM.)
- No reward to informer until liability of assessee is crystallised and admitted - MR. X *v.* DIRECTOR GENERAL, DGCEI, MUMBAI ZONE UNIT [2012] 23 taxmann.com 355 (BOM.)
- Retrospective amendment to levy ST on renting of immovable property is within legislative competence of Parliament - PURSHOTTAM DAS MALPANI *v.* UNION OF INDIA [2012] 23 taxmann.com 175 (RAJ.)

BUYBACK OF SHARES : WHAT DOES THE PHRASE "OUT OF FREE RESERVES OR SECURITIES PREMIUM ACCOUNT" MEAN?

Dr. K.R. Chandratre, Practising Company Secretary, Pune

An article in the articles of association of a company states, among other things, that the company "may make payment out of its free reserves or securities premium account..." for the shares bought back. This phraseology indicates that the company will source the money required for payment to the shareholders, whose shares are bough by the company under the buyback scheme, from the money lying in free reserves or securities premium account. This phraseology which is the modified version of the provision in section 77A(1) of the Companies Act 1956 ('the Act') purports to indicate that not incorrect a reserve or securities premium is represented by an equivalent amount of money. The said provision which reads as follows:



The statutory provision

"Notwithstanding anything contained in this Act, but subject to the provisions of sub-section (2) of this section and section 77B, a company may purchase its own shares or other specified securities (hereinafter referred to as "buy-back") out of—

(i) its free reserves; or

(ii) the securities premium account; or

(iii) the proceeds of any shares or other specified securities.

Provided that no buy-back of any kind of shares or other specified securities shall be made out of the proceeds of an earlier issue of the same kind of shares or same kind of other specified securities."

Incidentally, the proviso below clause (iii) qualifies only clause (iii) and not the preceding two clauses. According to the proviso, a company cannot, for the purpose of buyback of shares, make use of, the proceeds of an earlier issue of the same kind of shares. Similarly, a company cannot, for the purpose of buyback of other (specified) securities, make use of, the same kind of other (specified) securities. This means, for example, that if a company is buying back equity shares, it can make use of proceeds of the issue of equity shares made earlier by the company; but it can make use of the proceeds of the issue of preference shares made earlier by the company and vice versa. The words "an earlier issue" are ambiguous and confusing; whether they refer to the issue immediately preceding the buyback or any issue made at point of time preceding the buyback.

Analogous provision : Power to issue redeemable preference shares

Section 80(1) of the Act contains an analogous provision, as it provides that a company limited by shares may, if so authorised by its articles, issue preference shares which are, or at the option of the company are to be liable, to be redeemed; provided that no such shares shall be redeemed except out of profits of the company which would otherwise be available for dividend or out of the proceeds of a fresh issue of shares made for the purposes of the redemption.

The only difference between the two provisions is that while section 77A allows a buyback out of free reserves and securities premium, section 80 allows redemption of preference shares out of profits of the company which would otherwise be available for dividend. In both, the provision regarding the proceeds of a fresh issue of shares is common.

Meaning of "out of ..."

Now, in the provision of section 77A(1), quoted above, while the items mentioned in clauses (i) and (ii) are not in the nature of cash (money) held aside and lying in a bank account, or invested in assets convertible into cash (such as investment in fixed deposit or securities), the item mentioned in clause (iii) is in the nature of money raised and lying in a bank account of the company. Therefore, clubbing them together in one provision, indicating they are all of the same character, is a drafting error (maybe unintentional or unmindful).

In the phraseology "a company may purchase its own shares ….. out of …." the phrase "out of" is misleading; if you take something out of the container or place where it has been, you remove it so that it is no longer there; it is used to show that something comes from or obtained from something. Used as a function word to indicate direction or movement from within to the outside of; used as a function word to indicate a change in quality, state, or form.

In any case, the company has to have money with it to pay the shareholders whose shares are bought; the company cannot say that it will pay the shareholders in free reserves or securities premium account. It has to pay money; not in reserve or premium which appear on the liabilities side of the balance sheet and there is no corresponding money on the assets side. So, reserve or premium is not represented by cash (money); it is only a book entry.

Clause (iii) is not the same as clauses (i) and (ii) in character. It refers to money. But even in relation to the third clause, the proceeds of the issue of shares are not kept in a separate bank account; they just get mixed with other money of the company and the equivalent amount is credited to share capital account (and also to securities premium account if the issue was made at a premium).

Therefore, so far as the items mentioned in clauses (i) and (ii) are concerned, what the words "a company may purchase its own shares ….. out of …." really seek to convey is that a company intending to buy its shares/other securities must have, at the time of the buyback, balance in any one or more of these accounts sufficient to accommodate the total value of the buyback; they don't have to be backed or represented

"All men of action are dreamers." - James Huneker

by (and indeed that never is the situation in reality) equivalent amount of money or investments).

Thus, buyback of shares out of free reserves/ securities premium account does not mean that the amount in the reserve or premium account is represented by equivalent cash in hand or invested so that the company draw requisite amount of cash from it for the purpose of payment to the shareholders whose shares are bought back. As will be noted in the Commentary on section 80, a reserve is not a fund; it is only an account created by appropriation of profits by book entry.

So far as premium is concerned, though at the time of issue of shares it is received in cash (or kind), it does not remain in that form forever or invested in securities, since it is used by the company for its business and thus used up.

Therefore, a company which buys its securities by debiting to free reserve or premium account must have liquid cash sufficient to meet its obligation of payment to the shareholders whose securities are bought.

Application of share premium account and use of money received as premium

According to section 78(2) of the Act, the securities premium account maybe applied by the company—

(a) in paying up unissued securities of the company to be issued to members of the company as fully paid bonus securities;

(b) in writing off the preliminary expenses of the company;

(c) in writing off the expenses of, or the commission paid or discount allowed on, any issue of securities or debentures of the company; or

(d) in providing for the premium payable on the redemption of any redeemable preference securities or of any debentures of the company.

An amount of premium received in cash or kind, when shares are allotted at a premium, must be transferred to a separate account in the books of account titled "Share Premium Account". The Share Premium Account must be shown in the Balance Sheet in accordance with requirements in Schedule VI, till it is applied for any of the specified purposes.

As noted above, the amount of share premium received is credited to a share premium account and debited to cash or bank account. Section 78 permits 'application' of securities premium account only for the purposes specified in the subsection (2). It also requires that a company desirous of applying the share premium for a purpose other than those specified in the section to comply with the requirements of the Act regarding the reduction of capital.

If a company proposes/desires to apply share premium for any purpose other than those mentioned above, it must comply with the requirements of the Act with respect to reduction of share capital.

In the year of application of the Share Premium Account in any financial year, fully or partly, details of the application for any of the purposes laid down in section 78 must also be disclosed in the balance sheet of that year.

The amount credited to the premium account, however, does not represent equivalent amount of cash or investment. Section 78 does not forbid 'use' of money received as a premium; the company can use the amount of premium received for its business purposes. There is difference between 'application of share premium account and use of money received against premium.

When a company proposes to apply the share premium account for any of the specified purposes, it debits the share premium account by a requisite amount and credits an account that is relevant. For example, if a company applies the share premium account for issuing bonus shares, the share premium account will be debited and the share capital account will be credited. There is, thus, no outflow of money.

It is not uncommon to state in the resolution (or its accompanying explanatory statement) or in the offer document concerning issue of shares, meeting expenditure (capital or revenue) in connection with existing or new business of the company as one of the objects of the issue and similarly in the statement of utilization of funds being raised through the issue. This applies to both money raised by share capital (face value of the shares issued) and premium. Accordingly, money raised by premium is used for business purposes. The public listed companies are required to disclose in the offer document 'objects of the issue' and monitor and get certificated by a Chartered Accountant utilisation of the money received by it through issue of shares (both par value and premium).

In Hill Crest Realty SND.BHD v Ram Purshottam Mittal, a company wanted to use the money raised by premium for upgrading its business (purchase of equipments, renovation, etc). A single judge of the Delhi High Court held that the provisions of, and procedure prescribed for under sections 100-102 of the Act, for reduction of share capital would apply, wherever a company proposes to utilise amounts from the securities premium account, for any purpose, other than what is provided for under section 78, and the learned Judge said: "… in view of section 78, the plaintiff is directed to seek approval, in accordance with law, in respect of the expenditure proposed by it, for the purposes which do not fall within section 78(2)."

As noted above, when a company received premium on issue of shares, the amount of share premium received is credited to a share premium account and debited to cash or bank account. The credit entry, however, does not mean that the amount is represented by equivalent cash or investments. The company can use the amount of premium received (like money received by it from any other source) for its business purposes. The money raised through premium goes into the common kitty and is used by the company for the objects of the issue as specified in the offer document and if no such object is stated in the offer document (for example, in the case of an unlisted company) the company can use it for any purpose relating to its business; even to meet working capital

requirement or to meet capital expenditure. Therefore, the proposition that to use money received as share premium for business purposes the provisions regarding reduction of capital will apply, does not seem to be in accord with section 78.

What section 78 really prevents is debiting share premium account by anything other than the four things specified in section 78(2). The section contains provisions regarding "application of share premium account" and not use of money raised by premium. Application of share premium account should not be confused with application (use) of money raised by share premium; application of the account is not the application of money since the share premium account does not show money kept in a locker or in a bank or invested in securities. Like share capital (which remains credited to share capital account), the company can make use of the money raised by share premium. The amount share premium remains credited to the share premium account and the company can make use of the money so raised (which is debited to bank account) for its business purposes. Section 78 doesn't prohibit that; what it prohibits is debiting the share premium account with anything other than the four things specified in sub-section (2). When a company proposes to apply (i.e. use) the share premium account for any of the specified purposes, it debits the share premium account by a requisite amount and credits an account that is relevant. For example, if the company wants to 'apply' the share premium account for writing off accumulated losses, it will debit the share premium account and credit the loss account so that it will be the case of 'application' of share premium account for a purpose other than the four purposes specified in section 78(2) and it will require compliance with section 100 as if it was a case of reduction of capital. But the money raised by share premium has already been used by the company (maybe long ago) as the money had gone into the common pool of the company's funds and the company can use it for any purpose (including payment of dividend).

1. Collins Cobuild English Dictionary for Advanced Learners, 3rd edn. (2001).
2. Oxford Advanced Learner's Dictionary, 6th edn.
3. Merriam-Websters 11th Collgiate Dictionary.

CSBF

COMPANY SECRETARIES BENEVOLENT FUND
HOW TO BECOME THE LIFE MEMBER

Application for life membership of CSBF has to be submitted in the prescribed Form -A (available on the website of the Institute i.e. ***www.icsi.edu***) and should be accompanied by Demand Draft or Cheque (payable at par) for ₹ 7500/- drawn in favour of **"Company Secretaries Benevolent Fund"**payable at New Delhi and the same can be deposited in the offices of any of the Regional Councils located at Delhi, Kolkata, Chennai and Mumbai. However, for immediate action, the applications should be sent to **The Secretary & CEO, The Institute of Company Secretaries of India, 22, Institutional Area, Lodi Road, New Delhi -110 003.**

The members can also apply online by following the steps given below:

a) The member has to visit the portal ***www.icsi.in***
b) The member has to login to self profile by selecting the option Member – Associate / Fellow
c) The member has to enter his membership number.
d) The member has to enter his password in the box provided (The member has to Click on Reset password if creating for the first time and follow the instructions)
e) After Logging in the member has to click on the link 'Request for CSBF Membership'.
f) The member has to click on Download link to download the Form 'A' i.e. Form for admission as a Member of CSBF.
g) The member has to fill up the form complete in all respects.
h) The member has to scan the duly filled in form and upload the same.
i) After uploading the scanned form the member has to click on 'Proceed for Payment' button for payment through net banking.
j) A copy of the Acknowledgement Number generated may be retained by the member for future reference.

Following benefits are presently provided by the CSBF:-

Financial Assistance in the event of Death of a member of CSBF:-

Upto the age of 60 years
- Group Life Insurance Policy for a sum of ₹ **2,00,000**; and
- Upto ₹ **3,00,000** in deserving cases on receipt of request subject to the Guidelines approved by the Managing Committee from time to time.

Above the age of 60 years
- Upto ₹ **2,00,000** in deserving cases on receipt of request subject to the Guidelines approved by the Managing Committee from time to time.

Other benefits subject to the Guidelines approved by the Managing Committee from time to time :-

Reimbursement of Medical Expenses
- Upto ₹ **60,000/-**

Financial Assistance for Children's Education (one time)
- Upto ₹ **10,000** per child (Maximum for two children) in case of the member leaving behind minor children.

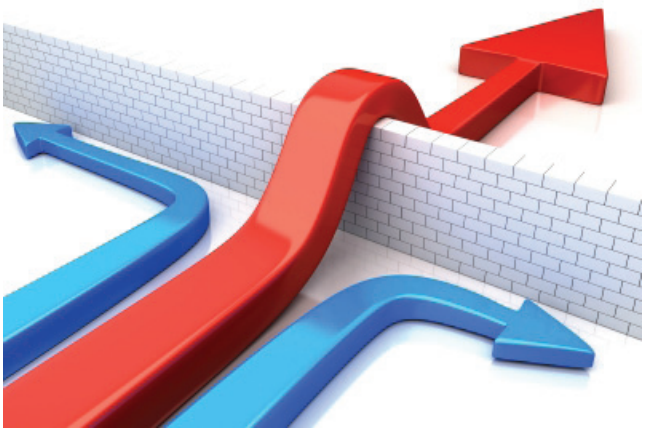
For further information/clarification please contact Mrs. Meenakshi Gupta, Joint Director or Mr. J S N Murthy, Administrative Officer on telephone No. 011-45341049, Mobile No. 9868128682 or through e-mail Ids ***member@icsi.edu*** or ***csbf@icsi.edu***

FOR FURTHER DETAILS PLEASE VISIT : ***www.icsi.edu/csbf***

"All our dreams can come true, if we have the courage to pursue them." - Walt Disney

DELISTING OF EQUITY SHARES FROM STOCK EXCHANGE

CS Brijesh Thakkar, Company Secretary, Mumbai



I. INTRODUCTION

WHAT IS DELISTING OF SHARES?

Delisting refers to the practice of removing the stock of a company from a stock exchange so that investors can no longer trade in the shares of the stock on that exchange.

Delisting of Equity Shares of the Company from the recognized stock exchange can be voluntary or compulsory delisting. Under voluntary delisting of shares, the shares of the company can be delisted:-

(i) from all the recognized Stock Exchange(s) where it is listed;

(ii) from any of the recognized Stock Exchange(s) and remain listed on atleast one recognized Stock Exchange having nationwide terminals.

(iii) from recognized Stock Exchange(s) without giving Delisting Offer in case of small companies.

Under the compulsory delisting of shares from the Stock Exchange, the shares of the company are delisted due to reasons like various non-compliances or delisting under restructuring scheme.

REGULATORY CHANGES

Ministry of Finance on June 4, 2010 issued guidelines pertaining to the minimum public shareholding to be maintained by all the listed entities i.e. 25%. These guidelines were later revised on August 9, 2010 allowing lower public shareholding for Public Sector Enterprises (PSEs) upto 10% and Non PSEs to attain minimum Public Shareholding of 25% within a period of 3 years. The deadline for companies to attain the minimum public shareholding mentioned above is June, 2013.

Many corporates, including MNCs appear to be reluctant in increasing the public shareholding fearing loss of control over the company. Further owing to the weak phase of capital markets, price of many shares are currently near to 52 week low providing good opportunity to the promoters to delist the shares of the company.

The inverse relation between Listing and Delisting of shares can be easily understood with the present face of capital market, where IPOs are getting lukewarm response while Companies are getting successfully delisted offering lofty opportunity prices to the shareholders for getting delisted.

II. HISTORY

1. Delisting Guidelines:

In the year 2002 a committee was constituted on delisting of shares to inter-alia examine and review the conditions for delisting of securities of companies listed on recognized stock exchanges and suggest norms and procedures in connection therewith. Based on the report of submitted by the Committee SEBI vide Circular SMD/Policy/CIR – 7/ 2003 dated February 17, 2003 issued the SEBI (Delisting of Securities) Guidelines, 2003.

2. Delisting Regulations:

Delisting guidelines although to a great extent covered the issues involved in Delisting of Securities, however there were certain operational issues and procedural complications in the guidelines.

In the month of April 2004, the initial changes proposing more clarity were put up for public comments. Comments were received from various quarters and opinions were received on crucial provisions.

Based on such representations, finally, on 10th June 2009 the market regulator SEBI notified the much awaited Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2009.

"Time does not change us. It just unfolds us." - Max Frisch

3. Comparison statement – Delisting Guidelines and Delisting Regulations

Sr. No.	Particulars	Delisting Guidelines (2003)	Delisting Regulations (2009)
i.	Coverage	All listed securities	Only Equity Shares
ii.	Special Provisions for small companies	No special provisions for small companies	Special provisions for small companies having paid up capital upto ` 1 crore and equity shares were not traded for a period of one year Or small companies with shareholders less than 300 and paid up capital of less than ` 1 crore
iii.	In-principle approval	In-principle approval from stock exchange was not required for voluntary delisting.	In-principle approval is mandatory prior to Public Announcement under voluntary delisting.
iv.	Validity period for resolution	No time limit specified for validity of the special resolution passed for Delisting of Securities.	Delisting application to be made to the Stock Exchange within a period of one year from the date of passing the special resolution for Delisting of Shares.
v.	Success of the Offer	The Company will be delisted if the Public holding falls below the minimum limit specified by the listing agreement.	Promoter and promoter group holding to be atleast – - 90% of the total issued Equity Shares - Pre offer Equity holding of promoter + 50% of the Delisting Offer size whichever is higher, for success of the Delisting Offer
vi.	Cooling period	Companies getting voluntarily delisted can relist their shares after a period of 2 years.	Companies getting voluntarily delisted can relist their shares after a period of 5 years.
vii.	Announcement for success of the Offer	Public announcement for success/ failure of the Offer to be made within 2 days.	Public announcement for success/ failure of the Offer to be made within 8 working days.
viii.	Residual Shareholders	Residual Shareholders, Post Offer gets a period of 6 months to tender their shares.	Residual Shareholders, Post Offer gets a period of 1 year to tender their shares.
ix.	Consequences of compulsory delisting	Company was restricted for a period of 2 years for reinstatement of delisted securities.	Company, its promoters and its whole time directors are barred for a period of 10 years to access securities market or seek listing for any equity shares.
x.	Delisting through rights issue	If pursuant to rights issue the promoters holding is increased more than the permissible limit, the promoter shall be required to delist the company or reduce their holding within a period of 3 months	This section of delisting through rights issue is deleted.

III. COMPULSORY DELISTING OF SHARES

SEBI has empowered the recognized Stock Exchanges to compulsorily delist the equity shares of the Company on the grounds prescribed in the rules made under section 21A of the Securities Contracts (Regulation) Act, 1956 after giving reasonable opportunity of being heard. The decision regarding compulsory delisting is taken by a panel constituted by respective recognized Stock Exchange.

In case of compulsory delisting the Stock Exchange shall appoint an independent valuer, who shall determine the fair value of the delisted Equity Shares. The promoters

of the Company shall acquire the delisted equity shares from the public shareholders by paying them the value determined by the independent valuer.

IV. VOLUNTARY DELISTING OF SHARES

1. Why would Company go for Voluntary Delisting of Shares?

a) While complying with the clauses of Listing Agreement there are various expenses incurred by the Company, which can be reduced by Delisting the Shares.

b) Post Delisting the compliance part is restricted only to corporate laws as the listing agreement, rules and regulations related to listed companies become inapplicable.

c) Relief from the regular compliance hassles applicable to listed companies.

d) Restricting the disclosures requirements by company, upto applicable corporate laws.

2. Why would Promoters Offer a price for Voluntary Delisting of Shares?

a) Under Delisting Offer the promoters make an Offer to the Shareholders of the Company trying to consolidate their holding and acquire complete control over the Company. This generally makes it easier for the Promoter to reap the accumulated benefits of the Company and further, any restructuring activities /diversification of business can be easily implemented for the benefit of the organization.

b) Acquiring complete control as privately held company.

c) Less obligations and disclosure requirements post delisting.

3. Why Shareholders would tender Shares under the Voluntary Delisting Offer?

a) There are more than thousands of infrequently traded companies listed on Stock Exchanges. The Shareholders of this company are wedged as the Shares are not actively traded. Delisting Offer gives an exit opportunity to shareholders of such infrequently traded Companies. Kinetic Capital Services Ltd, Digvijay Chemicals Limited, Alfa Laval (India) Ltd are some of the recently delisted companies which were infrequently traded on the Stock Exchange.

b) Further Companies which are frequently traded get opportunity value, which is much higher than market price of the Shares. UTV Software Communications Ltd, Carol Info Services Ltd are some of the companies which were frequently traded on the Stock Exchange and got delisted providing an opportunity value to Shareholders above market price.

4. Procedure for Voluntary Delisting of Shares

Pre Offer

- Passing of Board Resolution for Delisting of Equity Shares from the Stock Exchange(s)
- Passing of Special Resolution with majority of two times by Public Shareholders
- Appointment of various intermediaries i.e. Merchant Banker, Trading Member, Escrow Banker etc
- Obtaining In-Principle approval from all the Stock Exchange(s) where the Shares are listed
- Making Public Announcement for Delisting of Equity Shares on behalf of the Acquirers
- Dispatch of Offer Documents to all the Shareholders of the Company
- Couducting Reverse Book Building Process

Post Offer

- Announcement for Success/Failure of the Delisting Offer
- Payment to the Shareholders within 10 working days
- Making final application for Delisting of Shares from the Stock Ex-chang where the Shares are listed
- Making Exit Offer to the Residual Shareholders

V. POPULAR CASE LAWS, ORDERS AND CLARIFICATIONS RELATING TO DELISTING OF SHARES:

1. SAT order dtd.04.11.2011 in case of Trichy Distilleries and Chemicals Ltd, delisting of the Shares from Madras Stock Exchange, for interpretation of "ninety percent" under regulation 27(3)(d) of Delisting Regulations.
2. SAT order dtd.29.11.2011 in case of Ambattur Enterprises Ltd for seeking exemption from regulation 8(1)(b), 27(3)(a), 27(3)(d) of Delisting Regulations.
3. Circular No. SEBI/CFD/DCR/DL/01/2009/14/09 issued by SEBI on September 14, 2009 for applicability of special resolution passed before issuing of the SEBI (Delisting of Equity Shares) Regulations 2009 and pending, under the transitional provisions of the SEBI (Delisting of Equity Shares) Regulations 2009.
4. Informal Guidance issued by SEBI on June 10, 2010 for interpretation of regulation 31 and applicability of the regulation 30(1)(a) of SEBI (Delisting of Equity Shares) Regulations, 2009 to Enam Securities Pvt. Ltd. for M/s Arch Pharmalabs Ltd.

"Time has a way of demonstrating that the most stubborn are the most intelligent."
- Yevgeny Yevtushenko

SEBI AIF REGULATIONS – Whether this could lead to a change in private equity landscape in India

CS Rajeev Venugopal – Company Secretary, Mumbai

"If you can dream it, you can do it." - Walt Disney, founder of The Walt Disney Company

Yes, those are the famous words said (and history shows that his belief was not hollow) by the legendary Mr. Walter Elias Disney or Walt Disney, as know to the masses. These are the kind of words which are the 'weapons' of the dreamers – the start up entrepreneurs, the budding businessmen who embark on the journey where they only know one thing – realise their dreams at any cost and failure to them is not an option but may be an accident which they in shall overcome in all likelihood. However, apart from the burning desire, they also need the funds to fuel their high flying dreams. Here come the species or perhaps the 'Angels' known as venture capitalists ("VC"), private equity ("PE") investors and their like breed who are known to be well heeled investors and who provide the necessary support and encouragement to these budding entrepreneurs thereby acquiring certain stake in such ventures, essentially with a long term horizon and unlike any speculative financial investor. VCs are more of strategic investors or rather say 'partners' although they certainly harbour their financial interest albeit they are for a long haul. Where do the VCs get the fund to invest? VCs invests out of the private pool of funds created with the help of various investors smitten by the prospect that their investment could one day result in formation of a la INFOSYS, COGNIZANT or RELIANCE etc.

Until now, the regulatory environment governing management of private pool of funds, albeit at a retail level, was restricted to Mutual Funds ("MF"), Collective Investment Schemes ("CIS"), Venture Capital Funds ("VCF") etc. Hence, there was a need felt to address and focus on the non-retail segment. Moreover, the cardinal reason behind the Securities and Exchange Board of India ("SEBI") coming up with the SEBI (Venture Capital Funds) Regulations, 1996 ("VCF Regulations") was to provide impetus and encourage various start up enterprises, who are always on look out for 'angel investors' who could 'hold their hands' by provide the necessary seed fund so that their dream could sometime see the light of the day.

However, over the years, VCFs have come to be used as vehicles for funds such as PE, real estate, infrastructure etc. There is no doubting of the objectives of such funds but what happened in the process is that the objective and the principal reason in enactment of the VCF Regulations got diluted.

Registration of VCFs was not mandatory under VCF Regulation. Not all entities in the VCF and PE are registered with SEBI. These unregistered entities, by virtue of their non-registration, do not suffer the investment restrictions that are applicable to SEBI registered VCFs.

Thus, acknowledging the dynamic nature of the market and the ever evolving landscape of the capital market of a developing economy, such as India, time came to bring the much required revision to revise the old rules, so that they do not prove to be bottleneck in the progress and development of the economy. Thus, SEBI on May 21, 2012 finally notified the SEBI (Alternate Investment Fund) Regulations, 2012 ("AIF Regulations") thereby aiming at a complete overhaul of the regulatory regime governing private pooled investment vehicles in India and in the process replacing the VCF Regulations.

With a view to provide a better understanding of the AIF Regulations, various aspects of the same have been discussed in the form of Question and Answers:

What are AIF Regulations and the need to VCF Regulations?

- The local managers and funds make investments across the investment spectrum—from early stage investments to PIPE investments on the one hand, and sector focussed investments on the other. However, in a one-shoe-fits-all policy, the only option available for such funds was to register as VCFs under the VCF Regulations and operate under a prescriptive regime originally intended to apply to a nascent industry.
- VCFs began to be used as an omnibus investment fund, and the established organizations started reaping the concessions intended for start-up companies. To avoid regulatory gaps and to have a level playing field, the need was felt to have uniform norms for same type of fund or industry. There was a need to recognise these Alternative Investment Funds (AIF) to be recognised

as a distinct asset class apart from promoter holdings, creditors and public investors.

- The AIF Regulations are a broad-based legislation governing various kinds of private funds and permitting more investment opportunities for investment managers. The VCF Regulations restricted some of the accepted investment avenues worldwide—like secondary transactions in listed stock, derivative transactions, debt funds and investing using a fund of funds model. SEBI seems to have permitted such investments and has created a regulatory structure governing such investments under the AIF Regulations.

What is an AIF and the scope of the AIF Regulations?

AIF means any fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate which is a privately pooled investment vehicle which collects funds from investors, whether Indian or foreign, for investing it in accordance with a defined investment policy for the benefit of its investors.

MFs under the SEBI (Mutual Funds) Regulation, 1996 and SEBI (Collective Investment Schemes) Regulations, 1999 are not covered under the AIF Regulations.

Any Exclusions?

Family trust, ESOP trusts, employee welfare trusts, collective investment schemes, holding companies etc. are expressly excluded.

Thus typically, after the enactment of the AIF Regulations, the following are the investment vehicles:

(a) MF (b) CIS and (c) AIF

What about the existing VCFs?

The existing VCFs will continue to be regulated by the earlier norms (read as the VCF Regulations) till the existing fund or scheme managed by the fund is wound up. Also, these funds are permitted to migrate to the AIF Regulations by re-registering under these regulations after receiving an approval of two-thirds of their investors (by value)

restrictions.

Any restriction on any existing fund?

Existing funds not registered under the VCF Regulations will not be allowed to float any new scheme without registration under AIF Regulations. However, schemes floated by such funds before coming into force of AIF Regulations, shall be allowed to continue to be governed till maturity by the contractual terms.

Also, existing funds not registered under the VCF Regulations, which seek registration but are not able to comply with all provisions of AIF Regulations may seek exemption from SEBI from strict compliance with the AIF Regulations.

All AIFs whether operating as Private Equity Funds, Real Estate Funds, Hedge Funds, etc. are required to register with SEBI under the AIF Regulations.

Whether mandatory registration required from SEBI?

No entity or person shall act as an AIF unless it has obtained a certificate of registration from SEBI. Any entity, which fails to make an application for grant of, a certificate within the specified period shall cease to carry on any activity as an AIF.

Are there any Categories of Fund?

An application can be made to SEBI for registration as an AIF under one of the following 3 categories:

Category I AIF – those AIFs for which certain incentives or concessions might be considered by SEBI or Government of India or other regulators in India; and which shall include Venture Capital Funds, SME Funds, Social Venture Funds, Infrastructure Funds and such other Alternative Investment Funds as may be specified.

Category II AIF – those AIFs for which no specific incentives or concessions are given by the government or any other Regulator; and which shall include Private Equity Funds, Debt Funds, Fund of Funds and such other funds that are not classified as category I or III. These funds shall be close ended, shall not engage in leverage and have no other investment

Category III AIF – those AIFs including hedge funds, which trade with a view to make short, term returns; which employs diverse or complex trading strategies and may employ leverage including through investment in listed or unlisted derivatives. These funds can be open ended or close ended.

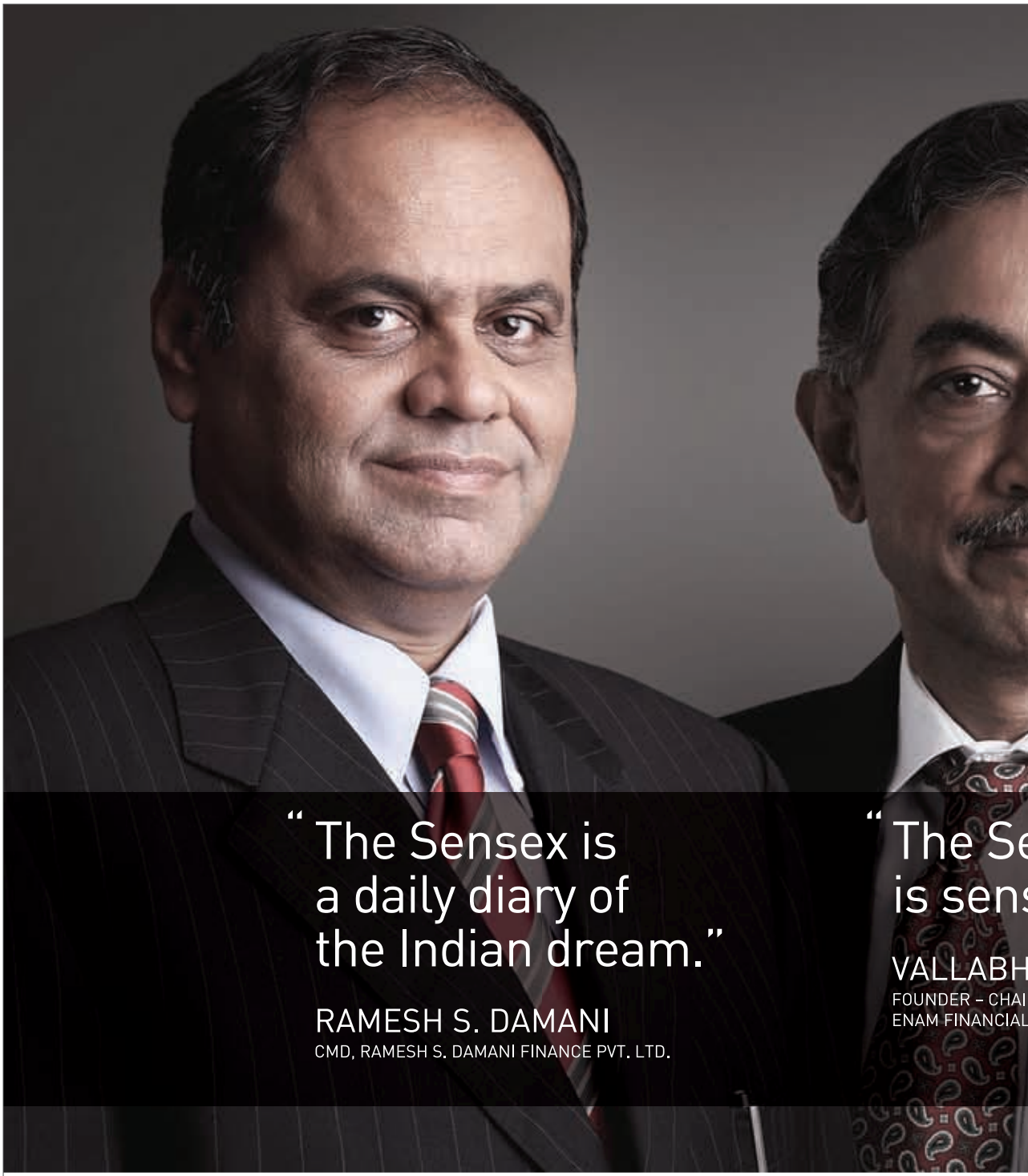
"Time is a dressmaker specializing in alterations." - Faith Baldwin

The features of the three categories of AIF can be summarised hereunder:

Category of AIF	Terms and conditions under AIF Regulations	
CATEGORY I AIF - Venture Capital Fund, Social Venture Fund, SME Fund, Infrastructure Fund and other funds which have a positive spill over effect on the economy	■ Shall not invest more than 25% of its corpus in one Investee Company. ■ May invest units of Category I AIFs. ■ Shall not borrow / leverage (directly or indirectly) except for temporary funding requirements, which shall not exceed 30 days. The borrowing cannot be on more than four occasions in a year and cannot exceed 10% of corpus.	
	Sub-category under Category AIF	**Conditions on sub-category**
	Venture Capital Funds	Shall invest at least 2/3rdof its corpus in unlisted equity shares or equity linked instruments of a venture capital undertaking ("VCU") or in companies listed or proposed to be listed on a SME exchange or SME segment of an exchange.
		Shall not invest more than 1/3rd of its corpus in (i) subscription to IPO of a VCU whose shares are proposed to be listed; (ii) unlisted debt or debt instruments where equity investment has been made; (iii) preferential allotment of equity shares of a listed company subject to a lock in period of one year; (iv) equity shares or equity linked instruments of financially weak company or a sick industrial company whose shares are listed.
	SME Funds	Shall invest at least 75% of its corpus in unlisted securities or partnership interest of VCUs / investee companies which are SMEs or in companies listed or proposed to be listed on SME exchange or SME segment of an exchange.
	Social Venture Funds	Shall invest at least 75% of its corpus in unlisted securities or partnership interest of social ventures
	Infrastructure Funds	Shall invest at least 75% of its corpus in unlisted securities or partnership interest of VCUs / investee companies / SPVs, which are engaged in or formed for the purpose of operating, developing or holding infrastructure projects
CATEGORY II AIF - Private Equity Fund, Debt Fund and Real Estate Fund	■ Shall not invest more than 25% of its corpus in one Investee Company. ■ May invest units of Category I and II AIFs	
CATEGORY III AIF – Hedge Fund	■ May invest in securities of listed or unlisted investee companies or derivative or complex or structured products.	
	■ Shall not invest more than 10% of its corpus in one Investee Company.	
	■ May invest in units of Category I and II AIFs.	
	■ May leverage or borrow (subject to consent from investors and maximum limit specified by SEBI)	

(To be continued next issue)

"Time is but the stream I go a-fishing in." - Henry David Thoreau



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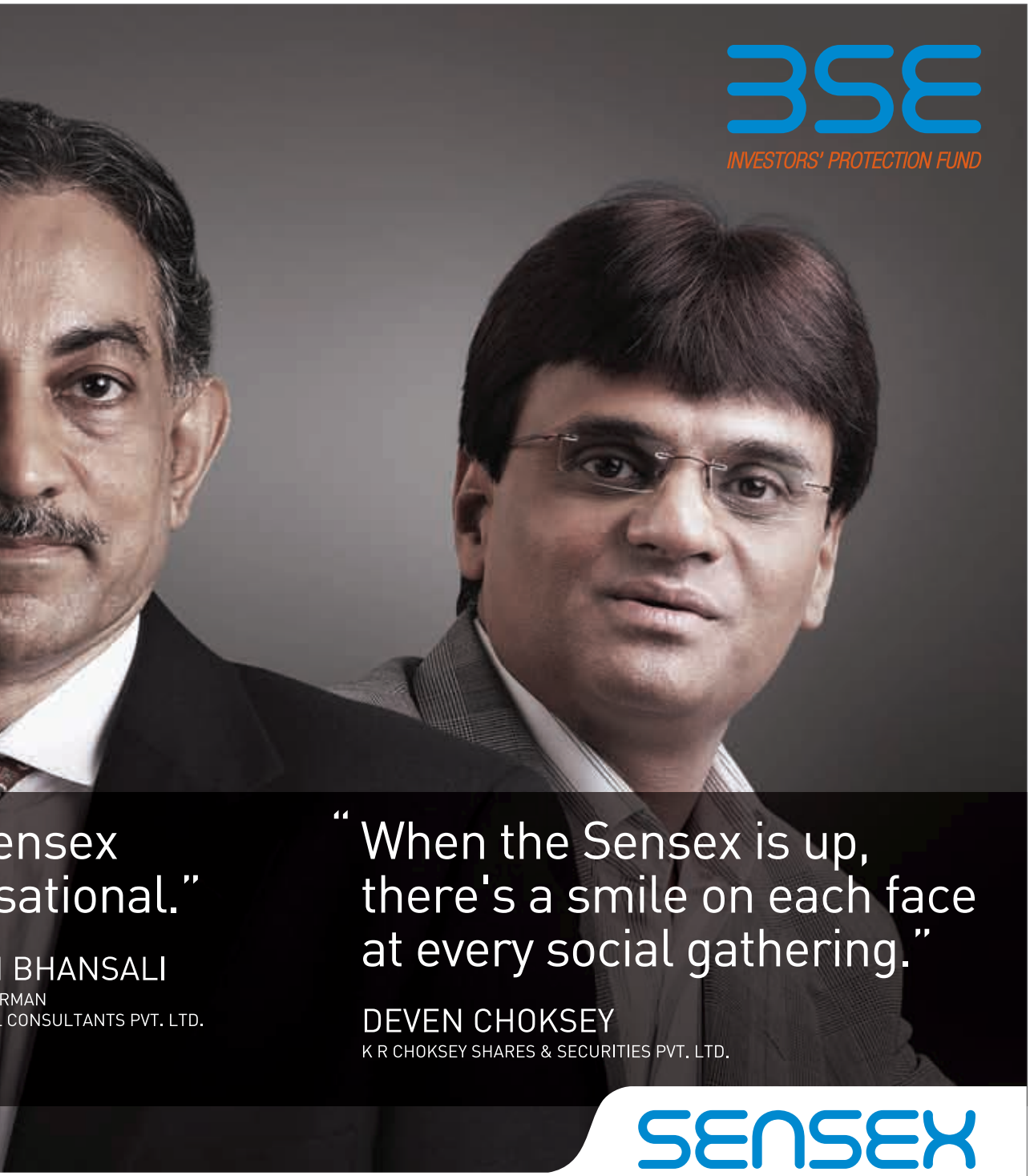

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PREFERENTIAL ISSUE OF SHARES UNDER CORPORATE DEBT RESTRUCTURING SCHEME

Geeta Krishnan , Company Secretary, Mumbai

What is Corporate Debt Restructuring (CDR) ?

Corporate Debt Restructuring (CDR) is a mechanism by which companies which are viable entities but are facing problems (due to external or internal factors) and are unable to repay their debt obligations or service their interest obligations on time, can restructure their debts by obtaining additional debt finance or a moratorium in payment of interest obligations. This exercise is undertaken to enable the Company revive its operations and minimize losses to its creditors and other stakeholders .

This mechanism is available to all companies enjoying credit facilities from more than one bank/ financial Institution under multi banking or syndication or consortium system provided the total outstanding or exposure (fund-based and non-fund based) is more than Rs. 10 crores.

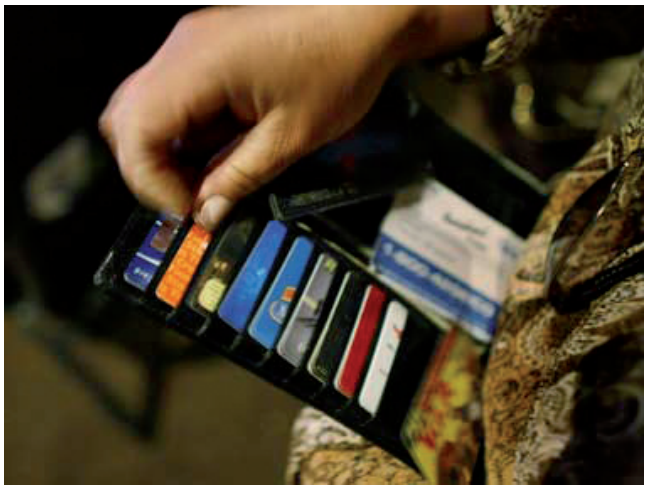
The basic framework of CDR and the guidelines for implementation are prescribed by the Reserve Bank of India(RBI) . The banks and financial institutions , as lenders, are participants . Every proposal for debt restructuring is scrutinized by the CDR Cell constituted under the RBI guidelines , which also draws up the detailed plan for restructuring . When the CDR Empowered Group, which is next in hierarchy , approves the restructuring plan , a detailed Letter of Approval is issued which contains the detailed terms and conditions of the CDR scheme , which then becomes binding on the borrower (company) and the lenders(banks / financial institutions) . The lead banker in the consortium is generally designated as the Monitoring Institution which is responsible for periodic reports on the status of the implementation of the scheme to the CDR Cell. The CDR Empowered Group , at the time of approval of the scheme, also constitutes a Monitoring Committee (comprising of representatives of lender banks) which is required to hold monthly meetings for assessing the borrower- company's performance vis-à-vis the projections presented to the CDR Cell.

Contribution under CDR

All restructuring schemes entail some contribution (sacrifice) from the concerned parties i.e. the creditors and the borrowers.

Creditors' (lender- bankers) sacrifice is generally in terms of writing off of some portion of the interest , reduction in interest rates as also non- economic sacrifice in terms of re-scheduling of principal and interest payments.

RBI guidelines stipulate that Promoters' sacrifice under CDR must not be less than 15 percent of the bank' sacrifice.



This amount is to be brought in by the Promoters as their contribution towards the CDR. Generally, the CDR approval letter specifies the amount to be brought in by Promoters as their contribution and the time-frame within which it should be brought in.

The option of having shares issued in lieu of this contribution is generally left open to the borrower. However, in view of the fact that this contribution when converted into equity can improve the debt-equity ratio of the company and increases the promoters' stake therein, most promoters opt to have shares issued to them in lieu of their contribution. Ofcourse, it is necessary that the CDR Approval letter gives the option to the Promoters for such conversion.

Requirements of the SEBI (ICDR) Regulations, 2009

Preferential issue of shares under a scheme of CDR may arise on conversion of Promoters' Contribution to equity or in case of conversion of part of the debt (owed to the lender-bankers) into equity . CDR guidelines stipulate that a part of the amount of Principal outstanding beyond 7 years from the date of restructuring should be converted to equity.

Both the aforesaid cases would fall under the ambit of preferential issue of shares under the CDR scheme.

Chapter VII of the SEBI(ICDR) Regulations, 2009 deals with the preferential issue of shares , including such preferential issue to promoters under the CDR scheme. While the company has to adhere to the basic requirements of preferential issue of shares , there are few provisions which are different in respect such issues under the CDR scheme. They are:

a) The 'Relevant Date' (Regulation 71) : The date of

"Time is money." - Benjamin Franklin

approval of the CDR package shall be the 'Relevant Date'. In case of preferential issue of convertible securities the Relevant Date shall be either the date of approval of CDR package or a date 30 days prior to the date on which the holder of the securities become entitled to apply for the shares. As per the recent clarification, where such Relevant Date falls on a non-working day, the previous day shall be reckoned as the Relevant Date .

Therefore, while in a per sepreferential issue, companies can decide the Relevant Date , in a CDR case, it has to be the date of approval of the CDR package which in turn is dependent on the CDR Cell and the bankers.

b) The time for allotment of shares (Regulation 74) : While generally, allotment of shares in a preferential issue has to be completed within 15 days of the date of passing the special resolution or within 15 days of receipt of any permission or approval required from any regulatory authority, in the case of preferential issue pursuant to a CDR scheme, this time limit of 15 days does not apply.

Effectively, the allotment may be carried out at any time after the receipt of the requisite permissions/ approvals as may be required.

c) Payment of Consideration (Regulation 77) : Whereas generally, full consideration is payable by the preferential allottees at the time of allotment , in CDR cases, the consideration is payable as per the terms of the CDR package , irrespective of the allotment of the shares . The CDR scheme may stipulate payments in one lumpsum, or in instalments and may provide for its own time-frame for completion of contribution payment. So, payment of full consideration may precede or follow the actual allotment of the shares.

d) Post- allotment lock-in (Regulation 78) : Equity shares allotted on preferential basis under CDR scheme would be required to be locked-in for one year from the date of allotment , irrespective of the persons to whom they are allotted or the percentage of the present allotment to the total issued capital of the company. Generally, in other preferential issue of shares , the post- allotment lock-in period is of three years.

In respect of other conditions for preferential issue ie. in terms of pricing, lock-in of pre-preferential holdings, requirement of special resolution , disclosures etc. there is no difference between preferential issues per se and that pursuant to any CDR scheme.

In case of listed companies , the conditions of continuous listing have to be adhered to and in-principle listing approval of the new shares are to be obtained before any allotment of the new shares.

Changes brought about by the new Takeover Code

Prior to the notification of the new Takeover Code in September 2011 , where the post- allotment shareholding of the proposed allottee(s) of the preferential shares was likely to exceed the threshold limits prescribed, such (proposed) allottee(s) had to apply to SEBI for specific exemption from the applicability of Takeover Regulations which was a pre-requisite to allotment of the said shares. However, Regulation 10(2) of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 which came into effect on 22.10.2011 provides a general exemption in this regard in cases where the post allotment shareholding does not result in any change of control over the company in question , provided the CDR scheme for the company is authorized by the shareholders by way of a special resolution passed through postal ballot .

Current Scenario

The subject of preferential issue of shares under Corporate Debt Restructuring is expected to assume more importance in the near future with the current economic scenario and statistics showing alarming increase in CDR cases and also with the changes being demanded collectively by the participating bankers in terms of increased mandatory contribution by Promoters, increase in the percentage of debt to be converted to equity in favour of lender-banks etc.

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A fine is a tax for doing something wrong.
A tax is a fine for doing something right.

Cartoon

"You're a good employee, Humpty, but you need to learn how to take a little criticism!"

"A dreamer is one who can only find his way by moonlight, and his punishment is that he sees the dawn before the rest of the world." - Oscar Wilde

"Inter-Corporate Loans"

Issues under Company Law vis-a-vis Income Tax Law

Dr. V. K. Jain, Practising Company Secretary, Nagpur

(Continued from July, 2012 Issue)

B. INTER-CORPORATE LOANS: TAX IMPLICATIONS

Transfer of funds amongst associate companies is very common. However, such transfer of funds has income tax implications. It is very important to have the knowledge of provisions of deemed dividend under section 2(22)(e) of the Income Tax Act, 1961 before making any transaction with the closely held companies.

Section 2(22)(e) of the Income Tax Act, 1961 plainly seeks to bring within the tax net accumulated profits which are distributed by closely held companies to its shareholders in the form of loans. The purpose being that persons who manage such closely held companies should not arrange their affairs in a manner that they assist the shareholders in avoiding the payment of taxes by having companies pay or distribute, what would legitimately be dividend in the hands of shareholders, money in the form of advance or loan. Thus deemed dividends are used by companies to route dividend in the form of loans to companies which have common shareholders.

B.1. **Section 2(22)(e) of the Income Tax Act, 1961:** Any payment by a closely held company by way of ADVANCE OR LOAN to the following shall be treated as dividend to the extent of accumulated profits:

1) A shareholder, beneficially holding at least 10 percent voting power or

2) Any CONCERN in which such shareholder is member or partner and in which he has SUBSTANTIAL INTEREST.

CONCERN means HUF/firm/company/AOP/BOI.
SUBSTANTIAL INTEREST in a concern other than company means having 20% share in the income.
For company, if he holds 20% equity capital.

Clause (e) covers the following type of payments.

i) Any payment by way of advance or loan to a shareholder.

ii) Any payment on behalf of shareholder or any payment for the benefit of a shareholder.

For example ABC Pvt. Ltd., obtains a loan from a closely-held company PQR Pvt. Ltd., then such a loan will be treated as deemed dividend in the hands of the ABC Pvt. Ltd, if a shareholder (entitled for at least 20 per cent paid-up equity share capital of the ABC Pvt. Ltd (Borrowing Company) at any time during the previous year) is a shareholder (beneficially holding at least 10 per cent equity share capital) in the PQR Pvt. Ltd (Lending Company).

Effect of repayment of loan

As soon as loan is advanced to shareholder by closely held company from accumulated profits statutory fiction under section 2(22)(e) becomes operative and such loan is deemed to be dividend. **Such loan does not cease to be deemed dividend on account of any subsequent event.** Even if the loan is repaid by the shareholder in the same previous year, the statutory fiction arising at the time of giving loan by the company does not cease to be operative. Such a loan would be taxed as deemed dividend even if repaid in the same previous year.

Quantum of deemed dividend

The principle is that where loan given by the company exceeds the accumulated profits, deemed dividend would be to the extent of accumulated profits and balance of loan amount would not be deemed dividend. If the accumulated profits exceed the loan amount, entire loan amount would be deemed dividend and not the amount proportionate to shareholder's interest in the shareholding of the company. If there are no accumulated profits, there would not be any question of loan being treated as deemed profits.

EXCEPTIONS : The following payments are not treated as dividend:

1. **Any advance or loan** made to a shareholder by a company in the **ordinary course** of its business, is not treated as dividend. In the matter of **CIT v. Raj Kumar (2009) 181 Taxmann 155 (Delhi), Held:** The usual attributes of a loan are that it involves positive act of lending coupled with the acceptance by the other side of the money as loan – it generally

"A man is not old until regrets take the place of dreams." - John Barrymore

carries interest and there is an obligation of repayment.

The term 'advance' is of wide import & has undoubtedly more than one meaning, depending on the context in which it is used. In its widest meaning, the term 'advance' may or may not include lending or the obligation of repayment.

The Delhi High Court applied the rule of construction of noscitur a sociis – "the meaning of the word can be gathered from the context" or "by the company which it keeps."The word 'advance' which appears in the company of the word 'loan' could only mean such 'advance' which carries with it an obligation of repayment.

Trade advance which are in the nature of money transacted it give effect to a commercial transactions would not fall within the ambit of the provisions of Section 2(22)(e) of the Act.

"Every sale of goods on credit does not amount to a transaction of loan. A loan contracted no doubt creates a debt but there may be a debt without contracting a loan. "

2. Subsequently declared dividend set off against previously granted loan:

Where a loan granted by the company is treated as dividend under section 2(22)(e) and the company subsequently declares regular dividends and sets it off against the said loan, the dividends so set off would not be treated as dividend in the hands of the shareholder.

3. Exception where substantial part of business of the company is money – lending:

Where the lending of money is a substantial part of the business of the company, "dividend" would not include any advance or loan made in the ordinary course of business to a shareholder or to the concern in which such shareholder has substantial interest.

The term "substantial part of the company's business" has not been defined under the Income Tax Act. However, the Tribunal has in Mrs. Rekha Modi v. ITO (2007) (13 SOT 512), held that the ratio of money lending business should be 20% or more to be considered "substantial part of the company's business".

Onus is on the Assessee to prove these facts -i.e., the Loan or Advance is in the "Ordinary Course of Business" and Lending of money constitutes substantial part of the company's business. {See Walchand & co. Ltd. V. CIT , (1975) 100 ITR 598 (Bom)}

4. Payment on buy-back: According to section 2(22)(iv) dividend does not include any payment made by company on purchase of its own shares in accordance with the provisions contained in section 77A of the Companies Act, 1956.

5. Shares distributed on demerger: According to section 2(22)(v) dividend does not include any distribution of shares made in accordance with the scheme of demerger by the resulting company to the shareholders of the demerged company whether or not there is a reduction of capital in the demerged company.

B.2. ACCUMULATED PROFIT: [refer Explanation 1 & 2 to Sec. 2(22)]

- Accumulated profits include all profits upto the date of distribution or payment of dividends (or upto the date of liquidation in the case of liquidation).
- Accumulated profits include tax-free income e.g. agricultural income
- Accumulated profits are computed on the basis of commercial profits and not on the basis of assessed income.
- Accumulated profits includes general reserves, investment allowance reserve.
- Accumulated profits do not include provision for taxation and dividends, depreciation reserves
- Accumulated to include capital gains, those, which are taxable.
- Accumulated profits include capitalise profit (bonus share issue) only in case of clause (a) to (d). Capitalised profit is not considered for clause (e).

B.3. SOME IMPORTANT ISSUES:

1. Who is liable: Borrowing Concern or the shareholder ?

The Delhi High Court in CIT v. National Travel Services 202 Taxman 327(2011) held that, if a loan was received by a firm/concern who is not the registered shareholder, even then there will be deemed dividend as the firm/concern is deemed shareholder for the purpose of section 2(22)(e) of the I. T. Act, 1961. And therefore payment of loan or advance to a firm/concern is deemed dividend in the hands of firm/concern, even if the partners are entered as shareholder in Lender Company.

2. **Inter-corporate deposits :** shall not be treated as deemed dividend u/s 2(22)(e) of the I. T. Act, 1961. – per Bombay Oil Industries Ltd. v. DCIT (2009) 28 SOT 383 (Mum)

3. **Interest Provision :** shall not be treated as deemed dividend u/s 2(22)(e) of the I. T. Act, per **CIT, Panaji – Goa v. Parle Products Ltd. (2011) 196 Taxmann 62 (Bom.).**

4. **Accrual of "Deemed Dividend"**

a. "Deemed Dividend" accrues in the 'previous year' in which the payment was made. (Section 8(a)).

Therefore, only payment(s) made during the "current year" is covered & any outstanding balances / interest on loans are to be ignored. The assessing office may reopen assessment proceedings u/s 147, to bring "deemed dividend" escaping assessment to tax for the preceding assessment years.

Any loan(s) which were outstanding beyond the limitation period will be exempt from tax. The limitation period is period for which the assessing officer cannot issue Notice u/s 147 for reassessment of income.

b. In **CIT, Panaji – Goa v. Parle Products Ltd. (2011) 196 Taxmann 62 (Bom.),** HELD:

Only that amount of loans & advances, which was actually received by the assessee by way of loan or advance during the relevant previous year, could be treated as income by way of 'deemed dividend' and the carried forward balance of the loan of the previous year (i.e., Opening Balance) could not be treated as deemed dividend.

5. **Deduction of Tax at Source u/s 194 -**

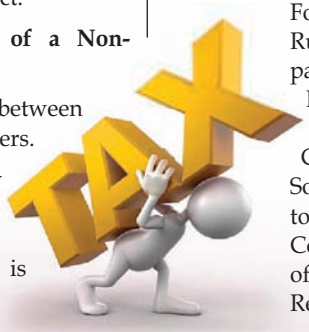
The principal officer of an 'Indian Company or a foreign Company which has made arrangement for payment of dividends in India' is liable to deduct income tax u/s 194 at the rate in force, before making any payment of any sum deemed to be dividend u/s 2(22)(e) of the I. T. Act, 1961.

Further, the company may be liable to penalty u/s 271C(1)(a) of an amount equal to the 'amount of tax which such person' failed to deduct.

6. **Deemed Dividend in the hands of a Non-Resident Shareholder -**

Section 2(22)(e) does not distinguish between a Resident or Non-resident shareholders.

Further, it is pertinent to note that by virtue of Clause (iv) sub-section (1) of section 9, "any dividend paid by an Indian company outside India" is 'Income deemed to accrue or arise in India'.



Therefore, Deemed Dividend u/s 2(22)(e) is subject to tax in India in the hands of a Non-resident Shareholder subject to DTAA relief, if any.

7. **Deemed Dividend in case of Loan or Advance by a Foreign Company to a Resident Shareholder**

Section 2(22)(e) does not distinguish between an Indian or a Foreign Company.

Sum paid by a Foreign Company to a resident shareholder has been held as deemed dividend (See Gautam Sarabhai v. CIT (1964) 52 ITR 921 (GUJ.))

8. A managing director of a company, whenever he needed money used to ask an employee to take a loan from the company and pass it on to him even without executing any pronote. Can he be said to have received any benefit? It was held that the loans made by the company to the employee fell in the category of "benefit" to the assessee managing director and were, therefore, assessable as deemed dividends in his hands—CIT v. L.Alagusundaram Chettiar [1977] 109 ITR 508 (Mad.).

9. If a loan is given by a company to a shareholder who owns 25 percent of share capital, the amount of loan to the extent of entire Accumulated profits (and not to the extent of 25 percent of Accumulated profits) will be treated as dividend. CIT v. Arati Debi [1978] 111 ITR 277 (Cal.).

10. Loan received by assessee before becoming a registered shareholder of the lender company can not be treated as deemed dividend u/s. 2(22)(e). Refer, Sagar Sahil Investment (P) Ltd. 120 TTJ 925

11. **Reporting of Deemed Dividend by the Auditor – in case of Audit u/s 44AB of the Income Tax Act.**

There is no change in the scheme of taxation of Deemed Dividend contained in the section 2(22)(e) of the Act and such dividends are governed by the old scheme of taxation of dividend i.e. tax on deemed dividend is paid by the recipient and the paying company does not have to pay dividend tax **but will be liable to deduct tax at source** from such loans or advances/deemed dividend and pay the same to the Government.

There is no specific provision in the Audit Report Form No. 3CD prescribed by the Income Tax Rules, 1962 for reporting of 'Deemed Dividend' paid by a Company. However, Clause 27 of Form No. 3CD requires the auditor to disclose whether the assessee has complied with the provisions of Chapter XVII-B relating to Deduction of Tax at Source. Since as per para 14 (supra) Tax is required to be deducted by the principal officer of an Indian Company u/s 194, the Auditor is obliged to report of Non-deduction of TDS u/s 194 in the Audit Report Form No. 3CD.

"All men dream, but not equally. Those who dream by night in the dusty recesses of their minds, wake in the day to find that it was vanity: but the dreamers of the day are dangerous men, for they may act on their dreams with open eyes, to make them possible." - T. E. Lawrence

40TH NATIONAL CONVENTION OF COMPANY SECRETARIES

First Technical Session:
Economic Volatility and Risk Management

Second Technical Session:Panel Discussion
CS - Whistle Blower or Conscience Keeper

Third Technical Session:
Financial Markets - Engine for Economic Growth

Fourth Technical Session - Panel Discussion
Challenges and Opportunities for SME Sector

Tentative Programme

DAY 1 - Thursday, October 4, 2012	
1.00 PM onwards	Registration of Delegates
3.00 PM to 4.30 PM	OPENING PLENARY
4.30 PM to 5.00 PM	Tea
5.00 PM to 6.30 PM	FIRST TECHNICAL SESSION
7.30 PM onwards	Cultural Programme and Dinner
DAY 2- Friday, October 5, 2012	
9.30 AM to 11.00	AM SECOND TECHNICAL SESSION - Panel Discussion
11.00 AM to 11.30 AM	Tea
11.30 AM to 1.00 PM	THIRD TECHNICAL SESSION
1.00 PM - 2.00 PM	Lunch
2.00 PM to 3.30 PM	FOURTH TECHNICAL SESSION Panel Discussion
3.30 PM	Tea
7.30 PM onwards	Cultural Programme and Dinner
DAY 3 - Saturday, October 6, 2012	
9.00 AM to 11.00 AM	INTERACTIVE SESSION (For Members of The ICSI only)
11.00 AM to 11.30 AM	Tea
11.30 AM to 1.00 PM	CLOSING PLENARY
1.00 PM onwards	Lunch

Participants

Corporate Directors, Secretaries and other Senior Management Executives in the Corporate and Financial Services Sector, Practising Professionals in Secretarial, Financial, Legal and Management Disciplines, Researchers and Academicians would benefit from participation in the Convention.

Faculty

Eminent persons from the Government and industry, including professionals, management experts, academicians will address the participants and there would be brainstorming sessions and interactions.

REGISTRATION PROCEDURE

The 40th National Convention is being organized on residential basis and the delegates are required to remit the Delegate Fee as well as the Hotel Accommodation Charges for registration as delegate. Delegates opting for non-residential basis may register only by remitting delegate fees.

A. DELEGATE FEES

	EARLY BIRDS (PAYMENT RECEIVED UPTO 30.08.2012) (Rs.) INCLUSIVE OF SERVICE TAX	OTHERS (PAYMENT RECEIVED AFTER 30.08.2012) (Rs.) INCLUSIVE OF SERVICE TAX
Members of ICSI/ICAI/ ICWAI	6180	6740
Non-Members	6740	7300
Company Secretary in Practice	5620	6180
Senior Members (60 years & above)	5620	6180
Students	5060	5620
Spouse	5060	5620
Accompanying Children (above 5 and below 18 years)	4050	4050
Foreign Delegates	US$112	US$169

B. ACCOMMODATION AT AAMBY VALLEY

The accommodation has been arranged at the venue i.e. Aamby Valley. Aamby Valley is independent India's first planned, self-contained aspirational city, remarkable for its unsurpassed grandeur and plush signature features. In a league of its own, Aamby Valley City is being developed to be among the top five Destination cities in the world. The City, in the cusp of pristine nature, aesthetically combines the all-encompassing facets of luxurious living, business conveniences, leisure and recreation. A highly conducive weather, misty mountain peaks, luxuriant foliage, the enchanting gardens, Fountains of ecstasy, the exotic wilds, serene lascivious lakes, the gentle balmy mountain breeze, redolence of mountain blooms add to the mystique and grandeur of Aamby Valley City. For details, please visit the website of the Aamby Valley City viz.

www.aambyvalleycity.com

Programme Credit Hours

Members of the Institute will be entitled to 10 (ten) Programme Credit Hours.

Students attending National Convention would be deemed to have complied with the requirement of attending 25 (Twenty Five) hours of Professional Development Programme (PDP).

Background Papers

A soft copy of the Backgrounder & Pilot Papers will be sent in advance to delegates whose nominations are received on or before August 31, 2012.

Accompanying Spouse and Children

Accompanying spouse and children registered for the Convention will be eligible to participate in Lunch, Dinner, Cultural Evening and other attractions of the Convention.

Venue of the Convention

Aamby Valley
District Pune -410401
Tel. : 020-22900000
Fax : 020-22965040
Website : www.aambyvalleycity.com

For urther details please find the link below :
http://www.icsi.edu/Webmodules/Linksofweeks/National%20Convention09812.pdf

"All the things one has forgotten scream for help in dreams." - Elias Canetti

COMPLIANCES FOR THE MONTH OF SEPTEMBER

CS Hemant V. Pandya, Practising Company Secretary, Mumbai

Sr. No	Things you need to do	Sections / Rules / Clauses prescribing the activities to be done	Acts / Regulations / Circulars under which the Sections / Rules/ Clauses is covered	Due Date before which you need to comply the activity	You need to submit this to
TAX RELATED COMPLIANCES					
CENTRAL EXCISE ACT RELATED COMPLIANCE					
1	Pay excise duty on the goods removed from the factory or warehouse for the previous month	Rule 8(1)	Central Excise Rules, 2002	September 5	Excise Authorities
2	Pay excise duty on the goods removed from the factory or warehouse for the previous month (E- payment)	Rule 8(1)	Central Excise Rules, 2002	September 6	Excise Authorities
3	Submit monthly Central Excise E.R.1 Return (E.R. 2 return for 100% EOU / units in FTZ / SEZ)	Rule 12 (1) / 17 (3)	Central Excise Rules, 2002	September 10	Excise Authorities
4	Submit monthly return by manufacturer of Final Product (N.A. for SSI)	Rule 9(7)	CENVAT Credit Rules, 2004	September 10	Supritendent of Central Excise
5	Submit return containing information of principal input for the preceding month in Form No. E.R.6	Rule 9A	CENVAT Credit Rules, 2004	September 10	Supritendent of Central Excise
6	Submit monthly Return for availment of CENVAT Credit for preceding month in Form No. ER 11	Rule 9(7) & Rule 12	CENVAT Credit Rules, 2004 & Central Excise Rules, 2002	September 10	Supritendent of Central Excise
7	Submit monthly return for receipt of inputs & capital goods for the preceding month in Form No. E.R.2	Rule 9(7) & Rule 12	CENVAT Credit Rules, 2004 & Central Excise Rules, 2002	September 10	Supritendent of Central Excise
8	Deposit duty on goods cleared during a calendar month, where an assessee is availing of the exemption under a notification based on the value of clearances of goods from factory or warehouse, in a Financial Year	Second Proviso to Rule 8(1)	Central Excise Rules, 2002	September 15	Excise Authorities
9	Monthly payment of excise duty for the preceding month SSI Units in Form GAR- 7	Rule 8	CENVAT Credit Rules, 2004 & Central Excise Rules, 2002	September 15	Excise Authorities
10	Monthly payment of excise duty for the preceding month SSI Units in Form GAR- 7 (E-payment)	Rule 8	CENVAT Credit Rules, 2004 & Central Excise Rules, 2002	September 16	Excise Authorities
11	Deposit duty on goods cleared during a calendar month, where an assessee is availing of the exemption under a notification based on the value of clearances of goods from factory or warehouse, in a Financial Year [E-payment]	Second Proviso to Rule 8(1)	Central Excise Rules, 2002	September 16	Excise Authorities
INCOME TAX RELATED COMPLIANCE					
1	Deposit TDS from salaries for the previous month in Challan No. 281	Section 192	Income Tax Act, 1961	September 7	Designated Bank / Income Tax Authorities
2	Deposit TDS on interest on Securities, Dividends other than dividends referred to in Section 115O, Interest other than interest on Securities, Winnings from Lotteries & crossword puzzles, Winning from Horse Races	Section 193, Section 194 to Section 194BB	Income Tax Act, 1961	September 7	Designated Bank / Income Tax Authorities
3	Deposit TDS on Contractor's Bill / Rent Advertising / Professional Service Bill deducted in the previous month	Section 194C to Section 194J	Income Tax Act, 1961	September 7	Designated Bank / Income Tax Authorities

"Deep into that darkness peering, long I stood there, wondering, fearing, doubting, dreaming dreams no mortal ever dared to dream before." - Edgar Allan Poe

4	Deposit TDS on payment to non-resident, Foreign company being holder of mutual fund units, Units held by an offshore fund, Income from foreign currency bond, Income of FIIs from securities, Payment of Tax Collected at Source	Section 195, Section 196 A to 196 D and Section 206	Income Tax Act, 1961	September 7	Designated Bank / Income Tax Authorities
5	Payment of Securities Transaction Tax for the previous month (Challan No. ITNS 283)	Section 100	Income Tax Act,1961	September 7	Designated Bank / Income Tax Authorities
6	Pay Advance Tax (2nd Instalment for Corporate Assessee and for others 1st Instalment)	Section 211	Income Tax Act, 1961	September 15	Income Tax Authorities
7	Issue TDS Certificates in Form 16A to vendors (with respect to TDS deducted in previous month)	Section 203	Income Tax Act, 1961	September 30	Income Tax Authorities
8	Tax Audit Report in the case of a corporate assessee or non –corporate assessee in Form No. 3CA or 3CB & 3CD	Section 44AB	Income Tax Act, 1961	September 30	Income Tax Authorities
9	Submit Income Tax return along with Tax Audit Report	Section 139 & 44AB	Income Tax Act, 1961	September 30	Income Tax Authorities
	FINANCE ACT & SERVICE TAX RELATED COMPLIANCE				
1	Pay Service tax collected during the previous month by persons other than individuals, propritors and partnership firms in G.A.R-7	Section 68 read with Rule 6	The Finance Act, 1994 read with The Service Tax Rules, 1994	September 5	Service Tax Authorities
2	Pay Service tax collected during the previous month by persons other than individuals, propritors and partnership firms in G.A.R-7 (E-payment)	Section 68 read with Rule 6	The Finance Act, 1994 read with The Service Tax Rules, 1994	September 6	Service Tax Authorities
	THE MAHARASHTRA STATE TAX RELATED COMPLIANCE				
1	Submit monthly return and payment of tax for the previous month in Form 209 by Dealer to whom a certificate of Entitilement has been granted for availing incentives by way of exemption	Rule 18	The Maharashtra Value Added Tax Act, 2005 read with the Rules thereunder	September 1	Sales Tax Authorities
2	Submit monthly return and pay tax for the previous month (if tax liability durig the previous year exceeds Rs. 1 Lakh)	Rules 17 / 18 and 41	The Maharashtra Value Added Tax Act, 2005 read with the Rules thereunder	September 25	Sales Tax Authorities
3	Submit quaterly return if Professional Tax liability is Rs. 5 thousand or more but less than Rs. 20 thousand	Rule 11 (3) (b)	The Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 read with The Maharashtra State Tax on Professions, Trades, Callings and Employments Rules, 1975	September 30	Profession tax Authorities
4	Submit monthly return of Professional Tax if tax liability is Rs. 20 thousand or more in Form No. III (Return-cum-challan)	Rule 11 (3) (c)	The Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 read with The Maharashtra State Tax on Professions, Trades, Callings and Employments Rules, 1975	September 30	Profession tax Authorities
5	Credit Professional Tax deducted in the previous month in Form III	Rule 17	The Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 read with The Maharashtra State Tax on Professions, Trades, Callings and Employments Rules, 1975	Within 15 days of such deduction	Profession Tax Authorities

"Dream and give yourself permission to envision a You that you choose to be." - Joy Page

DATES TO REMEMBER

Compliance Calendar

COMPANY LAW RELATED COMPLIANCES					
1	Payment of monthly Provident Fund dues (Corporate) for previous month in prescribed challan	Section 418	Companies Act, 1956	September 15	(i) Post Office Saving Bank Account or (ii) Special Account with SBI or any Scheduled Bank
2	Hold Annual General Meeting	Section 166	The Companies Act , 1956	September 30 (on or before September 30 for the companies with financial year ending March 31)	At City where Registered Office is situated
ECONOMIC , INDUSTRIAL & LABOUR LAW RELATED COMPLIANCES					
1	Pay monthly Provident Fund dues (non-corporate)	Paragraph 38	Employees' Provident Funds Scheme, 1952	September 15	Provident Fund Authorities
2	File monthly return for employees leaving in form No. 10/ joining in form No. 5 during the previous month i.e. May	Pragraph 20(2) read with Paragraph 36(1) & (2)	The Employees Pension Scheme, 1995 (For exempted establisments under Employees Provident Fund and Misc. Provisions Act, 1952)	September 15	Provident Fund Commissioner
3	File monthly retun in Form no. 2(IF) of employees entilted for membership of Insurance Fund	Paragraph 10	The Employees Deposit Linked Insurance Scheme, 1976 (For exempted establisments under Employees Provident Fund and Misc. Provisions Act, 1952)	September 15	Provident Fund Commissioner
4	File monthly retun in Form no. 3(IF) for members of Insurance Fund leaving service during the previous month i.e. April	Paragraph 10	The Employees Deposit Linked Insurance Scheme, 1976 (For exempted establisments under Employees Provident Fund and Misc. Provisions Act, 1952)	September 15	Provident Fund Commissioner
5	File monthly return in Form no. F4(PS)of members joining service during the month	Paragraph 10	The Employees Deposit Linked Insurance Scheme, 1976 (For exempted establisments under Employees Provident Fund and Misc. Provisions Act, 1952)	September 15	Provident Fund Commissioner
6	Pay ESI contribution for previous month i.e. August	Regulation 31	Employee State Insurance Act, 1948 Employees State Insurance (Gen) Regulations,	September 21	ESIC Authoruty
7	Submit monthly return of Provident Fund for the previous month in Form No. 12A	Paragraph 38	Employees' Provident Funds Scheme, 1952	September 25	Provident Fund Commisioner
8	In case of graduate, technician or tecnician (vocational), send a record of work for each quarter in Form Apprenticeship 6 in Schedle III	Section 2 read with Rule 14(10)	Apprentices Act 1961 and Apprenticeship Rules 1962	September 30	Director - Regional Board of Apprenticeship Training
9	Submission of Enveriorment Statement to State Pollution Control Board for the last financial year in Form V	Rule 14	The Enveironment (Protection) Act, 1986 amended 2003 / Environmental Impact Assessment Notification , 1994 amended 2004	September 30	State Pollution Control Board
10	Submit return of declaration in Form 3 & 1-A	Regulation 14	Employees State Insurance (General) Regulations, 1950	Within 10 days from the date of receiving the relevant papers	ESIC Authoruty
11	Issue Notice for payment of Gratuity and Notice for Inadmissible claim in Form L&M	Section 8	Payment of Gratuity Act, 1972	Within 15 days of receipt of application	Applicant employee or legal heir
RBI (NBFC) RELATED COMPLIANCES					
1	File return of exposure of capital markets in Form NBS-6	Para 22	NBFC-D Prudential Norms Directions, 2007	September 7	RBI
2	File a monthly return in prescribed format (NBC-ND)	Circular No. DNBS (RID) CC No. 57/02.02.15/2005-06	Department of Non-Banking Supervision, RBI	September 7	RBI

3	File a Statutory Annual Return on deposits in Form NBS - 1	First Schedule	NBFC Public Deposits Directions, 1998	After March 31 but before September 30	RBI
4	Obtain prior approval for the extension of Balance Sheet date of an NBFC	Para 12	NBFC-D/ND Prudential Norms Directions, 2007	Before approaching ROC for the extension of Balance Sheet date	RBI
5	File an un-audited Balance Sheet even though ROC grants approval	Para 12	NBFC-D/ND Prudential Norms Directions, 2007	Before approaching ROC for the extension of Balance Sheet date	RBI
SEBI RELATED COMPLIANCES					
1	Certificate on demat/remat of shares	Regulation 54(5)	SEBI (Depositaries & Participants) Regulations, 1996	September 30	Stock Exchanges
2	Furnish copies of Balance Sheet, P&L Account, etc for companies having in house R&T	Regulation 14(5)	SEBI (Registrars to an Issue and Share Transfer Agents) Regulations, 1993	September 30	SEBI
3	Publish its unaudited financial results in one English daily newspaper circulating in the whole of India and in a newspaper published in the language of the region where the Head Office is situated	Regulation 59	SEBI (Mutual Funds) Regulations, 1996 amended 2000	September 30	Board / Stock Exchange
4	Payment made for Annual Turnover fees	Regulation 10 & Schedule III	SEBI (Stock Brokers and Sub - brokers) Regulations, 1992	before October 1 (September 30)	Board / Stock Exchange
5	Every Stock & Sub- Brokers shall furnished copy of audited Balancesheet , Profit & Loss accounts	Regulation 17(1)	SEBI (Stock Brokers and Sub - brokers) Regulations, 1992	Not later than 6 months from the date of close of accounting period (September 30, if accounting period ended March 31)	Board / Stock Exchange

Though all precautions have been taken in compiling this calendar, WIRC of ICSI should not be held responsible in case of any discrepancy. In case of doubt, please refer to relevant law/rules.

Tentative PDC Calendar - September, 2012

Sr. No	Date	Day	Venue	Programme	Topic
1	1st September	Saturday	Essar House, 11 Keshav Roa Khadye Marg, Mahalaxmi, Mumbai - 400 034	Dadar Study Circle Meeting	To be decided
2	2nd September	Sunday	Kandivali	Kandivali Study Circle Meeting	To be decided
3	8th September	Saturday	To be decided	Full Day Seminar	Buy-back of shares and De-listing of shares
4	9th September	Sunday	A V Hall, Don Bosco High School, L.T. Road, Vazira Naka, Borivali (West), Mumbai – 400091	Borivali Study Circle Meeting	To be decided
5	16th September	Sunday	Reena Mehta College of Commerce & Management Studies, Near Flyover, 150 Feet Road, Opp. Maxus Mall, Bhayandar(W), Dist. Thane - 401101	Bhayander Study Circle Meeting	To be decided
6	21st September	Friday	AV Hall, 1st Floor, New SNDT, Cama Lane, Ghatkopar (W), Mumbai- 400 077	Ghatkopar Study Circle Meeting	To be decided
7	22nd September	Saturday	To be decided	Full Day Seminar	Project Finance, Private Equity and Loan Documentation
8	28th September	Friday	AC Auditorium, 1st Floor, ICSI- WIRC Premises, Jolly Makers Chamber No. 2, Nariman Point, Mumbai 400021	Study Circle Meeting	To be decided
9	30th September	Sunday	Sardar Vallabhbhai Engineering College, Bhavan's College Campus, Near Navrang Cinema & Vrindavan Restaurant, Andheri (West), Mumbai	Andheri Study Circle Meeting	To be decided

"Dream in a pragmatic way." - Aldous Huxley

WIRC NEWS

ANNUAL REGIONAL CONFERENCE 2012

Date	14h & 15th July 2012
Venue	Hotel Sayaji, Vijay Nagar, Indore-M.P.
Topics	Inauguration, SME Listing - A Big Opportunity, Take Over Regulations, Emerging Regulations - Increasing Professional Role, LLPs - Emerging Business Vehicle, Critical Areas of Companies Act - A Discussion, Life Style Management, Open House Session, Valedictory
Chief Guest / Speakers	Shri Ashish Chauhan, Interim CEO, BSE, Shri N Ravichandran, Director, IIM, Indore, Shri Nesar Ahmad, President - ICSI, Shri S.N. Ananthasubramanian, Vice President - ICSI, Shri N.K. Jain, Secretary & CEO - ICSI, Shri Mahavir Lunawat, Chairman - WIRC, Ms. Ragini Chokshi, Secretary-WIRC, Shri Ashish Garg, Tresurer, ICSI-WIRC, Shri Ritesh Gupta, Chairman, Indore Chapter, Shri Ashish Karodia, Secretary, Indore Chapter, Shri Deepak Sharma, Director & CEO, Saarthi Advisors, Shri V.S. Sundaresan, Chief General Manager, SEBI, Shri Susanta Kumar Das, AGM, SEBI, Shri Santosh Kumar, LLP Registrar, Shri Umesh Ved, Central Council Member, Shri Varun Gupta, Professional Teacher, Shri Atul Mehta, Central Council Member, Shri Hitesh Buch, Vice Chairman, ICSI-WIRC, Hon'ble Shri Justice Mool Chand Garg, MP High Court, Indore Bench, Indore
Delegates – **Target** – **Actual**	 400 450
Other features	Launch of Revamped Web Portal of ICSI-WIRC, release of publication on Competition Law, release of conference Souvenir, record attendance

BHAYANDER STUDY CIRCLE MEETING

Date	15th July 2012
Venue	Reena Mehta college of commerce & management studies, Bhayandar (W)
Topics	"Raising Finance Through BSE (SME) Exchnge "
Chief Guest / Speakers	Shri Ajay Thakur, Manager(SME), BSE
Delegates	50

GHATKOPAR STUDY CIRCLE MEETING

Date	20th July 2012
Venue	AV Hall, Ghatkopar (W)
Topics	"Discussion on relevance and benefits of Compliance Certificate under Section 383A of Companies Act, 1956"
Chief Guest / Speakers	Shri N. L. Bhatia, Practicing Company Secretary
Delegates	20

SEMINAR ICSI-WIRC

Date	21st July 2012
Venue	Hotel Krishna Palace Residency. Grant Road (W), Mumbai - 400007
Topics	"Inspection , Investigation and Compounding under Corporate laws and FEMA"
Chief Guest / Speakers	Ms. Sudha Gupta, Chartered Accountant, Shri. Arvind Salvi, Former Deputy General Manager, RBI , Dr. S.K. Jain, PCS, Shri Satyan Israni PCS
Delegates	68

SEMINAR ICSI-WIRC

Date	4th August 2012
Venue	WIRC of ICSI, Nariman Point , Mumbai – 400021
Topics	"Financial & Legal Due Diligence"
Chief Guest / Speakers	Shri G. Hariharan (Group Legal Counsel & Head Corporate Governance, Arshiya International Ltd.) Shri Sharad Abhyankar (Khaitan & Co., Partner) Shri Suhas Tuljapurkar (Legasis Partners, Managing Partner) Shri Harshul Shah (Advocate & Solicitors) Shri Sanjay Buch (Partner, Crawford Bayley & Co.)
Delegates	85

"Dream manfully and nobly, and thy dreams shall be prophets." - Edward G. Bulwer-Lytton

KANDIVALI STUDY CIRCLE	
Date	Sunday, 3rd June, 2012
Venue	Kandivali Recreation Club, Kandivali (West), Mumbai
Topics	"Performance Excellence - Workshop"
Chief Guest / Speakers	Mr. Jagdish Shenoy Director, Future Ventures India Ltd
Delegates	77 participants had attended the meeting.
Other features	Mr. Jagdish Shenoy Director, Future Ventures India Ltd, addressed in detail the important feature of the Performance Excellence - Workshop with Power Point Presentation

KANDIVALI STUDY CIRCLE	
Date	SUNDAY, 1ST JULY, 2012
Venue	Kandivali Recreation Club, Kandivali (West), Mumbai
Topics	"Directors' & Officers' Professional Liability Insurance"
Chief Guest / Speakers	Ms. Mariette Nazareth Consultant and Trainer Herald Insurance Brokers Private Limited
Delegates	85 participants had attended the meeting.
Other features	Ms. Mariette Nazareth, Consultant and Trainer Herald Insurance Brokers Private Limited, addressed in detail the important feature of the Director and Officers Professional Liability with Power Point Presentation.

ICSI AHMEDABAD CHAPTER

STUDY CIRCLE MEETING	
Date	Friday 06th July, 2012, from 06pm to 08pm.
Venue	ICSI Ahmedabad Chapter
Topics	"e - Stamping & Document Management Solutions (Digitisation)".
Chief Guest / Speakers	Speakers: Mr. Gopesh Shah, Marketing In-charge , Gujarat Mr. Sunil Mattoo and Mr. Prabhat Dubey - Regional Manager - Gujarat, from Stock Holding Corporation Of India Limited, Ahmedabad.
Delegates	69 CS Members
Other features	PCS Committee Chairman CS Rutul Shukla welcomed the Participants and introduced the Speakers and gave Vote of Thanks

STUDY CIRCLE MEETING	
Date	Thursday 19th July, 2012, from 06pm to 08pm.
Venue	ICSI Ahmedabad Chapter
Topics	"Will (Vasiyatnama)" The subject covered " Why we should make a Will, what happens if we do not make a Will, how to make a simple Will, Brief case studies of high profile cases of Will disputes, terminologies and legal provisions of Will, alternatives of Will, dos and don'ts , etc"
Chief Guest / Speakers	Speakers: Mr. Himal K Parikh, Director – Interface Capital Markets Private Limited Ahmedabad.
Delegates	61 CS Members
Other features	PCS Committee Chairman CS Rutul Shukla welcomed the Participants and introduced the Speaker and gave Vote of Thanks

Seminar on ICSI - ICRA Full Day National Seminar on "Capital Market , Corporate Governance & Credit Rating".	
Date	Saturday, 28th July, 2012, from 09.30 am to 06 pm.
Venue	Hotel Klassic Gold, Ahmedabad
Topics	Credit Rating (Overview of Rating Process, Credit Rating of SMEs and Rating of Bank lines of Credit and other products) , "SME Listing" and "SEBI Stock Brokers Audit".
Chief Guest / Speakers	Speakers: Mr. Ankit Patel, Mr. Ashish Chauhan and Mr. Rajiv Desai
Delegates	171 CS Members
Other features	The faculties were welcomed with "Plants" to continue the concept of ICSI "Go Green".

ICSI BHOPAL CHAPTER

Seminar on "NEW AVENUES - INCREASING CHALLENGES"	
Date	21st July 2012
Venue	Hotel Rajhans Regent
Topics	(1) Offshore Companies (2) Merger & Demerger (3) Stress Management
Chief Guest / Speakers	(1) CS Anuradha Singhai, PCS (2) CS Samudra Acharyya, VP, BMR Advisors, New Delhi (3) Mr. Vikas Mohan
Delegates – Target – Actual	 80-90 150
Other features	Mr. Anil Tandon, DGM Allahabad Bank was the Chief Guest of the Programme. CS Vivek Nayak was the programme coordinator. CS Amit Kumar Jain, Member-WIRC, CS Dhanraj S Thakur, Chairman, CS Piyush Bindal, Secretary, CS M.M.Chawla, CS DPS Dhaked, CS Avadhesh Parashar, CS Amul Urdwarshene, CS Piyush Mathur were especially present alongwith other Members and Students

"Dream no small dreams for they have no power to move the hearts of men."
- Johann Wolfgang von Goethe

ICSI PUNE CHAPTER

FULL DAY SEMINAR ON LISTING OF SME & ICRA CORPORATE CORPORATE GOVERNANCE RATING

Date	7th July 2012
Venue	Hotel Deccan Rendezvous, Pune
Topics	Listing of SME & ICRA Governance Rating
Chief Guest / Speakers	Mr Haresh Hinduja, VP Linkintime India Pvt Ltd & Mr Anjan Deb Ghosh, Senior Group VP ICRA
Delegates	62 Delegates

CHAPTER ROUND OF ALL INDIA COMPANY LAW QUIZ 2012

Date	7th July 2012
Venue	Pune chapter
Topics	Chapter Round of All India Company law Quiz 2012
Chief Guest / Speakers	CS Kuldeep Ruchandani & CS Harshal Joshi - Judge
Other features	Mr Abdullah fakih & Mr Kunal Sarpal – Winners of Chapter Round

CHAPTER ROUND OF ALL INDIA ELOCUTION COMPETITION 2012

Date	16th July 2012
Venue	Pune Chapter
Topics	Elocution Competition
Chief Guest / Speakers	Mr Kunal Sarpal & Mr Prem Mardi were the winners of Local Round

TWO DAYS CONFERENCE ON "MERGERS & AMAGAMATION LGAMATION-CREATING GROWTH OPPORTUNITIES

Date	27th & 28th July 2012
Venue	Hotel le Meridian, Pune
Topics	"Mergers & Amalgamation-Creating Growth Opportunities"
Chief Guest / Speakers	CS Vivek Sadhale, Mr Vishwas Mahajan, Entrepreneur- Compulink, Ms Lekha Nair, VP Corporate Finance Enam Securities Pvt Ltd, Mr S Sundareswaran from Morgan Stanley, Mr Anil Patwardhan-CFO KPIT Cummins, CA Parag Ved, Mr Saumil Shah, Partner, M& A KPMG, Adv Alhad Oak
Delegates	216

NATIONAL ROUND OF ALL INDIA COMPANY LAW QUIZ 2012

Date	29th July 2012
Venue	Kelkar Hall, Indian Medical Association, Tilak Road, Pune
Topics	National Round of All India Comapny Law Quiz 2012
Chief Guest / Speakers	CS Vikas Agarwal & Cs Pawan Chandak- Judges
Delegates	4 teams from WIRC, SIRC, EIRC & NIRC
Other features	Team WIRC from Pune-Winners

NAGPUR CHAPTER OF WIRC OF ICSI

MEETING WITH HON'ABLE UNION MISNISTER FOR CORPORATE AFFAIRS

Date	13th July, 2012
Venue	Hotel Radison Blu, Nagpur
Topics	Breakfast meeting with Hon'able Union Minister for Corporate Affairs Dr. M Veerappa Moily
Chief Guest / Speakers	Dr. M Veerappa Moily
Delegates	12 Members met the Hon'able Minister and gave a representation
Other features	Press release (as attached).

NAGPUR CHAPTER OF WIRC OF ICSI

Date	18th July, 2012
Venue	Nagpur Chapter
Topics	MCA Updates & Recent Amendments
Chief Guest / Speakers	CS Pinkush Jaiswal & CS Radhika Agrawal
Delegates	27 Members attended the program
Other features	Members discussed various recent updates and amendments by MCA. Compulsory Filing and fee introduction for Form 23B was discussed in detail so that fellow Chartered Accountants and Clients can be made aware of this recent change.

"Dreaming men are haunted men." - Stephen Vincent Benet

HEALTH TIPS ON OBESITY

MRS. ZAMURRUD M. PATEL, P. G. D. (Dietetics) RD Consultant Dietician

Obesity can be defined as the generalized accumulation of excess fat in the body. Whenever a person is 20% more than the expected standard for his age, sex and height is said to be **Obese.**

Following the behavior modification technique can help in weight reduction.

HELPFUL HINTS:

I. Modify the amount of food eaten :

- Eat slowly, small bites and chew the food more than 10 times before swallowing.
- Do not eat from boxes and containers.
- Use small plates, spoons and cups so that the serving size of the food looks larger.
- Keep food in covered dishes.
- Do not leave the food on the dinning table.
- Keep all the food covered in the kitchen.

II. Modify the type of food consumed :

- Do not buy favorite calorie dense food items.
- Avoid eating (nibbling) in-between meals.
- Whenever you have to go for shopping go full stomach.
- Eat low calorie food like soup, salad before going for parties.
- Avoid eating while reading, watching TV, and drinking tea or coffee.

III. Modify the frequency of eating :

- Eat regular 4 meals instead of 1 – 2 heavy meals.
- Do not skip meals.
- While eating only concentrate on eating.
- Eat food sitting in one place only.
- Do not eat food on the working table or in front of the kitchen.

EXERCISE

Regular exercise is very important for weight reduction. At least ½ hour of exercise per day is required.

RECOMMENDED

A BALANCED DIET WITH MODERATE CALORIE RESTRICTION ALONG WITH REGULAR EXERCISE IS THE IDEAL METHOD OF WEIGHT REDUCTION AS IT BRINGS ABOUT GRADUAL WEIGHT REDUCTION.

RECIPE

Stir Fry Vegetables in White Sauce Ingredients:

1tsp Corn Starch Mixed With Water
6pcs Cauliflower flowerets
1 medium sized carrot diced
1 medium sized capsicum diced
5-6 French beans
Small portion of cabbage roughly diced
10gms Sweet Corn Boiled
30gms Paneer (Optional)
1tsp ginger, garlic + Chilly Paste
Black pepper powder, salt and vinegar to taste
1/2 tsp Oil

Method:

- Take 1tsp of ginger, garlic + chilly paste and sauté in 1tsp of oil for 1 minute on a low flame.
- Add all vegetables except paneer. Sauté for 2-3 mins.
- Add vinegar and black pepper and mix well.
- Add 1 Glass of water and bring it to a boil.
- Cook till Vegetables are slightly soft.
- After the vegetables are cooked add Corn starch mixed with water to the vegetables.
- Boil till the mixture becomes thick.
- Serve as appetizer or with hot steamed rice.

EIGHT PCH

THE INSTITUTE OF Company Secretaries of India
IN PURSUIT OF PROFESSIONAL EXCELLENCE
Statutory body under an Act of Parliament

SIXTEEN PDP

ICSI - WIRC JOINTLY WITH BHOPAL CHAPTER AND INDORE CHAPTER ANNOUNCES FIRST MADHYA PRADESH STATE CONFERENCE ON

"BUSINESS, GOVERNANCE & MADHYA PRADESH"

Non-Residential Delegation Fees:

Members of ICSI	Rs. 3,000/- (Rupees Three Thousand only)
Students of ICSI	Rs. 2,500/- (Rupees Two Thousand Five Hundred only)
Others (Spouse)	Rs. 3,500/- (Rupees Three Thousand Five Hundred only)
Cheque/DD in favour of "Bhopal Chapter of WIRC of ICSI"	

DAYS & DATES
Saturday & Sunday
September 15 & 16, 2012

VENUE
Hotel Amer Greens,
Hoshangabad Road, Bhopal

Early Bird Discount of Rs. 500.00 (If registered on or before 30.08.2012)

CS Mahavir Lunawat
Chairman - WIRC

CS Ragini Chokshi
Secretary - WIRC

CS Dhanraj S Thakur
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"Dreaming or awake, we perceive only events that have meaning to us." - Jane Roberts

"When You Get Angry, Do You Lose More Than Just Your Temper?"

CS Shyam Lata, Company Secretary, Mumbai

We, as professionals deal with various people and various types of people - clients, vendors, other professionals, employees/ staff and even our family members – on a day to day basis. There are times (or could be many- a- times) that certain circumstances or people can cause real frustrations or anger... these feelings stored within us, at a small trigger, make us steam and whistle like a pressure cooker. And if we observe closely, the steam is let loose on a close family member or a staff member or maybe even a chaiwala who comes to the office to serve tea.

A small intense emotion causing much damage to ourselves and our relations... Why??

Let's first see what this emotion "anger" is...

We view angry feelings as a normal emotional reaction to frustration in our everyday world. It is natural to become angry when we have a goal and this goal is blocked in some way. Anger isn't just one emotion, but a family of emotions that are related to each other both in our brains and in our behaviour. People often give a variety of names to their angry feelings, which range from mild irritation to rage.

Once anger begins, it generates changes in our expressions, our faces, our voice, and changes in the way we think. It also creates impulses to action. In fact, the purpose of emotions such as anger is to organize and mobilize all of our bodily systems to respond to our environment in some way.

Anger, like all emotions, is regulated by that section of our brain called the "limbic system" (located in our mid brains beyond our inner ear) Emotional memories are stored in the "amygdala" and other structures which are located in this limbic system.

You may experience anger now in your life which may actually be caused by a mixture of what is triggering it now and experiences you have had in the past—even if you don't remember them. This "old anger" is activated by your brain in its attempt to protect you— even though the original danger is no longer present.

It is up to the thinking part of the brain, our frontal lobes, to find a way to deal with the angry feelings the amygdala and other brain structures have set in motion.

When you speak with anger, you are not really concerned with how those listening to you will feel. All you really care about is that your point of view is heard. When you come from such a place, all you are doing is making the listener defensive. The listener then puts up a wall to defend himself or herself against the perceived attack. Result: you end up arguing or shouting at a wall with the hope of being heard. Regardless of how smart or right you believe yourself to be, you will not be heard by a wall...which creates more frustration in you.

Fortunately, as thinking human beings we have the unique ability among mammals to have choices regarding how we will deal with our feelings. *In this context, there is a good illustration of the nature of anger given by the Perfect Master Ramakrishna Paramhansa. He was from the area around Calcutta and the Ganges flowed by his ashram. One day, Ramakrishna was standing by the river with his disciples and pointing to a boat moving upstream, he gave this parable on anger.*

The boatman rowing upstream sees another boat, far off, moving downstream towards him. He shouts. "Hey, watch out! Change your course, look out!" But the boat continues to rush towards him. As it comes closer, the boatman sees that there is nobody in the boat!

Now is he going to continue to yell at the boat to change its course?

No, he is simply going to change his own course and steer around the onrushing boat.

Ramakrishna said "The one who is angry is like a boat which has no captain. When you see there is no captain, steer away. Don't stand and throw words back at the boat in anger. Steer aside. Otherwise neither boat has a captain!

So just pausing to think before reacting to circumstances can help you to channelize anger in a constructive manner - after all, **You Are the Captain of Your Own Boat!!**

"Dreams are necessary to life." - Anais Nin

नवदुनिया भोपाल, रविवार 22 जुलाई 2012

'न्यू एवेन्यूज इंक्रीजिंग चैलेंजेस' विषय पर रखे विचार

भोपाल (नप्र)। आईसीएसआई भोपाल चेप्टर द्वारा होटल राजहंस रीजेंट में न्यू एवेन्यूज इंक्रीजिंग चैलेंजेस विषय पर कार्यक्रम का आयोजन किया गया। कार्यक्रम में बतौर मुख्य अतिथि

व्याख्यान दिया, तीसरे सत्र में स्ट्रेस मैनेजमेंट विषय पर विकास मोहन सिंह ने अपनी बात रखी। उन्होंने इस विषय पर विस्तार से जानकारी दी।

कार्यक्रम में सीएस विवेक नायक, चेप्टर चेयरमेन सीएस धनराज

The Hitavada ■ NAGPUR ■ MONDAY ■ JULY 23 ■ 2012

ICSI delegation meets Dr M Veerappa Moily

■ Business Bureau

DR M VEERAPPA Moily, Union Minister for Corporate Affairs met CS professionals of Nagpur Chapter of ICSI during his Nagpur visit. CS Pradeep Channe, Chairman of Nagpur Chapter and Official Liquidator (High Court of Bombay, Nagpur Bench) Rakesh Tiwari and other members of ICSI were present in the delegation.

A floral bouquet and memento was presented to the Union Minister by CS Amit Pandey and CS Rohit Jain, Secretary Nagpur Chapter.

female members of ICSI namely CS Pinkush Jaiswal, CS Radhika Agrawal and CS Preeti Pacheriwala and made a special mention of growing numbers of females in the CS profession. The Minister conveyed his best wishes to Nagpur Chapter of ICSI for its forthcoming Regional Students Conference on August 18 and 19,2012. CS Tushar Pahade, CS Shekhar Shende, CS Aalhad Mahabal, CS Amit Rajkotiya and CS Ashwini Agrawal were also present in the delegation.

The Institute of Company Secretaries of India(ICSI) is constituted under an Act of Parliament. ... is the only recognised professional body in India to develop and ... late the profession of Company ... etaries in India. The Institute ... ds the certificate of bestowing

नव भारत भोपाल, रविवार, 22 जुलाई 201

कान्फ्रेंस आयोजित

भोपाल 21 जुलाई. आईसीएसआई भोपाल चेप्टर द्वारा ... राजहंस रीजेंट में न्यू ... यूज इंक्रीजिंग चैलेंजेस विषय ... कांफ्रेंस आयोजित किया गया. ... कार्यक्रम के मुख्य अतिथि ... ल टंडन थे. कार्यक्रम तीन ... ों में संपन्न हुआ. पहला सत्र ... शोर कंपनी के विषय पर रखा ... सीएस अनुराधा सिंघई विषय ... षज्ञ के रुप में संबोधित कर ... थी. दूसरे सत्र में डीमर्जर आफ

नईदुनिया भोपाल, 22 जुलाई 2012

न्यू एवेन्यू इंक्रीजिंग चैलेंजेज विषय पर कान्फ्रेंस

भोपाल २१ जुलाई. (काप्र)। आईसीएसआई भोपाल चेप्टर द्वारा न्यू एवेन्यूज इंक्रीजिंग चैलेंजेस विषय पर कांफ्रेंस आयोजित किया गया। इस कार्यक्रम के मुख्य अतिथि अनिल टंडन (डीजीएम अलाहाबाद बैंक) थे, कार्यक्रम तीन चरणों में संपन्न हुआ। ... पनी के विषय पर रखा ... घई विषय विशेषज्ञ के ... थीं, दूसरे सत्र में डी ... य पर समुद्र आचार्य ... सरे सत्र में स्ट्रेस ... विकास मोहन का ... कार्यक्रम संयोजक ... व भोपाल चेप्टर ... सिंह ठाकुर, सीएस ... स एमएम चावला, ... स अवधेश पाराशर, ... हे। लगभग १४० ... में भाग लिया।

ICSI meet held

A seminar on company secretaries being held in the city on Saturday.

OUR STAFF REPORTER

A conference on 'New Avenues-Increasing Challenges' under the aegis of the Institute of Company Secretaries of India (ICSI), Bhopal chapter was organised on Saturday. Deputy general manager of Allahabad Bank, Anil T... was present as the chief guest and he...

राज एक्सप्रेस रविवार, 22 जुलाई 2012

न्यू एवेन्यूज इंक्रीजिंग चैलेंजस विषय पर कार्यशाला

भोपाल। आईसीएसआई भोपाल चेप्टर द्वारा होटल राजहंस रीजेंट में न्यू एवेन्यूज इंक्रीजिंग चैलेंजस विषय पर एक कार्यशाला आयोजित की गई। कार्यशाला में मुख्य अतिथि के रुप में डीजीएम इलाहाबाद बैंक के अनिल टंडन मौजूद थे। कार्यशाला में आफशोर कंपनी, डीमर्जर ऑफ कंपनी विषय पर विशेषज्ञों ने अपनी राय रखी। कार्यशाला

दैनिक भास्कर नागपुर, रविवार, 15 जुलाई 2012, 17

श्री वीरप्पा मोइली ने आईसीएसआई में दी भेंट

नागपुर. आईसीएआई और डब्ल्यूआईआरसी की ओर से आयोजित अंतरराष्ट्रीय सम्मेलन में प्रमुख अतिथी के रूप में नागपुर पहुंचे केंद्रीय कैबिनेट मंत्री वीरप्पा मोइली ने दि इंस्टीट्यूट ऑफ कंपनी सेक्रेटरी ऑफ इंडिया में भी भेंट दी। इस दौरान आईसीएसआई के नागपुर चैप्टर के चेयरमैन सीएस प्रदीप चन्ने, राकेश तिवारी सहित संस्थान के दस ... के मंडल ने ... ली से मुलाकात ... से नए कंपनी ... और नागपुर में ... न कंपनी लॉ ... स्यूल्ट बेंच ... त करने संबंधी चर्चा की। श्री मोइली ने तेजी से बढ़ रहे कंपनी सेक्रेटरी की सराहना की और कंपनियों, उद्योगों के विकास भी कंपनी सेक्रेटरीज अहम भूमिका की सराहना की। मोइली ने संस्थान की महिला सेक्रेटरीज मुलाकात की और इस क्षेत्र में महिलाओं की बढ़ती संख्या पर खुशी जाहिर ... इस दौरान श्री मोइली के साथ संसद सदस्य सीए के. रहमान खान, ... ईसीएआई के अध्यक्ष जयदीप शाह, सीएस रोहित जैन, सचिव, नागपुर ... टर, सीएस अमित पांडे सहित अन्य भी उपस्थित थे।

नवभास्कर 15/7/12

खुद का इवैल्यूएशन जरूरी

कॉन्फ्रेंस

सिटी रिपोर्टर, इंदौर

द इंस्टिट्यूट ऑफ कंपनी सेक्रेटरीज ऑफ इंडिया (आईसीएसआई) की वेस्टर्न इंडिया रीजनल काउंसिल की एनुअल कॉन्फ्रेंस के तहत सेमिनार सीरीज शनिवार से होटल सयाजी में शुरू हुई। चीफ गेस्ट बीएसई के अंतरिम सीईओ आशीष चौहान ने कहा प्रोफेशनल्स काबिलियन से इंडस्ट्रीज को फायदा पहुंचा सकते हैं। की-नोट एड्रेस में आईआईएम के डायरेक्टर डॉ. एन रविचंद्रन ने कहा ग्रोथ के लिए प्रोफेशनल्स खुद का इवैल्यूएशन करें। सेबी के सीजीएम वी.एस. सुंदरेशन और एजीएम सुशांता कुमार ने टेकओवर रेगुलेशन 2011 के बदलावों को बताया। आईसीएसआई के प्रेसीडेंट निसार अहमद भी मौजूद थे। संचालन कमलेश जोशी ने किया। आभार आशीष कर्नेटिया ने माना।

"Dreams are the touchstones of our character." Henry David Thoreau

CS Quiz

M/s ABC ("the Company") was formed as a company u/s 25 of the Companies Act, 1956. Its license u/s 25 is now revoked by the Central Government.

Based on above, answer the following: -

1. Can the Company continue to carry on the same Activities which were being carried on by it prior to such revocation?

2. Can the Company appeal against the order of Central Government?

3. What is the existence of the Company?

Amit Kumar Jain, Editor
ICSI-WIRC's FOCUS
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WINNER

CS Nilesh Limaye – Winner of Quiz July issue of FOCUS

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"Dreams are today's answers to tomorrow's questions." Edgar Cayce

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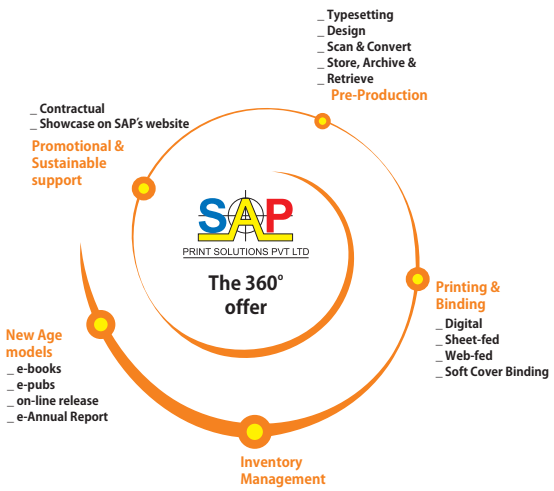

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ICSI - WIRC Seminar on "Inspection, Investigation and Compounding under Corporate laws and FEMA" Held on 21st July 2012

Arvind Salvi

Sudha Gupta

Dr. S.K. Jain

Satyan Israni

Borivali Study Circle held on 8th July 2012

Vanmali Poojari, Maulin Salvi, Vitthal Dehadray, Kunal Mehta, Nirav Gala, Hardik Kothari

ICSI - WIRC Photo Gallery

Inaugural ceremony of ICSI - WIRC / Renovated office 1st Floor / Chapter Chairman Meeting / Annual General Meeting of ICSI - WIRC, held on 27th and 28th July 2012 at WIRC

Programmes / Meetings organised by WIRC's Chapters

Seminar on New Avenues, Increasing Challenges, at Bhopal

ICSI Delegation to Ram Naresh Yadav, Governor, State of Madhya Pradesh for inviting him in the Madhya Pradesh State Annual Conference going to be held on 15-16th September 2012 at Bhopal.

L-R : Dhanraj S Thakur, Anil Tandon,DGM, Allahabad Bank, Amit Kumar Jain, Piyush Bindal, and Vivek Nayak.

Two Days Conference held at Hotel Le- Meridian, Pune on 27th and 28th July 2012

Meet with Hon'ble Union Minister for Corporate Affairs Dr. Veerappa Moily organized by Nagpur Chapter

L-R : Shilpa Dixit, Makarand Lele, Vikas Khare, Pradeep Bhargava, Pawan Chandak, C S Kelkar, Devendra Deshpande

National Company Law Quiz Organised by ICSI-WIRC at Pune

Pune Chapter office bearers with quiz participants

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