



SIRC MYSURU CHAPTER

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246th Edition

Vision

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

Motto

सत्यं वद। धर्मं चर। इष्टार्थं कुरु। त्वयि। श्रेष्ठे तु कुरु।

Mission

"To develop high calibre professionals facilitating good corporate governance"

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THE INSTITUTE OF
Company Secretaries of India

भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE

Statutory body under an Act of Parliament

(Under the jurisdiction of Ministry of Corporate Affairs)

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From the Desk of Chairman

Dear Professional Colleagues!

I am happy to interact with you all again through this e-Magazine.

As we embark on this festive season, I extend my warmest wishes to you and your loved ones. May the divine blessings shower upon us during Dussehra, Navaratri, and Deepavali, filling our lives with joy, prosperity, and happiness. Happy Festivities....!

Our Chapter has conducted a Teacher's conference, a Faculty Development Program on the theme "EMPOWERING EDUCATORS" on 20th September 2024 at the chapter premises. We have received an overwhelming response and the faculties, professors, HODs, and principals of various Commerce colleges affiliated with the University of Mysuru attended. CS C. Dwarakanath, Central Council Member, ICSI was the Chief Guest of the conference, Mr. Arun, Senior VP & Chief Manager, UTI Asset Management Company Limited has taken session on Practical Insights into Capital Markets and Dr. Dharma Prasad, CEO & Chief Scientist, Prosetta Bio & has taken session on Teaching for Tomorrow: Guide to Boosting Students' Employability.

During September 2024 our Chapter conducted 3 Career Awareness Programs and was successful in creating awareness about our Company Secretary course, we have addressed nearly 300 PUC, Degree students. During the month our Chapter conducted its 25th Batch of the One Day Orientation Program (ODOP) on 21st September 2024 at the chapter premises.

Our Chapter has successfully conducted a two-day residential training program for Company Secretaries of Central Public Sector Enterprises (CPSEs), organized by ICSI HQ in association with the Department of Public Enterprises (DPE), Ministry of Finance, on 26th & 27th September, 2024 at Hotel Regenta Central Herald, Mysuru. CS. V Sreedharan, PCS, CS Ashok Tandon, Company Secretary, HAL, CS. R Kalidas, PCS, CS. Nagendra D Rao, Former President, The ICSI, CS. Dwarakanath C, Council Member, The ICSI, CS. J Sundharesan, PCS was taken technical sessions. The program was attended by Company Secretaries of CPSEs across the Country. All the participants and speakers appreciated the MC Members and chapter for organizing such an event.

We are planning to organize many more sessions for the members and students in the days to come.

Thanking you.

Teachers' Conference

On 20-09-2024 at the Chapter Premises a one-day program was conducted for the development of the faculty on the occasion of the Teachers Month celebration under the tag Empowering Educators. The conference is held to train and develop the additional qualities of the faculty for the changing scenario of the education and practical work requirements in the Company Secretary Workforce. The Faculties, Professors, HOD's, Principals of Various Commerce Colleges affiliated to University Of Mysuru attended the Conference.

The Chief Guest CS C. Dwarakanath, Central Council Member, ICSI has addressed faculties about CS course, curriculum and the Career Opportunities as Company Secretary.

Mr. Arun, Senior VP & Chief Manager, UTI Asset Management Company Limited has taken a session on Practical Insights into Capital Markets and Dr. Dharma Prasad, CEO & Chief Scientist, Prosetta Bio & Convenor, Industry Institute Interaction Panel, CII Mysuru has taken session on Teaching for Tomorrow: Guide to Boosting Students' Employability.



Orientation Program

24th One Day Orientation Program held at Chapter premises on 21-09-2024, as per the guidelines of the ICSI for the students. Study methods and plans were discussed in the program by CS Mathruka.

Residential Training Program

A two-days residential training program for Company Secretaries of Central Public Sector Enterprises (CPSEs), organized by ICSI HQ in association with the Department of Public Enterprises (DPE), Ministry of Finance, on 26th & 27th September, 2024 at Hotel Regenta Central Herald, Mysuru was conducted by the Chapter.

CS. V Sreedharan, PCS and Member of Peer Review Board, CS Ashok Tandon, Ex-Executive Director (Company Secretary) HAL, CS. R Kalidas, PCS, and Member, Secretarial Standard Board, CS. Nagendra D Rao, Former President, CS. Dwarakanath C, Central Council Member, CS. J Sundharesan, PCS & Member, ESG & Sustainability Board, were the eminent speakers and they provided their valuable inputs on various aspects of the work requirements of CS in CPSEs.



Career Awareness Program

Sl. No	Date	School/University Name	Speakers/Guest
1.	01.09.2024	Jawahar Navodaya Vidyalaya	CS C Krishna Gowda Vice Chairman of the Chapter
2.	25.09.2024	Devaraju Women's Govt. College	CS C Krishna Gowda Vice Chairman of the Chapter
3.	30.09.2024	SBRR Mahajana First Grade College	CS Prachetha, PCS



02

Articles



Brief About Startup

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“A startup is a new business that offers something unique and innovative with potential growth. A startup is typically formed by an entrepreneur aiming to develop innovative products or provide various types of specialized services and scale rapidly. They often operate with a small team and majorly depend on external funding”

Start-ups have become the driving force behind innovation and economic growth in many countries. They introduce new ideas, create jobs, and often bring new technology into the foreground.

However, many people are unsure what qualifies a company as a startup, how these companies are treated under various laws, and the procedure involved in starting one. In this article we will explore what a start-up is, how it is treated under the Companies Act, 2013 and the Income Tax Act, the registration process, eligibility criteria, and the benefits start-ups receive.

What is a Startup?

A startup is a new business that offers something unique and innovative with potential growth. A startup is typically formed by an entrepreneur aiming to develop innovative products or provide various types of specialized services and scale rapidly. They often

operate with a small team and majorly depend on external funding.

Some of the widely used sources of external funding are venture capital, angel investors, or government grants which they invest in their businesses to fuel their growth. A start-up can exist in any industry but is commonly found in sectors like technology, e-commerce, and fintech. It is characterized by their focus on innovation, scalability, and their need for investment to grow their operations and market shares.

Does Companies Act, 2013 treat Startups Differently?

Yes, the Companies Act recognizes start-ups as a unique category of business and provides several relaxations for them. For instance, Companies that are registered as start-ups under DPIIT (Department for Promotion of Industry and Internal Trade) are allowed

to issue Employee Stock Options to promoters and directors up to ten years from the date of its incorporation, which is usually restricted under normal provisions.

The Income Tax Act Treats Startups differently

The Income Tax Act offers several tax benefits specifically designed for start-ups. One of the most known benefits is the tax holiday under Section 80-IAC, which allows eligible start-ups to claim a 100% tax exemption on profits of their first ten years of incorporation (exception allowed for consecutive 3 financial years) which significantly reduces the financial burden in the initial years of operation of business allowing them to reinvest their earning in the business for its growth.

Also, section 56(2), of the Act provides an exemption from tax on investments made above fair market value, provided it meets the exemption criteria

Exemption Criteria

(i) It has been recognized by DPIIT under para 2(iii)(a) or as per any earlier notification on the subject

(ii) the aggregate amount of paid-up share capital and share premium of the startup after the issue or proposed issue of shares, if any, does not exceed, twenty-five crore rupees:

Registration process of Startup

To register as a start-up, the founder must follow a process to ensure they qualify for various benefits. The registration process involves:

Incorporating the business: A start-up must be registered as a Private Limited Company, a Limited Liability Partnership (LLP), or a registered partnership firm.

Registering with Startup India: The founders/entrepreneurs need to register their start-ups with the Startup India Initiative through an online platform. During which the following are required:

DPIIT Certification: The start-up must obtain a certificate of recognition from the Department of Industry and Internal Trade (DPIIT) to qualify for tax benefits and other government schemes. During the process of recognition from DPIIT the documents like, Registration certificate of start-up, its business model, revenue generation model, funding required, uniqueness of the business, video of the product specifying its features, and pitch deck as per the guidelines specified in Startup India portal etc. along financials and income tax returns (if any) filed are required. If the Ministry is satisfied with the documents and presentation submitted by the company. The ministry will provide DPIIT Certification and a unique startup recognition number through which a start-up can be registered with tax benefits.

Eligibility criteria for startup:

To be eligible for recognition as a startup under the Startup India initiative and to avail of various benefits, a business must meet the following criteria:

- **Age of the Company:** The company should not be older than 10 years from the date of incorporation.
- **Turnover:** The startup's annual turnover must not exceed INR 100 crore in any financial year since incorporation.
- **Innovation:** The business must focus on innovation, development, or improvement of products, services, or processes. It must aim to solve a problem or create value by offering something new to the market.
- **Structure:** The entity must be registered as a private limited company, LLP, or partnership firm.

- **Not Formed by Reconstruction:** The startup should not have been formed by splitting up or reconstructing an existing business.

Benefits

Startups that meet the eligibility criteria and are registered under the Startup India initiative are entitled to numerous benefits, including:

- **Tax Exemptions:** Eligible startups can claim a tax holiday for three years and receive exemptions from capital gains taxes.
- **Simplified Regulations:** Startups face fewer regulatory burdens, including exemptions from certain labor laws and easier compliance processes.

- **Funding Support:** Government initiatives, such as the Fund of Funds program, provide easier access to funding for startups. In addition, registered startups are eligible for priority in public procurement by the government.
- **Intellectual Property Benefits:** Startups can access fast-tracked patent application processes, as well as reduced fees for intellectual property registrations.
- **Networking and Mentorship:** Startups get the opportunity to connect with investors, mentors, and industry leaders through government-backed programs, incubation centers, and accelerator initiatives.

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SOUTHERN INDIA REGIONAL COUNCIL

16th SOUTHERN INDIA REGIONAL CONFERENCE OF PRACTICING COMPANY SECRETARIES
October 18 - 19, 2024 | Hosted by Hyderabad Chapter

Venue: Centre for Economic and Social Studies (CESS), Adjacent Lane of Appalaraju Hospital Lane Porugutla, Hyd.

Theme: Indulgence of Intelligence

Chief Guest:
Shri Jishnu Dev Varma
Hon'ble Governor of Telangana

Speakers & Panelists:

- Dr. Pradeep Kumar Choudhary**
Executive Director, ICSI
- Dr. Balakrishna Apte**
Member, ICSI Council, ICS
- Dr. C.S. S. Ramakrishnan**
ICSI Council Member, ICS
- Dr. Shajee Bin SA**
ICSI Council Member, ICS
- Dr. P. Sankar Kumar**
ICSI Council Member, ICS
- Dr. C. S. Srinivas Reddy**
ICSI Council Member, ICS
- Dr. Anurag C. Prasad**
ICSI Council Member, ICS
- Dr. Jayaram**
ICSI Council Member, ICS
- Dr. Pradeep Kumar**
ICSI Council Member, ICS

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Sexual Harassment of Women at Workplace – A Global Problem – How India is Addressing the Curse and the Way Ahead

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“Section 21 (1) of the PoSH Act requires the Internal Committee to submit the annual report to the district officer each calendar year in a prescribed format. The rules prescribed by the central government explained the preparation of the annual report. It should include a) the number of complaints of sexual harassment received during the year (b) the number of complaints disposed of during the year (c) the number of cases pending for more than 90 days (d) the number of workshops or awareness program against sexual harassment carried out (e) nature of action taken by the employer or District Officer”

Sexual Harassment at the Workplace is nothing new it has been there forever not just in India, it has spread globally and affects both men and women however, it is more commonly experienced by women. The global #metoo movement in 2017 has shown how sexual harassment has been inflicted globally.

The United Nations University – International Institute for Global Health has published the table which shows the prevalence of sexual harassment globally.

Table 1: Prevalence of Sexual Harassment Worldwide (UNU-IIGH)

Type of sexual harassment	Country/countries and year of study	Prevalence
General	USA, 2010 ¹	81% of women experienced sexual harassment once in a lifetime including verbal sexual harassment (77%), unwanted touching (52%), being physically followed (34%), and unwanted genital flirting (30%).
	European Union, 2005 ²	45% of women experienced sexual harassment once in a lifetime in the past 12 months (21%).
	29 countries across Europe, Africa, Asia-Pacific, America and Arab regions, 2012 ³	52% of women parliamentarians subjected to psychological violence such as humiliating sexual or sexual remarks, gestures and images during their parliamentary term, by male colleagues from opposing and own parties.
	US, 2015 ⁴	23% of female undergraduate students had ever experienced sexual assault and misconduct by physical force, threats of physical force or incapacitation.
Academic	Australia, 2015 ⁵	9% of working women (aged 15 and above) had ever experienced workplace sexual harassment.
	Cambodia, 2017 ⁶	26% of female garment factory workers had been experiencing sexual harassment at work and on the way to work within the last 12 months.
	US, 2015 ⁷	7% of female physicians experienced unwanted sexual comments, teasing, physical contacts, referring on personal life and another form of sexual harassment over the past three years.
	Global, 2017 ⁸	An international review showed that 15-36% of women experienced sexual harassment and assault on public transport.
Public	India, Thailand, Brazil and the UK, 2005 ⁹	More than 75% of women experienced some form of violence or harassment in public places in UK (70%), India (29%), Thailand (82%) and Brazil (56%).
	Egypt, Lebanon, Morocco and Palestine, 2017 ¹⁰	40-60% of women encountered sexual comments, teasing, following, or staring/gazing.
	European Union, 2005 ¹¹	55% of women experienced unwanted sexual, explicit sexual or SMS messages or inappropriate advances on social media at least once in their lifetime, while 15% encountered similar experiences in past 12 months.
	US, 2017 ¹²	25% of women aged 18 to 29 years old reported having sexually harassed online such as receiving unwanted explicit images.

The United Nations (UN) General Recommendation 19 to the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and the UN Secretariats define sexual harassment as “any unwelcome sexual advance, request for sexual favor, verbal or physical conduct or gesture of a sexual nature, or any other behavior of a sexual nature that might reasonably be expected or be perceived to cause offense or humiliation to another”.

Sexual harassment has many different impacts on the victim such as psychological, mental, and physical health, and there are other indirect impacts.

According to a global study by the World Bank still, many countries do not have any formal guidelines set on Sexual harassment at the workplace. It is important to note that India is one of the countries that has implemented the specific act known as “The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act”, 2013 commonly known as the PoSH Act 2013. It requires all workplace that has 10 or more employees (PoSH Act has defined workplace and employee) to implement the law to provide dignity and safety for women at the workplace related to sexual harassment.

Section 21 (1) of the PoSH Act requires the Internal Committee to submit the annual report to the district officer each calendar year in a prescribed format. The rules prescribed by the central government explained the preparation of the annual report. It should include a) the number of complaints of sexual harassment received during the year (b) the number of complaints disposed of during the year (c) the number of cases pending for more than 90 days (d) the number of workshops or awareness program against sexual harassment carried out (e) nature of action taken by the employer or District Officer

Rule 8 of the Companies (Accounts) Rules, 2014 specifies the matters to be included in the company's board's report. Under that, (x) a statement that the company has complied with provisions relating to the constitution of the Internal Complaints Committee under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

If we start analyzing the impact of the specific law passed on the issue, has it helped the vulnerable? The straight answer is NO.

Even after introducing a law specific to the prevention of sexual harassment at the workplace and imposing a penalty for noncompliance, and for continuous noncompliance the company can even lose its registration, unfortunately, it has not been taken seriously by employers, especially in the small and medium sectors, education institutions and NGO's, etc.

In the case against Mr. Aureliano Fernandes (Appellant) versus the State of Goa & others, the Supreme Court held a landmark decision.

Brief Facts: Goa University constituted an internal committee after receiving multiple complaints against the Appellant from female students alleging sexual harassment. As the appellant was absent during multiple inquiries set by IC, it held the ex-parte order against the appellant and terminated him from the university. The appellant challenged the IC decision and filed a writ petition in the high court. The high court upheld the IC decision and dismissed the case holding that the principles of natural justice and service rules had not been breached.

The aggrieved appellant challenged it before the Supreme Court. Supreme Court said, that though the committee held the inquiry, there were some procedural lapses, and it was decided at lightning speed. On the

grounds of procedural irregularities, the Supreme Court quashed and set aside the high court judgment and asked the IC to conduct a fresh inquiry in accordance with natural justice.

Through this case, the Supreme Court noticed serious lapses in implementing the PoSH Act even after 10 years into it. Implement the law in spirit and to fulfill the promise given by the law, it passed the following directions.

(i) The Union of India, all State Governments, and Union Territories are directed to undertake a timebound exercise to verify whether all the concerned Ministries, Departments, Government organizations, authorities, Public Sector Undertakings, institutions, bodies, etc. have constituted ICCs/LCs/ICs, as the case CIVIL APPEAL NO. 2482 of 2014 may be and the composition of the said Committees are strictly in terms of the provisions of the PoSH Act.

(ii) It shall be ensured that necessary information regarding the constitution and composition of the ICCs/LCs/ICs, details of the e-mail IDs and contact numbers of the designated person(s), the procedure prescribed for submitting an online complaint, as also the relevant rules, regulations and internal policies are made readily available on the website of the concerned Authority/Functionary/ Organization/Institution/Body, as the case may be. The information furnished shall also be updated from time to time.

(iii) A similar exercise shall be undertaken by all the Statutory bodies of professionals at the Apex level and the State level (including those regulating doctors, lawyers, architects, chartered accountants, cost accountants, engineers, bankers, and other professionals), by universities, colleges, Training Centers

and educational institutions and by government and private hospitals/nursing homes.

(iv) Immediate and effective steps shall be taken by the authorities/ managements/employers to familiarize members of the ICCs/LCs/ICs with their duties and the manner in which an inquiry ought to be conducted on receiving a complaint of sexual harassment at the workplace, from the point when the complaint is received, till the inquiry is finally concluded and the Report submitted. CIVIL APPEAL NO. 2482 of 2014

(v) The authorities/management/employers shall regularly conduct orientation programmes, workshops, seminars and awareness programs to upskill members of the ICCs/LCs/ICs and to educate women employees and women's groups about the provisions of the Act, the Rules and relevant regulations.

(vi) The National Legal Services Authority (NALSA) and the State Legal Services Authorities(SLSAs) shall develop modules to conduct workshops and organize awareness programmes to sensitize authorities/ managements/ employers, employees and adolescent groups with the provisions of the Act, which shall be included in their annual calendar.

(vii) The National Judicial Academy and the State Judicial Academies shall include in their annual calendars, orientation programs, seminars and workshops for capacity building of members of the ICCs/LCs/ICs established in the High Courts and District Courts and for drafting Standard Operating Procedures (SOPs) to conduct an inquiry under the Act and Rules.

(viii) A copy of this judgment shall be transmitted to the Secretaries of all the Ministries, Government of India who shall ensure implementation of the directions by all the concerned Departments, Statutory Authorities, Institutions, Organizations etc. under the control of the

respective Ministries. A copy of the judgment shall also be transmitted to the Chief Secretaries of all the States and Union Territories who shall ensure strict compliance of these directions by all the concerned Departments. It shall be the responsibility of the Secretaries of the Ministries, Government of India and the Chief Secretaries of every State/Union Territory to ensure implementation of the directions issued.

(ix) The Registry of the Supreme Court of India shall transmit a copy of this judgment to the Director, National Judicial Academy, Member Secretary, NALSA, Chairperson, Bar Council of India and the Registrar Generals of all the High Courts. The Registry shall also transmit a copy of this judgment to the Medical Council of India, Council of Architecture, Institute of Chartered Accountants, Institute of Company Secretaries and the Engineering Council of India for implementing the directions issued.

(x) Member-Secretary, NALSA is requested to transmit a copy of this judgment to the Member Secretaries of all the State Legal Services Authorities. Similarly, the Registrar Generals of the State High Courts shall transmit a copy of this judgment to the Directors of the State Judicial Academies and the Principal District Judges/District Judges of their respective States.

(xi) The Chairperson, Bar Council of India, and the Apex Bodies mentioned in sub-para (ix) above, shall in turn, transmit a copy of this judgment to all the State Bar Councils and the State Level Councils, as the case may be.

Even with all this effort by the government and the legal system, it is not taken seriously to implement the act by the employers in full effect, especially in the small and medium-scale businesses.

If we analyze the reason for not reporting the sexual harassment,

1. In small and medium-sized companies' management feels addressing such complaints can be a black mark in their company profile and can affect the reputation of the company. So, they try to put the complaints under the carpet or terminate the complainant.
2. Due to the risk of losing the job or retaliation, the aggrieved person may not want to give the complaint.
3. Lack of awareness of, or confidence in reporting, care, and support system, and beliefs that nothing will be done complaint is not reported.
4. Though it is required by the law to conduct awareness sessions for the management, IC, and employees, it has not been done effectively. As these training costs by the experts are quite high. Employers treat this as a cost center and they prefer to give more importance to the revenue center.

Going Forward How can we Overcome these Issues:

Though the law has introduced some penalties for not complying it has not been successful in achieving the desired result. Along with the law, some other ways can be looked into.

1. Rewarding System: As this is a social issue and to help the women at the workplace who are already suffering many other discriminatory issues, the government can introduce some rewarding system for the small and medium workplaces that are implementing the law in spirit.
2. Providing free Awareness Sessions by NGOs: NGOs who are active in the field of gender equality, and gender sensitivity should provide free/low-cost awareness sessions to startups/small/medium

companies and help them implement the Internal committee. In turn, the government should introduce this as a CSR activity so those companies required to spend CSR money can pay these NGOs to provide such awareness programs.

How can Company Secretaries who are Governance Professionals Help

While filing the annual return it is the responsibility of the company to prepare the director's report and mention that the company has met all the compliances and if it has not met the requirements it has to explain why it has not complied with particular provisions of different acts which applies to the company. As advisors to the board on implementing good corporate Governance, the Company secretaries can advise the board on complying with the PoSH Act as well. Since disclosing the implementation of the IC is one of the requirements in the Directors' report, which CS is in charge of, they can provide basic awareness to their clients.

Conclusion: It is not only important to comply with the law it is also the responsibility of all Workplaces to provide a safe and dignified workplace. As part of the fundamental

rights of a woman to equality under Articles 14 and 15 of the Constitution of India and her right to live with dignity under Article 21 of the Constitution and right to practice any profession or to carry on any occupation, trade, or business which includes a right to a safe environment free from sexual harassment; In this regard, all employers should take responsibility. There should be an approach to involve multiple stakeholders like government, civic society, and private establishments addressing the equitable gender norms and practices, and creating supportive environments that can improve the reporting of sexual harassment. On the whole, it is the responsibility of every citizen to educate all children from a tender age to respect women's dignity and the ill effects of sexual harassment against women and men whether at the workplace or any other place. Then the world can be a better place to live for all.

References: UNU IIGH: Sexual Harassment a Global Problem (Policy Brief)

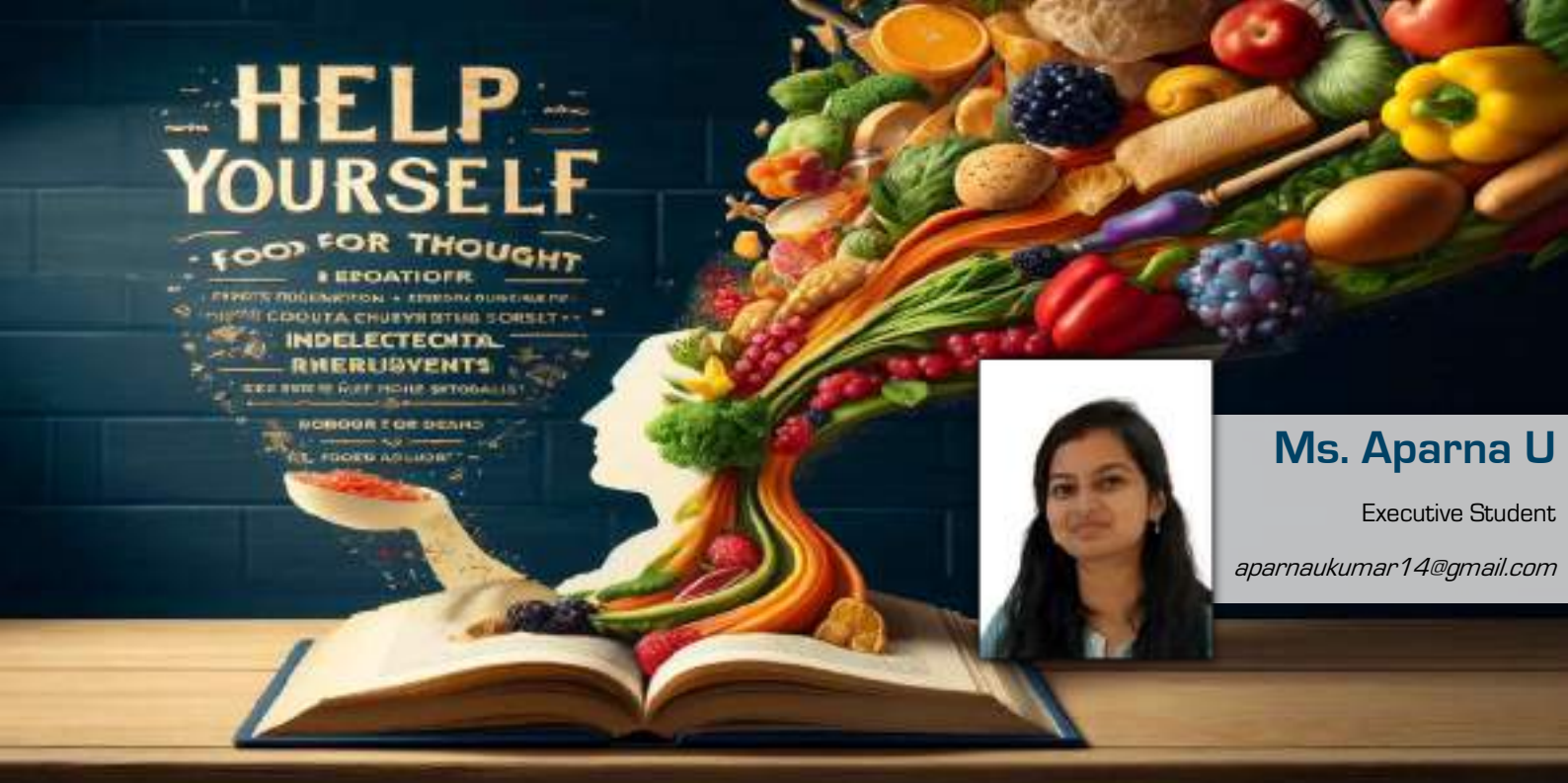
Supreme court order on Mr. Aureliano Fernandes (Appellant) versus State of Goa & others



"Perfection is a
myth. Progress is
reality."
- Unknown

03 Columns





Ms. Aparna U

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Becoming Supernatural

by Dr. Joe Dispenza

(part-3)

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

The past two articles were about the initial parts of the book. This is the last article in the series 'Becoming Supernatural,' so I aim to give you a glimpse of what the rest of the book is about.

Just as one gets to know Dr. Joe Dispenza's background, one expects to know about meditation and various techniques that one can use to meditate. The book explains exactly that.

The book not only talks about how and what to do while meditating but also about what happens internally, what our mind, brain, spinal cord, and body go through while we are meditating. If you think you tend to get distracted or don't have enough time for it or have problems akin to these, the book has got you covered!

It is very insightful to know about meditation and all the impact it creates because it helps to give us a complete picture of it further helping us to know well what we are getting into.

Meditation and Yoga are not strange endeavors for people of our land. We definitely know someone personally who has had a transformation physically, mentally or spiritually because of Yoga. If you always wanted to practice it but never knew where to start, this is a great book to get to know the "why" and "how" of it.

Let me share one idea from the book- called Walking Meditation. All the meditation techniques mentioned in the book are not at all alien to our land, though the names in the book are different. Here is the technique from the book, verbatim:

"The walking meditation begins by finding a quiet space in nature disconnecting from your external environment and Anchor yourself in the present moment by closing your eyes to acknowledge Your Heart Centre whether the heart and the soul intersect with the unified field and bring elevated emotions such as gratitude, joy,

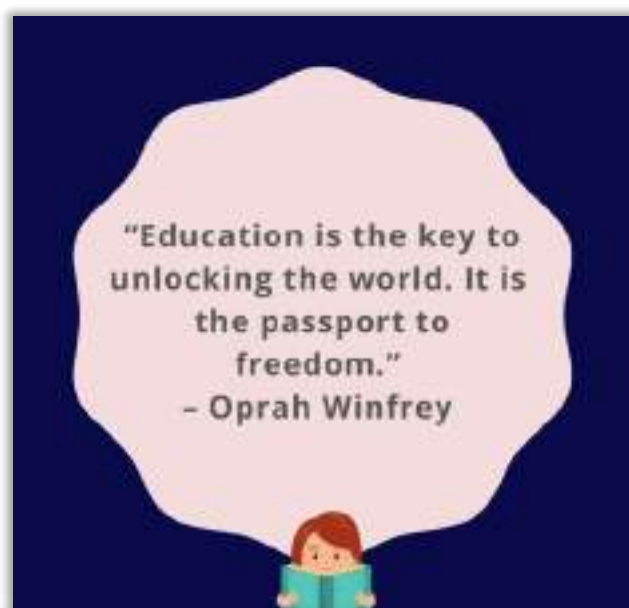
inspiration, compassion, love and so on to this center. If you are going to believe in your near future with all of your heart, it had better be open and activated. Rest your attention on the heart, allowing your breath to flow in and out of the center, ever more slowly, more deeply and more relaxed. For about two minutes, return to create elevated emotions within your heart for two to three minutes. Radiate that energy into the space surrounding the space around your body in space while maintaining a trance state, begin walking with your eyes open while you stay entranced. With each step you take, embody that new energy that new frequency of whatever you are creating in your future. As you take your energy with you during your waking daily life, walking as your new self, you are activating the same neurological networks and producing the same level of mind as when you meditate with your eyes closed.”

The book suggests you repeat this cycle because by practicing this technique, you'll be able to carry yourself in the best energy you can radiate. This will make you

your body in space and stay present with that energy. Tune into the energy of your future. After a few minutes hold a clear intention in your mind's eye. Change your state of being with the feelings of your elevated emotions and focus on broadcasting that new electromagnetic signature into the field. Remain in this state for two to three minutes. Next, open your eyes, and without looking at anything open your focus and keep this awareness on function optimally because you begin to be in a meditative state continuously.

There are plenty more techniques in the book for you to try out by yourself and experiment with. These are followed by ample case studies of Dr. Joe's students which serve as your evidence of the effectiveness of all these techniques.

Try it for enough days and I would love to hear from you. Until I come with another book next time, stay hungry for food for thought.





Verdict Vistas



CS Pavithra P

Founder & Director, Accrescent Managed Services Pvt Ltd.

pavithra@acms.pro

Nature of Order: ORDER

Bench: IN THE NATIONAL COMPANY LAW TRIBUNAL SPECIAL BENCH, BENGALURU

Date of Order: 04th September, 2024

No. of order: C.P. (CAA) No. 52/BB/2022 (Second Motion)

Case Title: AzimPremji Trust Services Private Limited, Petitioner Company

Under Section: U/s Section 230 – 232

A. Facts of the case

- i. The petitioner company had filed a first motion petition and the NCLT issued certain directions regarding the publication of notice of final hearing, serving of notice upon the objectors etc.
- ii. Thereafter the petitioner company, complied with the directions issued and filed an affidavit in this regard.
- iii. The petitioner company filed a second motion petition seeking the approval of NCLT for arrangement between itself and its shareholders for converting the company.

iv. Registrar of Companies and Regional Director have filed the Interim report mentioning that:

1. The application filed, neither falls under a scheme of arrangement under Section 230-232 between the company and its shareholders nor is a case of reduction of share capital under Section 66 of the Companies Act, 2013.
2. It is a case of conversion under Section 18(2) of the Companies Act, 2013 of a company limited by shares to a company limited by guarantee without share capital, and the jurisdiction to approve lies with the ROC.
3. There are no specific rules and forms provided for the conversion of a company limited by shares to a company limited by guarantee without capital
4. In view of section 4(e) of the Companies Act, 2013 furnished above in respect of a company having share capital each subscriber/shareholder should hold a minimum of one share. Therefore, the power to

reduce the capital under section 66 of the Act cannot be exercised by the company to reduce the paid-up equity capital of the company from Rs.1,00,000 to zero.

5. A scheme under section 230 of the Act cannot propounded as a short circuit mechanism substituting the power of the Central Government to prescribe rules relating to the conversion of Company of Limited by shares into Company Limited by Guarantee.
- v. The matter was also taken up with the Ministry of Corporate Affairs
- vi. The Ministry of Corporate Affairs responded stating that neither provisions of Section 66 nor Section 230 of the Companies Act, 2013 permits conversion of one class of company into another, and as such no Scheme seeking such conversion should be allowed under such provision.
- vii. Subsequently the petitioner company filed its reply affidavits with the following points:
 1. The Scheme approved by the stakeholders envisages converting the company limited by shares to a company limited by guarantee without capital. Hence the requirement of holding a minimum of one share as provided in Section 4(1)(e) of the Companies Act, 2013 (Act) is not applicable after such conversion.
 2. The requirement of maintaining a minimum of one share is nowhere prescribed for a company limited by guarantee without capital and it is such character with which the Petitioner Company is conferred upon conversion as per the Scheme.
 3. The Scheme does not result in the Petitioner Company being without

Members, which alone is not permitted under the provisions of the Act.

4. It may also be noted that conversion of a company limited by shares into a company limited by guarantee without capital is not barred by any provision of the law and it is expressly permitted under section 18 of the Act
5. Therefore, changing the characteristic of the capital from equity shares to guarantee and consequent change in the character of the company into a company limited by guarantee without capital as sought by the Petitioner Company under the Scheme cannot be deemed to be impermissible under Section 230 of the Act.
6. Where RD and ROC do not have powers, it does implicitly concede that the Tribunal is empowered to permit the Scheme

B. Findings by NCLT

- i. ROC has conveniently ignored the provision of Section 4(1) (d) read with Section 2 (21) of the Act, in which the definition of a company limited by guarantee is given and it has been provided as to what will be stated in the Memorandum of such company. considering the provision of Section 4 (1) (d) read with Section 2(21) of the Act, there is no such requirement that the Company should hold at least a minimum of one share if it is a Company limited by guarantee. Thus, this objection is not legally tenable.
- ii. Rule 39 of the Companies (Incorporation) Rules, 2014 has been notified for “Conversion of a Company Limited by guarantee into a company limited by shares”, and this Rule specifically confers powers on the Registrar of

Companies, prescribed the relevant Form for applying within a time limit of 30 days before the ROC, and a further time limit of 30 days to the ROC to take a decision and accordingly issue necessary incorporation certificate. However, no rules have been prescribed so far for allowing the conversion in the reverse direction, from a Company limited by shares into a company limited by guarantee.

- iii. Merely because the rules have not yet been notified for the conversion of the company limited by shares into a company limited by guarantee, it does not mean that such conversion cannot be allowed when it is

allowable under the provisions of Section 18 of Companies Act, 2013. This is essentially covered within the scope of 'arrangement' between the company and its members, and under Section 2(21) of the Act, such company is limited by a guarantee prescribed for an undertaking to be given by the members to contribute to the assets of the Company in the event of its being wound up.

- iv. Wherever the ROC and RD do not have power, the Tribunal is empowered.
- v. The ROC is accordingly directed to issue a fresh Certificate of Incorporation and update the Master Data within 30 days.





CS Keerthana Gopal

Company secretary and legal officer,

Mysore Steels Ltd.

keerthana92.gopal@gmail.com

Order for violation of Section 158 of the Companies Act, 2013

Legal provision:

Section 158. Obligation to indicate Director Identification Number

Every person or company, while furnishing any return, information, or particulars as are required to be furnished under this Act, shall mention the Director Identification Number in such return, information, or particulars in case such return, information, or particulars relate to the director or contain any reference of any director.

Facts of the Case:

Whereas the company is M/s Soundarambigai Benefit Fund Nidhi Limited with CIN: U65999TN2017PLC115408 (herein after referred as 'company' or 'subject company') is a registered company with this office under the Companies Act, 2013 having its registered office at Chennai, Tamil Nadu.

The Ministry vide order dated 28.06.2023 rejected the Form NDH-4 filed by the Company wherein it was mentioned that the DIN of the Directors was not mentioned in the financial statements attached with Form AOC-4 for 31.03.2022 resulting in violation of Section 158 of the Companies Act, 2013. The Adjudicating Authority then issued a notice dated 31.08.2023 to the Company.

No reply was received from the Company and its Directors

Decision Analysis of Non-Compliances

It is noticed that the director's DIN was not mentioned in the signed financial statements attached with Form AOC-4 for the financial year ending on 31.03.2022. Therefore, the company has contravened Section 158 of the Companies Act, 2013 and the company and its Officer in default are liable for penalty under Section 172 of the Companies Act, 2013. The company being a Nidhi company does not fall under the definition of a small company. As per provision of section 2(85) of the Companies Act, 2013. Therefore, imposing the provision lesser penalty as per section 446b) shall not be applicable in this case.

Having considered the facts and circumstances of the case and after taking into account it is concluded that the company has not mentioned the Director's DIN in the attachment of form AOC-4 for the financial year ending on 31.03.2022. Thereby violating Section 158 of the Companies Act, 2013. Accordingly, a penalty as prescribed under Section 172 of the Companies Act, 2013 has been imposed. The details of the penalty imposed on the Company and Officers in default are shown below:

A penalty of Rs.50,000/- (Rupees Fifty thousand) is imposed on the Company and Rs.50,000/- (Rupees Fifty thousand) is imposed on the Officer in default as

mentioned above. Totally Rs.1,00,000/- (Rupees One lakh) as penalty amount for violation of Section 158 of the Companies Act, 2013.

Orders for violation of Section 178

The relevant portion of the Section and Rules

178. Nomination and Remuneration Committee and Stakeholders Relationship Committee.

(1) The Board of Directors of [every listed public company] and such other class or classes of
(8) In case of any contravention of the provisions of section 177 and this section, the company shall be [liable to a penalty of five lakh rupees and every officer of the company who is in default shall be liable to a penalty of one lakh rupees.]

Rule 6 of Companies (Meetings of the Board and Its Powers) Rules, 2014

Rule 6. Committees of the Board. -

The Board of Directors of [every listed public company] and a company covered under rule 4 of the Companies [Appointment and Qualification of Directors] Rules, 2014 shall constitute an 'Audit Committee', and a 'Nomination and Remuneration Committee of the Board'.".

Facts of the case: M/s Uma Polymers Ltd. is a company registered under the Companies Act, 1956, and has its registered office at Jodhpur, Rajasthan. It was observed that in the e-Form MGT-7 filed by the Company for the year 2022-23, Section 178 of Companies, Act, 2013 read with Rule 6 of Companies (Meeting of the Board and its Powers) Rules, 2014. Therefore, the Adjudicating Officer issued a show cause notice via letter dated 27.02.2024 and directed them to furnish replies within 15 days from the date of receipt of the notice.

companies, as may be prescribed shall constitute the Nomination and Remuneration Committee consisting of three or more non-executive Directors out of which not less than one-half shall be independent directors:

Provided that the chairperson of the company (whether executive or non-executive) may be appointed as a member of the Nomination and Remuneration Committee but shall not chair such Committee.

However, no replies were received from the Company or its Directors. The matter was posted for 1st hearing on 20.05.2024. The advocate and authorized representative of the Company appeared and sought for adjournment of the hearing twice- once to 04.06.2024 and the second time to 02.07.2024. Further, on the hearing date the authorized representative submitted that the Company had appointed Ms. Shreeja Parekh as the Non-Executive Director with effect from 14.05.2024 and that the Nomination and Remuneration Committee has been reconstituted with immediate effect as per Section 178 of Companies, Act, 2013 read with Rule 6 of Companies (Meeting of the Board and its Powers) Rules, 2014. He further requested the Adjudicating Authority to impose minimum penalty in the matter.

Decision and Analysis:

The Adjudicating Authority held that Section 178 read with rule 6 of the Rules mentioned above has not been complied with by the Company and imposed a penalty of Rs. 7,00,000/- (Rs. 5,00,000 on the Company and Rs. 1,00,000 each on the Directors of the Company).

It is to be taken note here that although the Company corrected its position with respect the constitution of the Nomination and Remuneration Committee on 14.05.2024, the default questioned here is with

respect to the MGT-7 filed for the year 2022-23. Therefore, the Adjudicating Authority has imposed a penalty for the non-compliance as provided in Sections 177 and 178 without displaying any leniency. A closer look at the Section shows that the penalty provided is

a flat penalty of Rs. 5 lakhs on the Company and Rs. 1 lakh each on the officers in default. No range has been provided for the Adjudicating Authority to exercise discretion to impose a minimum penalty.

RIDDLE

ME

THIS

CS Pavithra P

Founder & Director

Accrescent Managed Services Pvt Ltd.

pavithra@acms.pro



"Corporate Riddle"

1. We determine the criteria for directors
2. We evaluate the skill, knowledge, experience, and diversity in the board
3. We ensure that the company is run by competent and motivated people

Who are we?

If you know the answer then what are you waiting for..? Send us your answer along with your Photo to the below mentioned email id along with your full name, the first person to provide the answer will be published in the next edition with your Photo.

Email id: enewsletter.icsimysore@gmail.com

Last Month's Corporate Riddle

I am the process you must never skip,
Before you sign, shake hands, or grip
from assets to debts, Revenue to Expenses I check every key,
I uncover the risks both hidden and clear
So, your business decisions are made just right.
Who am I

Answer: Due Diligence

Answered by

Mr. Santhosh G B

CS Professional Student



Brainy Bits



CS Phani Datta D N

B.com, FCS

Practicing Company Secretary

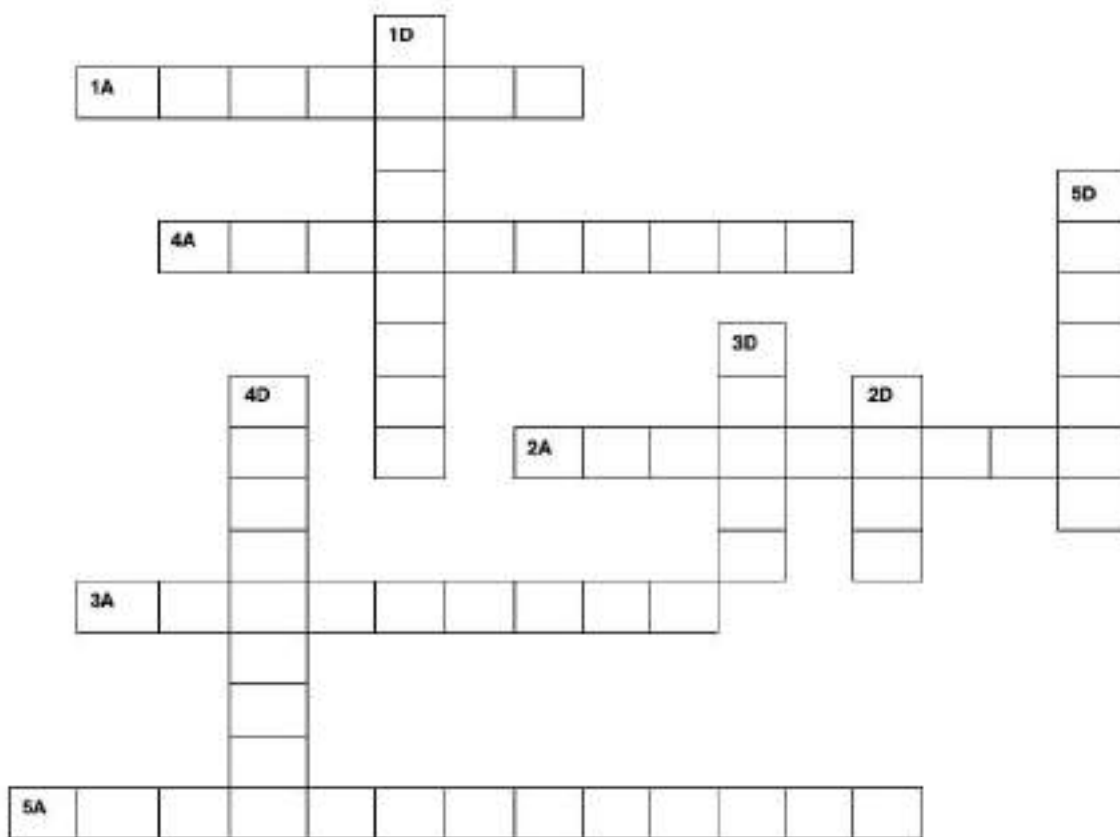
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ICSI Mysuru E-Magazine

CROSSWORD - 3

(Based on Chapter II of the Companies Act, 2013)



Across:

1. Every Company shall have its name printed on the _____ [7] promissory notes, bills of exchange and such other document
2. A company shall not be registered with a name which contains any word or expression which gives an impression of having the _____ [9] of State or Central Government.
3. The Tribunal, based on the application made by Registrar of Companies may order for _____ [9] of the Company where a company was incorporated by false information or suppression or incorrect information.
4. Where the securities are held by the _____ [10], the records of the beneficial ownership may be served on the company by means of electronic or other mode.
5. Where the company has applied for the conversion, the ROC shall after ensuring the compliance of all the applicable provisions, close the former registration after registering the altered MOA and AOA and issue a certificate of _____ [13]

Down:

1. If at any time the number of members falls below the threshold limits of the respective company types and the company continues to carry on the business for more than _____ [3+6], the all the continuing members shall be severally liable.
2. The form filed by the Company intimating the ROC of the details of the change in nomination of the members is _____ [4].
3. The Company shall, on the directions of the Central Government, change its name or have a new name within _____ [5] months from the issue of such directions,.... [continued for Sl. No. 4]
4. [continued from Sl. No. 3] after adopting _____ [9] resolution for the change of name.
5. Any document requiring authentication of the company or any contracts entered into by the company shall be signed by KMP or _____ [7] of the company duly authorized by the board in this behalf.

Note: Figures in the bracket indicate number of alphabets in the answer word.



Mr. Komal Kumar M

CS Professional Student

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The Costly Lesson of Trust: A Cautionary Tale

In today's fast-paced digital world, the promise of quick money can often be enticing, especially when it comes from a trusted source, like a colleague. However, this trust can be misplaced, leading to devastating financial losses. Unfortunately, one of our relatives recently fell victim to such a scam, a painful experience that unfolded in less than 24 hours.

It all began innocently enough when her colleague suggested a Telegram group that promised quick and significant returns on investments. This colleague assured her that she could double her money in no time, and, without a second thought, she decided to take the leap. In a moment of desperation and blind trust, she pledged the gold she owned to raise the money, without informing anyone in the family. It seemed like a golden opportunity, and she wanted to seize it before it slipped away.

Once she had the money, she followed the instructions shared on the Telegram page, transferring the funds to the account details provided. As anyone might expect,

things took a turn for the worse. After sending the money, there was complete silence. The so-called "investment platform" stopped responding to her calls, and no one from the Telegram group could be reached. At this point, alarm bells began to ring, and it became clear that she had been duped.

This is when I got involved. She shared the situation with me, and I immediately explained what steps she needed to take. We discussed filing a police report and contacting the bank in hopes of recovering some of the money. Though these actions don't always guarantee the return of funds, they are the essential steps in attempting to mitigate damage from such scams. This discussion took place in the evening, and I hoped the worst was behind us.

However, later that night, the situation took another unexpected twist. She received a call from an unknown number—one of the scammers. They apologized for the "mistake" and managed to manipulate her once again, convincing her to make another deposit, claiming this

time the returns would be guaranteed. Shockingly, she believed them and transferred another sum. By the time it was all over, she had lost a staggering 3.5 lakhs in a single day.

The next day, she called me back in tears, realizing the extent of her loss. This time, I personally took charge of the situation and filed a complaint with the cybercrime unit. Fortunately, after the authorities got involved, we were able to recover around 10% of the amount she had lost. Although this brought some relief, the case is still under investigation, and the bank account used in the scam has been frozen while the inquiry continues.

Lessons and Precautions to Avoid Falling for Scams

This incident serves as a heartbreaking reminder of how easily trust can be exploited, especially in the age of digital communication. Scammers prey on vulnerability, and once they gain a person's confidence, they know how to manipulate emotions and push the victim further into their trap. Here are some key steps everyone should take to protect themselves from similar scams:

Verify Sources Before Investing: Always verify the credibility of any investment platform or financial opportunity. Avoid acting on advice from random websites, Telegram pages, or social media groups that are unregulated or unknown.

Never Trust 'Get Rich Quick' Schemes: If an investment promises high returns in a short period,

especially if it's unusually high, it's likely a scam. Legitimate investments take time to grow and don't guarantee immediate profits.

Consult with Trusted Individuals: Before making any major financial decisions, especially involving large sums of money, consult with family members, financial advisors, or trusted friends.

Keep Personal and Financial Information Private: Scammers often ask for sensitive details like bank account numbers or even make you pledge assets. Never share personal information or make decisions in haste.

Research Thoroughly: Look for reviews or feedback about the investment opportunity online. Check if the company or platform is registered and has a positive track record.

Report Suspicious Activity: If you sense something is wrong, report it to the authorities immediately. Cybercrime units and financial institutions can often help in recovering money or freezing fraudulent accounts.

By remaining vigilant and sceptical of overly attractive financial offers, you can safeguard yourself from becoming a victim. Remember, if something sounds too good to be true, confirm once before acting upon it.



MANTHAN 2024



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Management Trainee



Mr. Akash Taki

Senior Assistant

Accrescent Managed Services Private Limited

MANTHAN 2024"

A unique 2 days Seminar/workshop on "Critical Issues in Corporate Laws"

We thank CS Ullas Bhat and CS Anusha Mantri for sharing their notes. Prajwal, and Aakash students of ICSI are compiling the posers. It has been guided and reviewed by CS Pavitra.

Disclaimer: This may not be the final answer but when you come across with such situations this could be one angle to think of and these are some of the sections to look at.

A4. ABC Private Limited incorporated on April 10, 2020, as a wholly owned subsidiary of PQR Limited of Japan, decided to keep the financial year end on December and accordingly prepared the last financial statement for the financial year commencing on January 01, 2023, and ending on December 31, 2023. ABC has now ceased to be a subsidiary of PQR; accordingly, its financial statements are not required to be consolidated by PQR. The Board of ABC now wants to align its financial year as per Section 2(41) to commence on April 01 and end on March 31.

- a) Can ABC change its current financial year which shall end on 31st Dec 2024 to end on 31st

March 2024 [for 15 months] to match as contemplated by section 2(41)?

- b) Whether any approval of the Central Government [RD] is required for such change?
c) Is there any other option available to ABC?

Core Questions

- 1) Whether voluntarily going back to the uniform F.Y. to end on 31st March require any approval?

Definitions

- As per section 2(41) "financial year", in relation to any company or body corporate, means the period ending on the 31st day of March every year, and where it has been incorporated on or after the 1st day of January of a year, the period ending on the 31st day of

March of the following year, in respect whereof financial statement of the company or body corporate is made up:

Provided that where a company or a body corporate, which is a holding company or a subsidiary or associate as may be prescribed, allow any period as its financial year, whether or not that period is a year:

Provided further that any application pending before the Tribunal as on the date of commencement of the Companies (Amendment) Act, 2019, shall be disposed of by the Tribunal in accordance with the provisions applicable to it before such commencement.

Provided also that a company or a body corporate, existing on the commencement of this Act, shall, within two years from such commencement, align its financial year as per the provisions of this clause.

View of the Manthanites

As per Section 2(41) of the Companies Act, a company can voluntarily switch to a uniform financial year commencing on April 1st and ending on March 31st, without requiring approval from the Registrar of Companies (RD). However, if a company desires to deviate from the uniform financial year, it must obtain RD approval.

Notably, only 76 companies in the country have a different financial year, deviating from the uniform financial year. A company can hold two Annual General Meetings (AGMs) to approve financial statements for two different periods, subject to fulfilment of the requirements under Section 2(41).

In the case of ABC, it can change its current financial year ending on December 31, 2024, to end on March 31, 2024 (covering 15 months), without needing RD approval, as this change aligns with the uniform financial year. Alternatively, ABC can close its financial year on

company of a company incorporated outside India and is required to follow a different financial year for consolidation of its accounts outside India, the Central Government may, on an application made by that company or body corporate in such form and manner

December 31, 2023, and then prepare another financial statement for the next three months (January 1 to March 31, 2024), subject to compliance with the applicable provisions.

Please note that SEBI approval may be required for listed companies, and the company must ensure compliance with all relevant regulations and provisions.

A6. The statement of Profit & Loss of ABC Limited for the year ended March 31, 2023, is as under:

(Rs. In Crores)

Income	
Value of Sales	A
Income from Services	B
Value of Sales & Services (Revenue)	A+B
Less: GST recovered	C
Revenue from Operations	A+B-C
Other Income	D
Total Income	A+B+C+D

supply, or distribution of goods or on account of services rendered, or both, by a company during a financial year.

View of Manthanities

- Whether GST recovered and other income considered while calculation of turnover.

A+B-C is considered as Turnover as per 2(91) since the GST component is already charged in A and B and removing the same can be considered turnover.

Definitions

2(91) - "Turnover" means the gross amount of revenue recognized in the profit and loss account from the sale,





Significant Beneficial Owner

In the previous article, we learned about Beneficial Interests. In this one, let us learn about Significant Beneficial Owners (SBOs) with the help of examples for conceptual clarity.

As per Rule 2(h) of the Companies (Significant Beneficial Owners) Rules, 2018:

"Significant beneficial owner" in relation to a reporting company means an individual referred to in subsection (1) of section 90, who acting alone or together, or through one or more persons or trust, possesses one or more of the following rights or entitlements in such reporting company, namely:

- holds indirectly, or together with any direct holdings, not less than 10% of the shares;
- holds indirectly, or together with any direct holdings, not less than 10% of the voting rights in the shares;
- has the right to receive or participate in not less than 10% of the total distributable dividend, or any other distribution, in a financial year through

indirect holding alone, or together with any direct holdings;

- has the right to exercise, or actually exercises, significant influence or control, in any manner other than through direct holdings alone.

Indirect holding is a key factor in determining whether an individual is an SBO or not.

Examples

- Mr. Ritesh Agarwal, founder of OYO Rooms holds a 33% stake in the company. Is he a Significant Beneficial owner?

Solution: No. He is a member of the company; his name appears in the Register of Members. Therefore, he is not a SBO.

- Let us say Tata Consumer Products (TCP) has a 60% shareholding in Starbucks Corporation's Indian company. Let us suppose Mr. Ratan Tata holds 30% of shares in TCP. Is he an SBO to the reporting company Starbucks?

Solution: As per the above example, Ratan Tata owns 18% shareholding indirectly in Starbucks and will therefore be an SBO for the reporting company Starbucks.

3. Mr. Sitaram holds 8% equity in the jewelry company Shringar Pvt. Ltd. in Jaipur. He is the Karta of his grocery store SS Family Bhandar, which is a HUF business and it holds 7% equity in Shringar Pvt Ltd. Is Mr. Sitaram an SBO for Shringar Pvt. Ltd.?

Solution: Though only 7% of equity is held indirectly, we must consider direct holdings as well. It adds up to 15% which is above the limit. Therefore, Mr. Sitaram is an SBO for Shringar Pvt. Ltd.

4. Your neighborhood has a businesswoman who has invested in a startup with a 20% stake in it. She is also the beneficiary of a specific trust. One of the trustees is a member of the said startup company. Is the businesswoman an SBO for the startup?

Solution: Yes, a member of the reporting company is a trust (through a trustee), and the individual:

- a) is a trustee in the case of a discretionary trust or charitable trust;
- b) is a beneficiary in case of a specific trust;
- c) is the author or a settlor in case of a revocable trust.

Besides the above examples, the following cases may also be a possibility in the case of Significant Beneficial Ownership.

Where the member of the reporting company is a body corporate (whether incorporated or registered in India or abroad), other than a limited liability partnership, and the individual, -

- a) holds the majority stake in that member; or

- b) holds a majority stake in the ultimate holding company (whether incorporated or registered in India or abroad) of that member.

Where the member of the reporting company is,-

- a) a pooled investment vehicle; or
- b) entity controlled by the pooled investment vehicle; based in a Member State of the Financial Action Task Force on Money Laundering and the regulator of the securities market in such member State is a member of the International Organization of Securities Commissions, and the individual in relation to the pooled investment vehicle,-
 - is a general partner; or
 - is an investment manager; or
 - is a Chief Executive Officer where the investment manager of such pooled vehicle is a body corporate or a partnership entity

Compliances

Every individual, who subsequently becomes an SBO or where his significant beneficial ownership undergoes any change shall file a declaration in Form No. BEN-1 to the reporting company, within 30 days of acquiring such significant beneficial ownership or any change therein.

Duty of the Reporting Company

Return of significant beneficial owners in shares: Upon receipt of a declaration from the Significant Beneficial Owner of the company and changes therein, the reporting company shall file a return in Form No. BEN-2 with the Registrar in respect of such declaration, within a period of 30 days from the date of receipt of such declaration, along with the prescribed fees.

Notice to the Significant Beneficial Owner

It should be noted that the obligation of the individual to self-declare his significant beneficial holdings, and the obligation of the company to send notice seeking information from members in terms of Rule 2A of the Companies (Significant Beneficial Owners) Rules, 2018, are independent obligations.

As per Rule 2A(1) of the Companies (Significant Beneficial Owners) Rules, 2018, every reporting company shall take necessary steps to find out if there is any individual who is a significant beneficial owner, as defined in rule 2(h) of the Companies (Significant Beneficial Owners) Rules, 2018, in relation to that reporting company, and if so, identify him and cause such individual to make a declaration in Form No. BEN-1.

As per Rule 2A(2) of SBO Rules whereby, the reporting company has members (other than individuals) holding 10% or more participating interest [either of shares, voting rights, or right to receive or participate in the dividend or any other distribution payable in a financial year], shall give notice to such member seeking information in accordance with Section 90(5) about the individual who is significant beneficial owner in the reporting company in Form BEN-4.

Register of Beneficial Owners

The company shall maintain a register of significant beneficial owners in Form No. BEN-3 which includes the name of the individual, his date of birth, address, details of ownership in the company, and such other details.

The register shall be open for inspection during business hours, at such reasonable time of not less than two hours on every working day as the board may decide, by any member of the company on payment of

such fee as may be specified by the company but not exceeding fifty rupees for each inspection.

Consequences of Non-Reporting under Section 90(5)

As per Rule 7 of The Companies (Significant Beneficial Owners) Rules, 2018, the reporting company shall apply to the Tribunal within a period of 15 days of the expiry of the period specified in BEN-4,

(i) where any person fails to give the information required by the notice in Form No. BEN-4, within the time specified therein; or

(ii) where the information given is not satisfactory, in accordance with section 90(7) of the Companies Act, 2013, for an order directing that the shares in question be subject to restrictions, including:

(a) restrictions on the transfer of interest attached to the shares in question;

(b) suspension of the right to receive dividend or any other distribution in relation to the shares in question;

(c) suspension of voting rights in relation to the shares in question;

(d) any other restriction on all or any of the rights attached with the shares in question.

Order of Tribunal

NCLT on the application moved by a company is not under a binding obligation to pass any restrictive order and the concerned person or member shall have the opportunity to explain why he or she is not a significant beneficial owner and retract the contentions made by the company.

As per Section 90(8) of the Companies Act, 2013, the Tribunal may:

- After giving an opportunity of being heard to the parties concerned, make such an order restricting the rights attached to the shares

- Within a period of 60 days of receipt of application or such other period as may be prescribed.

As per Section 90(9) of the Companies Act, 2013, the company or the person aggrieved by the order of the Tribunal may make an application to the Tribunal for relaxation or lifting of the restrictions placed by the Tribunal within a period of one year from the date of such order.

However, if no such application has been filed within a period of one year from the date of the order, such shares shall be transferred, without any restrictions, to the authority constituted under sub-section section 125(5) i.e., Investor Education and Protection Fund, in such manner as prescribed.

Non-Applicability

As Per Rule 8 of the Companies (Significant Beneficial Owners) Rules, 2018 shall not be made applicable to the extent the share of the reporting company is held by:

- IEPF Authority
- It's holding reporting company; however, the details of such holding reporting company shall be reported in Form No. BEN-2
- The Central Government, State Government or any local Authority
- Reporting co; or a body corporate; or an entity, controlled by the Central Government or by any State Government or partially by the Central Government and partly by one or more State Governments

- SEBI registered Investment Vehicles such as mutual funds, alternative investment funds (AIF), Real Estate Investment Trusts (REITS), Infrastructure Investment Trust (InVITS) regulated by SEBI
- Investment Vehicles regulated by RBI, or IRDA, or Pension Fund Regulatory and Development Authority.

Section 90(10) states that where an SBO fails to make a declaration, he/she attracts a penalty of Rs.50,000 and in case of continuing failure, with a further penalty of Rs.1000 for each day after the first during which such failure continues, subject to a maximum of Rs.2 Lakhs.

Section 90(11) states that where a company fails to maintain an SBO register or denies inspection of the same:

- Company will be liable to a penalty of Rs.1 Lakh and in case of continuing failure, with a further penalty of Rs.500 for each day, after the first during which such failure continues, subject to a maximum of Rs.5 Lakhs
- Officer in default is liable to a penalty of Rs.25000 and in case of continuing failure, with a further penalty of Rs.200 for each day, after the first during which such failure continues, subject to a maximum of Rs.1 Lakh.

Section 90(12) states that where there is false information furnished or suppressing information by any person obligated to make declarations in relation to SBO, will be liable to action under Section 447 of the Companies Act, 2013(Fraud).

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Companies Act, 2013

Updates on Notifications

MCA has amended Companies (Accounts) Rules, 2014 which shall be known as Companies (Accounts) Amendment Rules, 2024.

In the principal rules, following proviso shall be inserted after third proviso, sub-rule (1B) of Rule 12

“Provided also that for the financial year 2023-2024, Form CSR-2 shall be filed separately on or before 31st December, 2024 after filing Form No. AOC-4 or Form No. AOC-4-NBFC (Ind AS), as specified in these rules or Form No. AOC-4 XBRL as specified in the Companies (Filing of Documents and Forms in Extensible Business Reporting Language) Rules, 2015 as the case may be.”

G.S.R 587(E)

Updates on General Circulars

MCA has released a clarification on holding of Annual General Meeting (AGM) and Extra-ordinary General Meeting (EGM) through video conference (VC) or other Audio Visual Means (OAVM) and passing of ordinary and special resolutions by the Companies.

The Companies whose AGM are due in the year 2024 or 2025 are allowed to conduct their AGM through VC or OAVM on or before 30th September 2025 in accordance with the requirements laid down in para 3 and para 4 of the General Circular Number 20/2020 dated 05.05.2020.

It has also further clarified that, Companies are allowed to conduct their EGMs through vc or OAVM or transact the items through postal ballot upto 30th September, 2025.

General Circular No - 09/2024



THE INSTITUTE OF
Company Secretaries of India

भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE
Statutory body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)

CSBF

COMPANY SECRETARIES
BENEVOLENT FUND



Saathi Haath Badhana
साथी हाथ बढ़ाना

What exactly is CSBF?

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

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

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

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

Is it the right time to enrol in CSBF?

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

Is it a requirement?

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

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

Advantages of enrolling into CSBF

1

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

2

To finance your children's education and other needs

3

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

4

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

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