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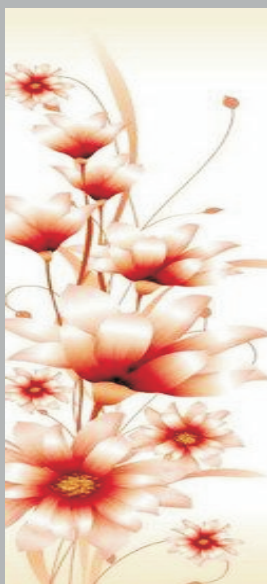
**THE INSTITUTE OF
Company Secretaries of India**

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

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Invitation for Contributing an Article

Readers are invited to contribute article/s for the Journal. The article should be on a topic of current relevance on Corporate Law, Tax Law, or on any other matter or issue relating to Economic or Commercial Laws. The article should be original and of around 7-8 pages in word file (approx. 2500 words). Send your articles at email id : articles@vidhimaan.com along with your student registration number. The shortlisted articles shall be published in the Journal.

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Dear Students,

The month of June is a significant month of the year as this is the month, which tests the efforts and vigor you have put to gain the knowledge during the rest of the year in your journey to become an excellent governance professional. After passing these exams, many of you will take up multiple challenging roles as a CS to contribute towards nation building. I advice you that rather than cramming the concepts, just immerse the basic concepts deep into your mind, so that these become a part of your perennial knowledge to guide your way throughout the life. Just remember to be like Arjuna, who focused exactly on the eye of the wooden sparrow as his goal while no other disciple could do that. Just be focused on your goal, *i.e.*, knowledge, and you will come out with flying colours as the saying goes:

ज्ञानं परमं ध्येयम्।

(Knowledge is the supreme goal)

To help you to shell out your best in exams and thereafter, the Institute has come up with the unique concept of **"ICSI Academic Helpdesk"**. This is one of the projects of the Institute where best of the faculty across the country has been empanelled to guide the students on various subjects. The Helpline will open at 7 am till 11 pm. The extended hours will help our students to get guidance at their convenient time. Students may call ICSI team at helpline no. 011-6675 7777 for their academic queries to get connected to the expert faculty. I take this opportunity to urge our students to reap most of this facility.

I am also happy to announce that the Institute has recently launched a Fee Waiver Scheme for students of Jammu & Kashmir and North Eastern States of India to provide an opportunity to the youth of these States to come to the mainstream. The Government of India is announcing special packages for socio-economic development of these States and the Institute is also playing a vital role in the development of society at large. The scheme includes waiving the Fee for all students registering for the Foundation and Executive Programme Stages from North Eastern States (Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura, Sikkim) and State of Jammu and Kashmir till 31st March, 2018. All students belonging to North Eastern States and State of Jammu and Kashmir who have passed the 10+2 or equivalent or Bachelor's Degree or equivalent irrespective of the percentage of marks shall be eligible for Fee Waiver while registering for Foundation Programme and Executive Programme Stage respectively.

The Institute is heading towards its Golden Jubilee year celebrations; you are most welcome to send your creative suggestions to mark the same. The Institute has also launched its 'GST Newsletter' after huge response to 'infocapsule' to add to your knowledge and keep you updated. You are welcome to send any particular requirements that may supplement your knowledge further; our team will do its best to meet your expectations.

All the best!!

सी एस (डॉ.) श्याम अग्रवाल
अध्यक्ष, भारतीय कंपनी सचिव संस्थान
Date: 6th June, 2017

LEGAL FRAMEWORK OF NATIONAL COMPANY LAW TRIBUNAL

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In this article, the author delves into provisions of the Companies Act, 2013 relating to National Company Law Tribunal/ National Company Law Appellate Tribunal.

Introduction

The Ministry of Corporate Affairs (MCA) vide a notification dated 1st June, 2016 constituted the National Company Law Tribunal (NCLT) and its appellate authority, the National Company Law Appellate Tribunal (NCLAT) under sections 408 and 410 of the Companies Act, 2013 (Act) respectively with effect from 1st June, 2016 thereby replacing various judicial and quasi-judicial forums by means of a comprehensive and overarching quasi-judicial body to adjudicate all disputes relating to companies in India. The constitution of NCLT and NCLAT has opened a new epoch in company law related litigations in the nation as it consolidates corporate jurisdiction of the Company Law Board, Board for Industrial and Financial Reconstruction (BIFR) and Jurisdiction and powers relating to winding up restructuring and other such provisions vested in the High Courts.

Backdrop and Framework

The foundation of NCLT was recommended by the Eradi Committee in its report on legislations on bankruptcy and winding up of Companies. Consequent upon which the Companies (Second Amendment) Act, 2002 was passed which provided for the establishment of NCLT. However, due to constitutional challenges, the provisions could not be notified until last year when a Constitution Bench of the Supreme Court of India in its judgment in *Madras Bar Association v. Union of India* [2015] 126 CLA 111 SC paved

the way for the establishment of the NCLT and NCLAT under the provisions of the Act. With the establishment of the NCLT and NCLAT, the Company Law Board (CLB) constituted under the Companies Act 1956 Act stands dissolved and all matters /proceedings/cases pending before the CLB were transferred to the NCLT.

The NCLT will have eleven Benches, two at New Delhi and one each at Ahmedabad, Allahabad, Bengluru, Chandigarh, Chennai, Guwahati, Hyderabad, Kolkata and Mumbai. The principal bench of the NCLT is located at New Delhi. NCLT will have two classes of members – Judicial and Technical. The NCLAT will have eleven members for hearing appeals.

Hon'ble Justice S.J. Mukhopadhaya, Judge (Retd.), Supreme Court of India has joined as the Chairperson of the NCLAT and Hon'ble Justice M.M.Kumar, Judge (Retd.) has joined as the President of the NCLT.

The MCA vide notifications dated 21st July, 2016 notified the National Company Law Tribunal Rules, 2016 (NCLT Rules) and National Company Law Appellate Tribunal Rules, 2016 (NCLAT Rules).

NCLT and NCLAT – Functions and Powers

The NCLT (Tribunal) has been constituted to handle corporate civil disputes arising under the Companies Act, 2013. Orders issued by NCLT can essentially remedy a situation, correct a wrong or impose costs and may affect the legal rights, duties or privileges of the specific parties.

Legal Framework of National Company Law Tribunal

Whereas, the NCLAT (Appellate Tribunal) deals with appeals arising out of the orders passed by the NCLT. Decisions of the NCLAT can further be challenged in the Supreme Court.

The NCLT / NCLAT has powers and procedures like those vested in a court of law and they shall be guided by Principles of Natural Justice but not be bound by procedure laid down in the Code of Civil Procedure (Code). Further, the Tribunal and Appellate Tribunal shall have power to regulate their own procedure. Certain powers vested by the Code in civil courts also vest in NCLT / NCLAT like summoning attendance, requiring production of documents, receiving evidence on affidavits, setting aside any ex-parte order, etc. NCLT / NCLAT shall have same powers, jurisdiction and authority as High Courts in respect of contempt of themselves as per Contempt of Courts Act, 1971.

Jurisdiction Under Civil Court

Under the 1956 Act, there was no express provision ousting the jurisdiction of the civil courts in the matters which were heard by the CLB. However, section 430 of the Companies Act, 2013 clearly provides that no civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which

NCLT / NCLAT is empowered to determine by or under this Act or any other law for the time being in force and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act or any other law for the time being in force, by NCLT / NCLAT.

Limitation

Section 433 of the Companies Act, 2013, provides that provisions of Indian Limitation Act, 1963 shall apply to proceedings or appeals before NCLT / NCLAT.

Matters to be heard only at Principle Bench

Following matters can be heard at Principal Bench of NCLT at New Delhi only:

- Section 245: Class action suits
- Section 379-393: Application of Act to foreign companies
- Section 394: *Annual reports* of Government Companies.

Commencement of Certain Provisions of the Act

With the constitution of the NCLT, various sections of the Act relating to NCLT have also been notified with effect from 1st June, 2016. The sections that have been notified are as under:

S.No.	Section/Rule	Particulars
1.	Section 7 (7) [except clause (c) and (d)]	Power of Tribunal to pass orders, etc., where company has been incorporated by furnishing any false or incorrect information or representation, etc.
2.	Second proviso to section 14 (1)	Provisions relating to conversion of public company into private company.
3.	Section 14 (2)	Provisions relating to filing of altered articles and order copy of the Tribunal with the ROC.
4.	Section 55 (3)	To approve issue of further redeemable preference shares when a company is unable to redeem its existing unredeemed preference shares or to pay dividend thereon.

Legal Framework of National Company Law Tribunal

5.	Proviso to clause (b) section 61 (1)	To approve consolidation or division of share capital resulting in change in voting percentage of shareholders.
6.	Section 62 (4) to (6)	Order of government for conversion of loans/debentures into shares in public interest and where the terms of conversion of debentures into shares of a company ordered by the Government are not acceptable to the company, the company may appeal to the tribunal for making such order as it may deem fit.
7.	Section 71 (9) to (11)	Where the assets of a company are insufficient to discharge the debentures, the debenture trustee may apply to the NCLT. NCLT to order redemption of debentures forthwith by payment of principle and interest due thereon. Penalties for not complying with the order of the Tribunal.
8.	Section 75	Damages for fraud with respect to failure to repay deposits and interest thereon.
9.	Section 97	Power of Tribunal to call annual general meeting.
10.	Section 98	Power of Tribunal to call meetings of members. In case it is impracticable to call a meeting, the Tribunal may either suo moto, or on application of a director or member of the company who is entitled to vote at the meeting, order to call meeting i.e extra ordinary general meetings and give such directions as may be necessary.
11.	Section 99	Punishment for default in complying with provisions relating to AGM.
12.	Section 119 (4)	Inspection of minute-books of general meeting: Power of tribunal to order, direct an immediate inspection of the minute-books or direct that the copy required shall forthwith be sent to the person requiring it.
13.	Section 130	Re-opening of accounts on court's or Tribunal's order
14.	Section 131	Voluntary revision of financial statements or Board's reports.
15.	Second proviso to section 140 (4) / (5)	The provisions inter-alia includes: To restrict copies of representation of the auditor to be removed to be sent out. The tribunal may, on the application of the company or any aggrieved person, order that copy of representation by the Auditor need not to be sent to members not read at the meeting. Where NCLT is satisfied that the Auditor has acted in a fraudulent manner, it may order that the Auditor may be changed.
16.	Section 169 (4)	This section inter-alia includes provisions conferring powers to tribunal to order that representation from the director need not be sent to the members and nor read at the meeting.
17.	Section 213	Investigation into company's affairs in other cases.
18.	Section 216 (2)	Investigation of ownership of company.
19.	Section 218	Protection of employees during investigation
20.	Section 221	Freezing of assets of company on inquiry and investigation
21.	Section 222	Imposition of restrictions upon securities
22.	Section 224 (5)	Actions to be taken in pursuance of inspector's report
23.	Section 241	Application to Tribunal for relief in cases of oppression, etc.
24.	Section 242 [except clause (b) of sub-section (1), clause (c) / (g) of sub-section (2)]	Certain powers of tribunals notified except for certain High Court matters such as reduction of capital, etc.
25.	Section 243	Consequence of termination or modification of certain agreements.

Legal Framework of National Company Law Tribunal

26.	Section 244	Right to apply under section 241, i.e., application to tribunal in case of oppression, etc.
27.	Section 245	Class action
28.	Reference of word 'Tribunal' in section 399 (2)	Leave of the Tribunal required for issuance of certain documents
29.	Sections 415 to 433 (both inclusive)	Provisions relating to constitution of National Company Law Tribunal and National Company Law Appellate Tribunal.
30.	Section 434 (1)(a) and (b)	Transfer of proceedings from Company Law Board to National Company Law Tribunal.
31.	Section 434 (2)	Powers of Central Government to make rules relating to transfer of cases from Company Law Board to National Company Law Tribunal
32.	Section 441	Compounding of certain offences.
33.	Section 466	Dissolution of Company Law Board and consequent provisions.

General Procedures for Filing petitions, Applications with the Tribunal

There are certain procedures that are to be followed while filing applications, petitions with the tribunal. Some of the important points are as under:

- Every petition, application shall be in Form NCLT-1.
- General heading shall be in Form NCLT-4.
- Every petition, application shall be verified by an affidavit in Form NCLT-6.
- Every petition, application shall be legibly typed in English (or with translation into English), shall be duly paginated, Indexed and stitched in paper book form.
- Each paragraph in the petition, application is to be numbered and should contain separate fact or allegation or point.
- Names of parties on Title Sheet should be numbered consecutively and a separate line should be allocated to the name and the description of each party.
- Full name, parentage, age, description of each party and address shall be set out at the beginning of the appeal or petition or application.
- Every proceeding to state the provision of law under which it is preferred (immediately after the cause title).

- All petitions / applications etc to be filed in Triplicate. Sufficient copies are also to be filed for service on opposite parties.
- The cause title shall state "Before the NCLT".
- The cause title shall also specify the Bench to which it is presented.
- Every correction/deletion, etc. to be initialed by the Party or his authorized representative presenting it.
- Endorsement and Verification – at the foot of every petition/appeal/pleading there shall appear the name and signature of the AR.
- Every petition, application shall be signed and verified by the party concerned.

Scope for Practising Professionals under NCLT

Establishment of NCLT / NCLAT has opened a vast array of opportunities for practicing professionals (company secretaries / chartered accountants / cost accountants) who have now become eligible to appear before the Tribunal in cases of mergers, amalgamations, winding up proceedings which were dealt with by the High Court under the old regime. They will now be able to render services in preparing schemes, appearing before NCLT / NCLAT for approval of schemes and post merger formalities.

NATIONAL COMPANY LAW TRIBUNAL – OPPORTUNITIES AHEAD FOR PROFESSIONALS

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In this article, the author makes an attempt to provide framework of the National Company Law Tribunal (NCLT), a quasi judicial body adjudicating issues relating to companies and corporate entities, which replaces the existing Company Law Board. She concludes that with establishment of the NCLT the practicing company secretaries would standardize their competencies with the global benchmark to provide value added services in assisting the NCLT.

Introduction

The National Company Law Tribunal (NCLT) has replaced Company Law Board (CLB) from June 2016. It is a quasi-judicial body which adjudicates issues relating to companies and corporate entities. The NCLT has presently twelve Benches, three at New Delhi (one being the Principal Bench) and one each at Ahmedabad, Allahabad, Bengaluru, Chandigarh, Chennai, Guwahati, Hyderabad, Kolkata and Mumbai. Chief Justice M.M. Kumar, retired Chief Justice of the Jammu and Kashmir High Court has been appointed as President of the NCLT. Two more Benches at Jaipur and Cuttack are likely to start soon. On 1st June, 2016, the Ministry of Corporate Affairs (MCA) published a notification regarding the constitution of the NCLT and the National Company Law Appellate Tribunal (NCLAT) with effect from the 1st June, 2016. The constitution of the aforesaid Tribunals is in exercise of the powers conferred by sections 408 and 410 respectively of the Companies Act, 2013 (Act).

The Companies (Second Amendment) Act, 2002 provided for the setting up of the NCLT and NCLAT to replace the then existing CLB and Board for Industrial and Financial Reconstruction (BIFR). The setting up of the

NCLT as a specialized Institution for corporate justice is based on the recommendations of Justice Eradi Committee, set up to examine the existing law relating to winding up proceedings of companies in order to re-model it in line with the latest developments and innovations in the corporate law and governance and to suggest reforms in the procedure at various stages followed in the Insolvency proceedings of companies to avoid unnecessary delays in tune with the international practice in this field. The setting up of the NCLT and the NCLAT are part of the efforts to move to a regime of faster resolution of corporate disputes, thus improving the ease of doing business in India. The NCLT and NCLAT will also pave the way for faster implementation of the Bankruptcy Code. Their setting up is expected to reduce the burden on courts. As reported in the media, Government data revealed that 48,418 civil cases were pending before the Supreme Court as of mid-February 2016, 3.116 million civil cases pending before the High Courts as of 31st December, 2014 and 8.234 million civil cases pending before the District and Subordinate Courts.

The establishment of the NCLT consolidated corporate jurisdiction of the following authorities:

National Company Law Tribunal-Opportunities Ahead For Professionals

- CLB
- BIFR
- Appellate Authority for Industrial and Financial Reconstruction (AAIFR)
- Jurisdiction and powers relating to winding up, restructuring and other such provisions, vested in the High Courts

With the establishment of the NCLT and NCLAT, the CLB under the Companies Act, 1956 stood dissolved. Later on, BIFR and AAIFR also stood dissolved after notification was issued under the SICA Repeal Act.

NCLT: The Prospects of Company Secretaries

The NCLT would provide tremendous opportunities for company secretaries. Company secretaries being completely engaged in company law matters would be in a better position to appreciate the facts of a company case than any other professional.

The NCLT is a larger version of the CLB with the powers of the High Court and the BIFR. The NCLT would provide a single Forum to deal with company matters and corporate disputes. It was not something thought of overnight and it had been in place since the 1960s. The ICSI has played a major role in enhancing the credibility of its members before the NCLT and the corporate sector by ensuring continuous evolution of standards and improving the skills of the members. The NCLT would look after the interests of stakeholders and address corporate issues. For many years, the relationship between the Government and the corporate sector had been linear but now this was being articulated better.

The role of company secretaries was not just to present facts before the NCLT, but also to provide a complete package considering the interests of all stakeholders. There was a need for articulation of technical skills and improvement and continuous evolution of standards. Globalisation of services provided a huge opportunity for Indian professionals. To play a bigger role, Indian professionals, particularly those handling corporate issue like company secretaries must adapt to changing situations as fast as possible.

Section 432 of the Act provides for the right to legal representation. The said section provides that a party to any proceeding or appeal before the Tribunal or the Appellate Tribunal, as the case may be, may either appear in person or authorize one or more-

- *chartered accountants, or*
- *company secretaries, or*
- *cost accountants, or*
- *legal practitioners, or*
- *any other person,*

to present his case before the Tribunal or Appellate Tribunal, as the case may be.

Thus the above professionals are eligible to appear before the NCLT as well as NCLAT. The difference between the erstwhile and the present Companies Act is that before the company court for the purposes of merger and amalgamations and winding up proceedings only Advocates could appear or practice. Now the scenario has changed and the professionals may also appear before the NCLT for the matters earlier dealt with by company court.

National Company Law Tribunal-Opportunities Ahead For Professionals

NCLT and NCLAT are the Fora, for the professionals to prove their professional competence.

Dress Code For Appearance at NCLT

In exercise of the powers conferred on Tribunal by rule 51 of the National Company Law Tribunal Rules, 2016, it has been decided to issue following dress code for President, Members, authorised representatives and for the parties in person to be followed during the proceeding of the Tribunal:

- For President and Members- The dress code of the President and Members shall be white or striped or black trouser with black coat over white shirt and hand or buttoned-up black coat and band. In the case of a female President or a Member, the dress shall be black coat over a white saree.
- For Authorised Representatives- Every authorised representative as provided in section 432 of the Act shall appear before the Tribunal in his / her professional dress if any, and if there is no such dress, a male, in a suit or buttoned-up coat over a trouser or national dress that is a long buttoned-up coat and a female in a coat over a white or any other sober coloured saree or in any other sober and decent dress.
- For Parties in Person- Parties appearing in person before the Tribunal shall be properly dressed.

Scope For Company Secretaries/ Other Professionals

Establishment of NCLT/NCLAT will offer following opportunities to practicing company secretaries as they have been

authorized to appear before the Tribunal/ Appellate Tribunal (only notified sections):-

- Oppression and mismanagement
- Compromise and arrangement
- Amalgamations/mergers/de-merger/ restructuring
- Sick companies
- Winding up/ voluntary liquidations
- Reduction of capital
- Act as a liquidator under winding up
- Assisting the liquidator in the proceeding of winding up
- PCS as a member of NCLT
- Insolvency and Bankruptcy Code
- Conversion of companies from public to private
- Change of financial year
- Other matters provided under Companies Act, 2013
- Act as company representative in all other related Matters

A practicing company secretary (PCS) can be appointed as a Technical Member of NCLT, provided he has 15 years working experience as Secretary in whole-time practice.

A PCS who has 15 years of practicing experience could have registered himself as an IP for a limited period before 31st December, 2016. However, he can now appear and pass the National Insolvency Examination conducted by NISM online securing 60% pass marks. On passing of this examination, he will be registered permanently by the ICSI-IPA as an IP.

National Company Law Tribunal-Opportunities Ahead For Professionals

Challenges For Company Secretaries

With every opportunity there comes challenges for the professionals in the manner of dealing with the cases with the NCLT and NCLAT like court craft and art of advocacy etc; since the cases that are being dealt with CLB, High Court and BIFR will be now dealt by the NCLT and NCLAT.

Art of advocacy

- Must file memorandum of appearance with Tribunal along with pleadings
- Dress code as prescribed by Institute/ NCLT Rules
- Service of documents to opposite party, if any.
- Switch off mobile phone (not vibration mode)
- Standing position of counsels is that the petitioner at left hand side of Judge and defendant at right hand side of Judge.
- Case summary/fact sheet of the case.

Preparation and Rehearsal

- Use notes – as prompts not to read
- Find merits – Focus on it
- Body language – Positive and respectful
- Make clear brief on law and evidence. Keep focus on main issues and result to be achieved
- Avoid frequent interruptions or objections. Wait for your chance
- Knowledge of development of law and background will be helpful
- Do not argue with the Judge, explain with

reason. Focus on winning war not battles

- Co-operate with opposite counsel or representative..... “The learned friend”
- Make clear brief on law and evidence. Keep focus on main issues and result to be achieved
- Look previous similar cases and their determination for precedents

Conclusion

In the view of vast opportunities emerging with establishment of the NCLT, the practicing company secretaries should standardize their competencies with the global benchmarks to provide value added services in assisting the Tribunal in-

- i. Dispensation of justice, and
- ii. Speedier disposal of matters like merger, amalgamation, restructuring, revival and rehabilitation of sick companies via Insolvency and Bankruptcy Code and winding up of companies. All the professionals must read and write continuously and keep sharpening their skills to achieve best results as a high class corporate professional. Hard work is must for getting success and no shortcuts should be adopted. Essence of time must be respected and one should always be soft spoken to rise high in profession.

THE VALUE OF BEING FOCUSED IN LIFE

Contributed by Brahma Kumaris,
Om Shanti Retreat Centre,
Gurugram

In this article, the author analytically explores the well known and yet exclusive concept of focus. In an attempt to do so, the author first explores the deeper meaning of the phenomenon and then relates tried and tested methods to improve focus. The author further shows what intervention is necessary to channelize brain power to a focused form of energy.

Introduction

"More often than not, when a new case is presented, (he) does nothing more than sit back in his leather chair, close his eyes and put together his long-fingered hands in an attitude that begs silence," (Konnikova, 2012). This is his approach to thoughts; what in other words cognitive psychologists refer to as being focused and alert. Any guesses who are we referring to?

The man with a deerstalker hat, Mr. Sherlock Holmes! The world's most popular fictional detective knows the value of focus; of "throwing his brain out of action," as Dr. Watson puts it. It is like the concept of holding a magnifying glass in the sun; if you ever did it, you would know; how scattered sunlight can be focused to start a fire. Imagine concentrating brain power into one streak of light and focus it like a laser on any task that has to be accomplished. And to co-relate, we all know the rate of success of Mr. Holmes' detective cases, once he is done "throwing his brain out of action."

Whether in a classroom or a Board room meeting or in a telecom, we have often heard from the other end asking us to 'focus.' Even though we have somehow gathered that it

means to be more attentive, nobody ever told us 'how.' And often it is not deliberate; it is the brain's inability to concentrate. And the current problem is, our ongoing mental traffic jam- too much screen time, deadlines, interruptions, responsibilities at home, and



numerous other conveniences which are the genesis of the 'internet age'. A recent survey by the University of California (2012) estimates that we are bombarded with "34 GB of information a day", twice as much as it was 30 years ago. Office workers are interrupted (on an average) every three minutes. College and university counseling centers are examining how best to serve the growing number of students seeking their services. More and more students are reeling under academic pressure

The Value Of Being Focused In Life

and the constant competition to do better and outperform others. It is tough for students pursuing CS, which is worse with the pressure to be placed. And little do we realise that once we are placed, the pressure and stress gets even worse with the mountain of workload along with administrative responsibilities. The modern life is rife with such situations, so I shall not divulge into our constant nightmares. My intention here is, rather to delve deeper into the well known and yet elusive concept of Focus. In an attempt to do so I shall first explore the deeper meaning of the phenomenon. In the step I will relate tried and tested methods to improve focus and showed what intervention is necessary to channelize our brain power to a focused form of energy.

What Focus Is ?

So, adhering to our first aim, let us understand and analyze what focus is. *Focus is a skill that allows people to begin a task without procrastinating and maintain the attention and effort until the task is complete.* This also means focus is the ability to direct one's mind according to one's will and not any external circumstance. Focus is generally understood as deep concentration on any subject or object.

Focus is indispensable not only for survival but also for success in any sphere of life. Through focus, the mind and intellect acquires the potentiality of a lens and can penetrate deeply into any object or subject to perceive its original nature and thereby focus strengthens our power to discern. Focus is an inherent trait

that already exists in our nature; but the downside of modern life has made this inherent ability elusive.

So, if we reflect on the idea a little deeply, we will very well be aware that focus in our life has been receding as we grew up or as time passed by. As expectations and demands increase, we have tried to adjust or divide our attention to various issues rather than being focused on the



one issue at hand. This generation considers constant interruptions to be perfectly normal and anyway we are expected to multi-task, consequently our focus wanes away. People unrelentingly argue that there is always more than one issue at hand, or that it is an age of multi-tasking. In reality we can only focus on one activity at a time. And if we are not doing that, we are not justifying the activity at hand and rather planning for the next set of actions. This in turn requires more effort for the present task and also delays the next task. In the words of Ms. Linda Stone (1998, 2010) an MIT based researcher, "Multi-tasking leads to a state of continuous partial attention" which in turn,

The Value Of Being Focused In Life

achieves much less than a fully focused mind. Dr. Glenn Wilson (2005) found that workers who were constantly distracted by phone calls and emails experienced a 10% drop in their IQ



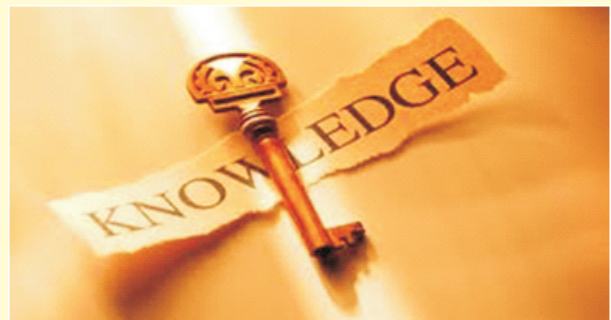
and this unchecked 'infomania' could reduce workers' mental agility. We are constantly consuming a stream of information without actually concentrating on one specific information. Consequently we retain nothing. This reminds me of a beautiful Zen proverb, "When walking, walk. When eating, eat." The rest is self-explanatory and I would refrain from diluting the essence and beauty of the proverb.

Exploration Of Another Dynamics Of Focus

Now let us explore another dynamics of focus. Let's take the famous example of the Sir Isaac Newton's theory of falling of apples which marked the beginning of formulation of the law of gravity. We have often heard famous inventions starting with 'Eureka'. However, have we ever thought what exactly 'Eureka' could be? A moment of Eureka involves a deep connection with the self, in silence, when the

mind is more focused and not thinking of the many possibilities and the intellect is not judgmental and trying to observe and understand the truth at hand. And when we talk about this focus, it means that our mind is stable and intellect is not wavered and that they are on the same lines. It is quite rare now-a-days as, when we are trying to concentrate our mind, the intellect is thinking of other parallel possibilities, while when the intellect sticks to one idea, our mind quickly jumps to either formulating the consequences or building fantasies. This unique duo of mind and intellect creates focus, *i.e.*, coming together onto something, like rays of Sun when directed onto a lens or parabolic reflector.

If we replicate the same theory in our everyday



lives, do we think that we can accomplish better? If our thinking is focused and action is in sync; can we not achieve more in a shorter period of time? If we look closely, most of our thought process invokes the thought of the target rather than the process. We are constantly panicking about the deadline and not focusing on the task right then and there. And it is not our fault. It is the environment

The Value Of Being Focused In Life

that has culminated in us a culture where everyone behaves the same manner. We have been taught to internalize the value of results and performance enhancements and not of focus. And when we fail to accomplish, we are asked to 'focus' better.

Meditation Vis-A-Vis Focus

So as mentioned earlier, we are all aware that the thumb rule is to concentrate on the job but with due course, it weans away with external pressure. That is exactly why a child is able to focus better than adults. As we grow older succumb to the external demands thereby dissociating from our original qualities. And to achieve this, meditation is the only intervention. There is no need to explain what meditation is, we all have the dictionary definition and personalized understanding of the phenomenon. As theory suggests, when we are able to keep the mind focused on a specific object uninterruptedly for twelve seconds, we achieve one unit of concentration, especially with reference to 'Raja Yoga' meditation. The words meditation and focus are interlinked and are symbiotic. Yet meditation is more than just focus or concentration. Meditation in the larger domain is a process by which the meditator becomes one with the object or subject of meditation. Focus is the preliminary stage of meditation which is achieved easily through an conscious effort. When this focus becomes effortless and durable it takes the form of meditation. The zenith of meditation is total absorption in the object or subject of focus.

This is the higher meaning of focus and achievable only through meditative techniques.

As we have already discussed meditation is the way to learn and practice concentration. However, to practice meditation or connect with the subject or object, knowledge of a person is of paramount importance. Correct knowledge is the only way to be able to do meditation. Meditation connects our discordant thoughts into the principal goal or purpose. Our desires, instincts, and actions are therefore controlled and brought together in a unified direction.

Rajyog Meditation

As the impressions in the principal subconscious mind reduce, the impulses coming to the conscious mind from the subconscious also reduce. This aids the development of better concentration. The absence of development of new impressions and negation of existing impulses through Rajyog meditation prevents the development of impressions about other things on the subconscious mind.

Rajyog is perhaps the best way in the wakeful state to prevent the occurrence of new impressions in the subconscious mind thereby sharpening our focus. Another important aspect of focusing better is to take breaks. Disconnection from the current task at hand for a few minutes relieves a cluttered mind and de-stresses it.

The Value Of Being Focused In Life

Focus is nothing but to concentrate the mind and intellect as per one's desire and it needs learning and practice. And through focus and concentration, we can transform any task that we have at hand without having to feel much effort. To back with facts, a new study by the University of Wisconsin-Madison (2014) shows that those participants, who had practiced meditation, were better at completing tasks, when faced with distraction. Meditation increases alertness and focus of mind to deal with situations better in the present moment.

To have focus means to be in the 'now' and this is a practice that we have to inculcate. The moment we realise that the mind has been distracted, we can consciously bring it back to the present, using Rajyog meditation as a tool. Improving focus is as much about spirituality as it is about deepening concentration: it is the ability to quiet your mind, focus your attention on the present, and dismiss any distractions that come your way.

Conclusion

Conclusively, the fact remains that we continue to be a part of the result oriented society where we focus more on the outcome than the process; where targets matter more than the means. But if we take knowledge and meditation into consideration, both the process and result will change qualitatively. The benefits and value of focus isn't just behavioral; it is also physical. Mindfulness has been shown to improve connectivity inside our

brain's attention networks, as well as between-changes that save us from distraction.

It's a relatively simple process to discipline the brain and increase our focus. And this has far reaching impacts on our professional achievements, relationships and self-fulfillment. If we could simply stay focused on the right things, life would stop being a reaction to events and things. Focus can go a long way in rewarding many areas of our everyday life. Therefore it is beneficial to invest a little time and effort in sharpening it. It actually helps us shield from the excesses of modern demands.

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Knowledge Update

COMPANY LAW

CLARIFICATION ON APPLICABILITY OF SECTION 16(1)(a) OF COMPANIES ACT, 2013 WITH REFERENCE TO CASES UNDER CORRESPONDING PROVISIONS OF COMPANIES ACT, 1956

Ministry of Corporate Affairs issued a clarification on applicability of section 16(1)(a) of Companies Act, 2013 (The Act) with reference to cases under corresponding provisions of Companies Act, 1956 vide Circular No.4/2017 [F.NO.17/89/2016-CL-V], dated 16-5-2017. A representation was received from Regional Director, Mumbai, seeking clarification as to whether Regional Directors can entertain, fresh applications under section 16 of the Act, which states the provisions for rectification of name by the Central Government, in respect of applications which were earlier rejected by them under Companies Act, 1956 on the ground of being time-barred as the prescribed period of twelve months had been completed (under section 22(1)(ii)(b) of the Companies Act, 1956), since no limitation period has been specified under section 16 of the Act. In consultation with the department of Legal Affairs, the Ministry of Corporate Affairs clarified that the applications which were rejected under section 22(1)(b) of the Companies Act, 1956 on the ground that such applications were made after the requisite period of 12 months specified therein, cannot apply afresh under section 16(1)(a) of the Act as the extinguished limitation cannot be considered to be revived even if no limitation period has been prescribed in the said section under the new Act.

FEMA LAW

CABINET APPROVES PHASING OUT FOREIGN INVESTMENT PROMOTION BOARD

The Union Cabinet has given its approval to the phasing out of Foreign Investment Promotion Board (FIPB). The proposal entails abolishing the FIPB and allowing administrative Ministries/Departments to process applications for FDI requiring government approval. Henceforth, the work relating to processing of applications for FDI and approval of the Government thereon under the extant FDI Policy and FEMA, shall now be handled by the concerned Ministries/Departments in consultation with the Department of Industrial Policy & Promotion (DIPP), Ministry of Commerce, which will also issue the Standard Operating Procedure (SOP) for processing of applications and decision of the Government under the extant FDI policy. In addition, Foreign Investors will find India more attractive destination and this will result in more inflow of FDI.

INCOME TAX

INCOME TAX DEPARTMENT STEPS-UP ACTIONS UNDER BENAMI TRANSACTIONS (PROHIBITION) AMENDMENT ACT, 2016

The Income-tax Department (ITD) has initiated actions under the new Benami Transactions (Prohibition) Amendment Act, 2016 (the Act) with effect from 1st November, 2016. The Prohibition of Benami Property Transactions Rules, 2016 have been framed in this regard. As per the Act, Benami property includes movable or immovable property, tangible or intangible property, corporeal or incorporeal property. It empowers provisional attachment and subsequent confiscation of benami properties. It also allows for prosecution of the beneficial owner, the benamidar, the abettor and the inducer to benami transactions, which may result in rigorous imprisonment up to 7 years and fine up to 25% of fair market value of the property.

Knowledge Update

SEBI REGULATION

GUIDELINES ABOUT USE OF E-WALLET FOR INVESTMENT IN MUTUAL FUNDS

In order to promote digital payments in the MF industry and channelize household savings into the capital market. MFs/ AMCs can accept investment by an investor through e-wallets (Prepaid Payment Instruments (PPIs)) subject to the following:

- MFs/ AMCs shall ensure that extant regulations such as cut-off timings, time stamping, etc., are complied with for investment in MFs using e-wallets.
- MFs/ AMCs shall enter into an agreement / arrangement with issuers of PPIs for facilitating payment from e-wallets to MF schemes.
- Redemption proceeds should be made only to the bank account of the investor/ unit holder.
- MFs/ AMCs shall ensure that total subscription through e-wallets for an investor is restricted to INR 50,000/- per MF per financial year. Further, in partial modification by SEBI, the limit of INR 50,000/- would be an umbrella limit for investments by an investor through both e-wallet and/or cash, per MF per financial year.
- MFs/ AMCs shall ensure that e-wallet issuers shall not offer any incentives such as cashback, vouchers, etc., directly or indirectly for investing in MF schemes.
- MFs/ AMCs shall ensure that only amounts loaded into e-wallet through cash or debit card or net banking, can be used for subscription to MF schemes.
- MFs/ AMCs shall ensure that amount loaded into e-wallet through credit card, cash back, promotional scheme etc. should

not be allowed for subscription to MF schemes.

- MFs/ AMCs shall also comply with the requirement of no third party payment norm for investment made using e-wallets.

LAW ON REAL ESTATE

REGULATION OF REAL ESTATE SECTOR

Ending the nine year long wait, regulation of real estate sector involving over 76,000 companies across the country becomes a reality from *i.e.* 1st May , 2017 with the Real Estate (Regulation & Development) Act, 2016 coming into force. With all the 92 Sections of the Act coming into effect, developers shall get all the on-going projects that have not received Completion Certificate and the new projects registered with Regulatory Authorities within three months *i.e.* by July end. This enables the buyers to enforce their rights and seek redressal of grievances after such registration. The Act ushers in the much desired accountability, transparency and efficiency in the sector with the Act defining the rights and obligations of both the buyers and developers. Ahead of the Act coming into force, Ministry of Housing and Urban Poverty Alleviation has formulated and circulated Model Real Estate Regulations for adoption by the Regulatory Authorities in the States/UTs. Under these Regulations, developers are required to display sanctioned plans and layout plans of at least 3 feet X 2 feet size at all marketing offices, other offices where properties are sold, all branch offices and head office of the promoters in addition to the site of project.

INSOLVENCY AND BANKRUPTCY CODE

NOTIFICATION ISSUED BY MCA FOR PROVISIONS OF CLAUSE (a) to (d) OF SECTION 2 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 TO BEEN

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Place of posting : NIEHO, Naraina

Knowledge Update

FORCED FROM 1ST APRIL, 2017

Ministry of Corporate Affairs notifies 1st April, 2017 as the date on which the provisions of clause(a) to clause (d) of section 2 of the Insolvency and Bankruptcy Code, 2016 relating to voluntary liquidation or bankruptcy shall come into force. The Code shall be applicable to:

- any company incorporated under the Companies Act, 2013 or under any previous company law,
- any other company governed by any special Act,
- any Limited Liability Partnership ('LLP') incorporated under the LLP Act, 2008,
- such other body incorporated under any law as notified by the Govt., and
- partnership firms and individuals, in relation to their insolvency, liquidation, voluntary liquidation / bankruptcy.

MISCELLANEOUS

START UP-AMENDMENT IN DEFINITION

Start-up India was launched by the Government of India on 16th January, 2016 to build a strong eco-system for nurturing innovation and Startups in the country to drive economic growth and generate large scale employment opportunities. In order to promote entrepreneurship in the country, the Government of India has amended the definition of a 'Startup'. The following significant changes have been made to the definition of 'Startup's:-

- Age of startup increased: Taking into account the long gestation period by Startups to establish, an entity shall be considered as a Startup up to seven years from the date of its incorporation/ registration (from earlier 5 years). However, in the case of Startups in the

Biotechnology sector, the period shall be up to ten years from the date of incorporation/ registration.

- No letter of Recommendation required: No letter of recommendation from an incubator/industry association shall be required for either recognition or tax benefits
- Potential of Job and wealth creation: The scope of definition has been broadened to include scalability of business model with potential of employment generation or wealth creation. As a constant endeavour to facilitate the Startup ecosystem, the Department of Industrial Policy and Promotion (DIPP) has been holding extensive consultations with stakeholders. The above changes are an effort to ensure ease of starting up new businesses to promote the Startup ecosystem and build a nation of job creators instead of job seekers.

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