CORPORATE JOURNAL

"TO FACILITATE OVERALL PROFESSIONAL DEVELOPMENT WITH ENLIGHTENED INFORMATION"

"IT'S GOOD TO STAND AT ZENITH AND SEE SOMEONE AS YOUR AIM BUT IT FEELS BEST WHEN YOU STAND THERE & SOMEONE SEES YOU AS THEIR AIM"

⇒ INSIDE

Articles / other materials and suggestions are invited from the Members for publication in forthcoming Issues. All articles submitted will be subjected to review and published only after accepted for publication.

Kindly send the articles and other relevant material for publication along with your photograph at ankursrivastavacs5985@gmail.com. We assure that we empower you with the knowledge you seek.

Since: January, 2013

========================== FROM THE EDITOR ==========================

CS Ankur Srivastava
Editor

Dear Professional Colleagues & Friends,

There has been massive revolutionary development in the field of technology, politics, science, finance, economy and most often, if not always, directed towards only one objective i.e. to change the quality of life. We may say towards betterment. However, the question would arise weather these changes have actually improved the quality of life.

All the above changes have significantly influenced our lives. However, now people started to recognize each other by what they have instead of what they are. Friends, all the above changes may change the standard of life however, they are unable to change the life unless the changes is inside the person. Unless we want to change, no development can. And the point we decide to change the world will change. For example, a branded, most expensive gold coated smartphone studded with diamonds loaded with most of the apps may not be able to contact a person unless it is connected with the network.

The Corporate World has also seen a massive revolution, ofcourse towards the betterment. Betterment of the Corporates, investors, professionals, society and ultimately betterment of the Country. In this line w.e.f. 1st June, 2016 National Company Law Tribunal (NCLT) has been constituted which will transform the corporate justice procedures. This is a massive development in the Corporate World after the CA, 2013. This will not only change but improvise the corporate procedure & timeliness and on the other hand develop a new horizon for the professionals.

Friends, in this scenario the most important thing is to CONNECT. To connect with all these changes and change yourself. We need to take a step outside from our comfort zone. We need to prepare ourself for new challenges. And this will happen only when we decide to change. To synchronize ourself with the expected level of betterment which the change had supposed, we need to be connected.

All the Best and keep contributing towards the betterment of our profession.

Happy Reading.

CS Ankur Srivastava
Editor

================================ ARTICLE ===================================

ATTITUDE DECIDE YOUR DESTINY

(Theory of Karma as per desired Destiny)

Years ago I have written an Article titled “Attitude Decide your Destiny” wherein I have explained how your thoughts effects your Attitude which actually decide your Destiny. Now after years I am writing its next part. This will focus how you can change your life through positive thinking. This topic is related to your personal and professional life. I would like to share about how one’s thinking effects the practical life.

CS Ankur Srivastava

So let’s directly come on point and read the article with positive attitude.

Positive thinking is not having positive thoughts when circumstances are good. We generally believe that our thoughts are linked to the environment around us, it is just so natural that when there is a crisis outside, there will be a crisis inside. But actually what is inside is independent from what is outside. It is your own choice to be influenced with the outer crises. There could be a crisis outside, but if I can perceive and create a thought of stability, I can create a thought of an opportunity instead of a challenge, there will be no crisis inside. The main objective is to take care of what is inside then the crisis outside can be dealt with. This is the Positive Thinking. For example, the financial crisis is a crisis outside. In this situation if I take care of my thoughts I can take care of all other aspects and clear the hurdles.

There is an interlinked relationship between the thoughts, Attitude and the Destiny. *Thoughts are the origin of your actions – (*What you think becomes what you say and this in-turn you do in your life. Therefore, what you think becomes your habit. Your character, your overall personality is nothing but the collection of your thoughts) *which determines your Attitude and collection of actions i.e. the Attitude determines your Destiny.*

“WHAT YOU THINK YOU BECOMES”

HOW??? You might be thinking this question only!!!

I will start with the quote of Swami Vivekanand ji *“Take up one idea. Make that one idea your life; dream of it; think of it; live on that idea. Let the brain, the body, muscles, nerves, every part of your body be full of that idea, and just leave every other idea alone. This is the way to success, and this is the way great spiritual giants are produced.”*

I would call this process a method to create future. We are the master of our own destiny! Simply understand that while your circumstances may determine the colours that you have to work with, the choices that you make on a day-to-day basis are in fact, the brushstrokes that will define what your masterpiece looks like. This depends on your thinking.

================================= **ARTICLE** =================================

What we feel, what we say, what we do – all have their origin in the mind. The energy of the human mind is one of the greatest, but least understood. Mind power is one of the strongest and most useful powers you possess. This power consists of your thoughts. The thoughts that pass through your mind are responsible for everything that happens in your life. Your predominant thoughts influence your behavior, attitude and control your actions and reactions.

Thoughts are like a video that plays on the screen of your mind. What you play there, determines the kind of life you live and the experiences you meet. To make changes in your life, you have to play a different video, one that you like more. Thoughts, like seeds, have a natural tendency to grow and manifest in your life, if you feed them with attention, interest and enthusiasm.

Your thoughts pass from your conscious mind to your subconscious mind, which in turn, influences your actions in accordance with these thoughts. Your thoughts also pass to other minds, and consequently, people who are in a position to help you, might offer you their help, sometimes, without even knowing why.

This might some strange and unbelievable. You don't have to accept these words, but if you analyze the kind of thoughts you think, and the kind of life you live, you will discover interesting things about the mind.

The power of mind is part of the creative power of the Universe, which means that your thoughts work together with it. You are a manifestation of the Universal mind. When you repeat the same thought over and over again, in one way or another, this mighty power helps you make your thoughts come true. We may call it Day-dreaming. I would again use that famous dialogue "JAB AAP KISI CHEEZ KO PURI SHIDDAT SE CHATTE HO TO PURI KAYNAT AAPKO USSE MILANE ME LAG JATI HAI".

The above dialogue is absolutely right. It is because of your continuous positive thinking and its resulting positive vibrations that consecutively makes things happen. You have to just prepare yourself for your aim only.

Now the question would arise how to use the Power of Your Thoughts?

- Focus on what you want to be or what you want to achieve or how you would like to see yourself in future.
- Give thoughts and Visualize a perfect scene of whatever you want to accomplish. Put a lot of detail, color, sound, scent and life into these mental scenes.
- Repeat your visualization often, with faith and attention, and your subconscious mind will accept these mental scenes as real experiences. The subconscious mind does not distinguish between real and imaginary experiences, and accepts both as real. It will start making changes and attracting opportunities, to make your reality match the images in your subconscious mind.

Actions, situations, and objects that you visualize frequently, eventually, manifest on the material plane in a natural way. This manifestation does not happen overnight. It needs time, and depends on how ambitious and sincere you are, and how much time and attention you put into this action.

You can use this process to change negative habits and build new, positive habits or skills. You can also use it for your studies, improving health and relationships, changing circumstances, business matters, professional life, and for practically for almost everything.

It is nothing about conception of any one person. It is fully tested, devotional and scientific. I will quote an example from Bhagwat Gita:- Lord Krishna said in Bhagwad Gita "कर्मण्येवाधिकारस्ते मा फलेषु कदाचन" (Do your duties and don't worry about the result). Perhaps this was also said in context that we should do our duties without concentrating about the result of it. We should leave everything on Parmatma to decide according to our Karm.

It is rightly said that Jaisa karam karoge waisa hi fal milega…. So we should be smarter and Jaisa fal chaiye waisa hi karam kyu na kre. What is bad in doing in the direction of your pre decided FAL i.e. your Aim. Pay attention to the thoughts you think. This will, change your actions automatically and your KARM will align accordingly. After all we know the importance of Planning and this entire process is nothing but Planning and its Implementation.

From our childhood we study towards one single goal to get Passed. We pass because we have done something towards this direction. Percentage depends on the dedication i.e. nothing but your Attitude. Which one had attained towards his pre decided goal to get passed with First Class. Do you remember the promises of "Motorcycle on passing Highschool with good numbers". All these were to enhance your thoughts and actions towards your goal which is limited to get passed but the promisor i.e. your parents are having bigger planning for which you are being pushed to get good marks. Have you ever thought if efforts have not been done towards this direction or when the direction of actions changes what happens? Yes, the result changes. Isn't the same process that we are talking about…!!!

Have you noticed the flow of water? In which direction it moves. It moves towards the slide only. If there is no slide the movement will stop. Have you seen kites flying, it flies only in the direction of air. It cannot fly in any direction or against the air. The Attitude we have choosen is actually that slide or the air which give route to our life and everything will start accordingly.

What you have to do?? At the outset, you need to decide your Aim, then configure your thoughts accordingly which will bring your output (Karm) in alignment of your Aim automatically and gradually you will be prepared for your desired Aim and It will Happen. You just need to remember ITS NOT OVER UNTIL I WIN.

So, the process is just being positive.

So, be positive and have positive Attitude and believe me Your Attitude will the only thing that decides your destiny. This is all about this Article.

Try it, it works and surely change your life positively.

Thanks for reading….

With Kind Regards:
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=============================== ARTICLE ===============================

BUY BACK OF SHARES

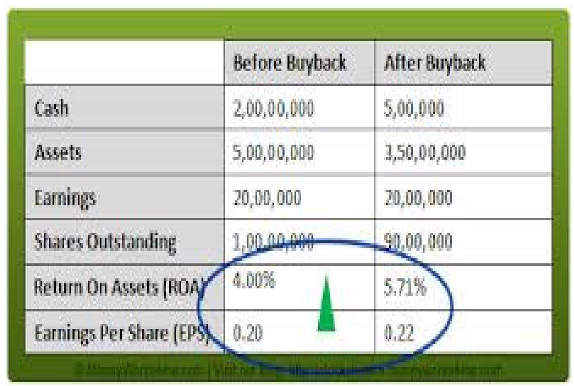
CS Divesh Goyal

INTRODUCTION

Buy Back of Securities is a very important tool for Companies who wants to reduce their Share Capital. Buy Back of securities simply implies purchase of its own shares & other specified securities by a Company. Buy Back of securities is an important mode of Capital Restructuring. A company can buy back its shares under Section 68 of the Companies Act, 2013 which is more or less same as section 77A of The Companies Act, 1956 apart from some Procedural Changes.

CONTENT OF ARTICLES

Buy-back is one of the method of financial restructuring. Buy-back of shares is a method of financial engineering. Financial restructuring of a Company involves a re-arrangement of its financial structure to make the Company's finances more balanced.



	Before Buyback	After Buyback
Cash	2,00,00,000	5,00,000
Assets	5,00,00,000	3,50,00,000
Earnings	20,00,000	20,00,000
Shares Outstanding	1,00,00,000	90,00,000
Return On Assets (ROA)	4.00%	5.71%
Earnings Per Share (EPS)	0.20	0.22

Advantage:

A Company generally opt for buy-back of its own shares for the following reasons:-

(i) To improve the shareholders value-buy-back generally result in higher earning per shares.

(ii) As a defense Mechanism- Buy back provides a safeguard against hostile take- overs bids by increasing promoters' shareholding.

(iii) To provide an additional exit route to shareholders when shares are undervalued or thinly traded.

(iv) To return surplus cash to shareholder.

GOVERNING SECTIONS & RULES:

For Unlisted Public and Private Companies	- Section 68, 69 and 70 of Companies Act, 2013 - Rule 17 of Companies (Share Capital and Debentures) Rules, 2014
For Listed Companies	- Section 68, 69 and 70 of Companies Act, 2013 - Rule 17 of Companies (Share Capital and Debentures) Rules, 2014 - Securities and Exchange Board of India (Buy-back of Securities) Regulations, 1998 and Securities and Exchange Board of India (Buy-back of Securities) (Amendment) Regulations, 2013

Section 68, 69 & 70: Power of Company to purchase its own shares & other specified securities

Rule17: of the Companies (Share Capital and Debenture) Rules,2014

Section 117(3) (a) A copy of every resolution or any agreement, in respect of the matters specified in sub-section (3) of section 17 together with the explanatory statement under section 102, if any, annexed to the notice calling the general meeting in which the resolution is proposed, shall be filed with the Registrar within thirty days of the passing of resolution.

Section70: Prohibition for buy-back in certain circumstances.

FORMS INVOLVED:

MGT– 14-Filing of Special Resolutions to the Registrar of Companies

SH– 8 – Letter of Offer

SH – 9– Declaration of Solvency

SH – 11– Return in respect of buy back of securities

SH – 10- Register of Buy Back of Securities

PURPOSE OF FILING OF FORMS:

MGT-14: This form is required to be filed within 30 days of passing of Special resolution for *All The Companies* including Private Limited Company {Section 117(3)(a)}.

SH-8: The Company which has been authorized by a Special resolution shall, before making the buy-back of shares, file with the Registrar of Companies a letter of offer.

SH-9: The Company shall file with the Registrar a declaration of solvency along with fee.

SH-10: The Company shall maintain a Register of Buy Back containing the particulars as may be prescribed.

Sh-11: The Company after completion of the buy-back file with the Registrar a return along with the fee.

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RESOLUTION REQUIREMENT:

Special Resolution: A Special resolution is required to be passed at a General Meeting of the Company authorizing the buy-back [Section 68(2)(b)].

Board Resolution: A Board resolution is required to be Pass for following purposes:

- Authorization for buy back of shares subject to approval of shareholders. (Pass resolution for approval of scheme of buy-back as contained in letter of offer.)
- Issue the Notice of General Meeting along with explanatory statement. (According to SS-2).
- Authorize a Company Secretary or director of company to issue notice of General Meeting.
- Adoption of unaudited/Audited Accounts
- Take note of valuation report
- Declaration of solvency in Forms SH-9
- Declaration by Board of Directors under Rule 17(1)(m)
- Approval of Board for letter of offer of buy-back of shares.
- Open Separate Bank Account: for remittance and payment towards purchase consideration for buy back.

PROVISION IN AOA:

Table- F- Clause 41: Notwithstanding anything contained in these articles but subject to the provisions of sections 68 to 70 and any other applicable provision of the Act or any other law for the time being in force, the company may purchase its own shares or other specified securities.

AMENDMENT RULES:

G.S.R. (E): dated 10th March, 2013 The Companies (Share Capital and Debentures) Amendment Rules, 2016

LET'S DISCUSS PROVISION OF BUY- BACK OF SHARES:

A. Funding of Buy Back of Shares: [Section 68(1)] Shares can be purchased out of the resources generated in the following manner i.e.

a) Free Reserves;

b) The Securities Premium Account; or

c) The proceeds of the ***issue*** of any kind of shares or other specified securities:

Condition:

- ✓ Company shall not utilize any money borrowed from Banks/ Financial Institutions for the purpose of buying back its shares. [Rule 10(e)].
- ✓ The buyback cannot be made out of proceeds of same kind of shares or securities. [Rule 10(f)].
- ✓ Withdrawal of Offer: The Company shall not withdraw the offer once it has announced the offer to the shareholders. [Rule 10(d)].
- ✓ Cash Consideration: Consideration will be paid by company in cash only.[In an English case, *BGD Roof Bond Ltd. v. Doughlas,* (2000) 1 BCLC 401 (Ch D)]

B. **Buy Back of Shares from whom? [Section 68(5)]** Let's find out from whom the share could be bought back.

a) from the ***existing shareholders*** or security holders on a proportionate basis;

b) from the **open market**;

c) by purchasing the securities issued to ***employees of the company*** pursuant to a scheme of stock option or sweat equity (ESOP).

C. **Non-Eligibility for buy-back**: We should ascertain whether the Company falls under any one of the prohibitory lists for buy back. The Company cannot buy back its shares form the following. [Section-70]

a) Through any subsidiary Company including its own subsidiary Companies.

b) Through any investment Company or group of investment Companies

c) If it has not complied with the provisions of Section 92, 123, 127 and Section 129

d) If a default, is made by the company, in the repayment of deposits accepted either before or after the commencement of this Act, interest payment thereon, redemption of debentures or preference shares or payment of dividend to any shareholder, or repayment of any term loan or interest payable thereon to any financial institution or banking company.

D. **Eligibility Criteria for buy-back:**

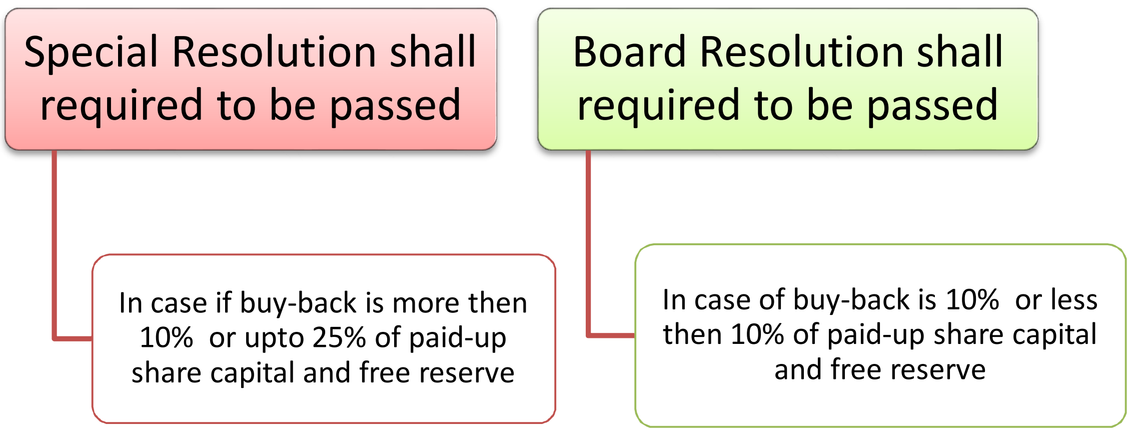
Let's find out whether our Company is eligible to go for a buy-back by fulfilling the conditions of Section and Rules. Section 68(2) of Companies Act 2013 list out the criteria's to be fulfilled for buy-back of shares.

i. Check whether Company is authorized under Article of Association (AOA) for buy-back of shares. [Section 68(2)(a)]

ii. The percentage of Buy Back shall not exceed **<u>10% of the total paid up equity capital</u>** and free reserves if the same is to be authorized by the Board by means of a resolution in the Board meeting and not by circulation.

iii. The percentage of buy back could exceed 10% but **<u>not beyond 25% of the total paid equity Capita</u>**l and free reserves if the same is authorized by the shareholders by means of a Special resolution.

IN SIMPLE WORDS : For buy back upto 10% of aggregate paid up share Capital required Board Resolution or Buy-back 10% of paid up share capital and free reserve but upto 25% of aggregate paid up share capital and free reserve by Special Resolution.



iv. The ratio of the aggregate of secured and unsecured debts owed by the company after buy-back shall not be more than twice the paid-up capital and its free reserves.

E. **<u>Other Eligibility:</u>**

v. The Company should be in a position to meet the liabilities as and when they fall due and shall not be rendered insolvent within a period of one year from the date of buy back.

vi. All the Equity Shares and other specified securities for buy-back are fully paid-up.

vii. **<u>Listed Company:</u>** The buy-back of the shares listed on any recognized stock exchange are in accordance with the regulations made by the Securities and Exchange Board of India in this behalf.

viii. Buy-back should be completed within a period of 1 (one) year from the date of passing of Special Resolution.

F. **<u>Procedure for buy-back:</u>**

Once the Company meets the eligibility criteria, the next step is how to start the process of buy-back of shares:

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STEP-1

Hold the Board Meeting:

- ✓ Check whether there is a provision in the AOA for buy back of share or not, if yes then ok. If No then also pass special resolution for alteration in AOA.
- ✓ Passing of Resolution for authorization for buy back of shares subject to approval of shareholders. (Pass resolution for approval of scheme of buy-back as contained in letter of offer.)
- ✓ Passing of resolution for Issue the Notice of General Meeting along with explanatory statement. (According to SS-2).
- ✓ Passing of Resolution for adoption of unaudited/Audited Accounts
- ✓ Passing of Resolution for take note of valuation report
- ✓ Passing of Resolution for declaration of solvency in Forms SH-9
- ✓ Passing of Resolution for declaration by Board of Directors under Rule 17(1)(m)
- ✓ Passing of Resolution for and approval of Board for letter of offer of buy-back of shares.
- ✓ Passing of resolution for Open Separate Bank Account: for remittance and payment towards purchase consideration for buy back.
- ✓ Fixing the record date for buy-back of shares.

Note:

- Company cannot give any specific offer to a particular member for buy-back of shares, it is required to give Letter of Offer to all the existing members, therefore, there should not be any specific name in the resolution or explanatory statement.

STEP-II

Hold Extra-Ordinary general Meeting and pass the Special Resolution for buy back of shares.

STEP-III

File following Form with Registrar (Letter of Offer/ declaration of solvency):

- **File MGT-14**- with Registrar within 30 days of passing of Special Resolution.
- **File SH-8** – Letter of offer Roc before buy back of shares.
- **File SH-9**- Declaration of solvency with ROC along with SH-8.

STEP-IV

The Letter of Offer after filing of with ROC together with all attachments should be dispatched to the shareholders not later than 21 days from the date of its filing with the Registrar of Companies.

The offer of buy back should remain open for a period of not less than 15 (fifteen) days but not later than 30 days from the date of dispatch of offer.

STEP-V

The Company should immediately after the date of closure of offer should open the bank account and deposit therein the entire purchase consideration money meant to be used for buy back purpose.

STEP-VI

The Company shall complete the verification of offers within 15 (fifteen) days from the date of closure of offer.

STEP-VII

The Company shall within 7 (seven) days of the time specified for completion of verification:

- make (Consideration) payment to the respective shareholders
- return back the entire share certificates whose shares have not been accepted fully and also return back the balance share certificates if the shares are accepted partially

If the communication of rejection is not sent to the concerned shareholders within 21 (Twenty one days) from the date of closure of offer, the shares lodged would be deemed to have been accepted for buy back.

Post buy-back Compliances:

STEP-VIII- Certificate of Compliance:

- The Company shall prepare a certificate of Compliance in respect of Buy Back in Form No.Sh-15 duly signed by two Directors and verified by the Company Secretary in Practice. [Rule 17(14)]
- Form SH.15 should be attached along with other attachments to FormNo.SH-11 which is the Return in respect of Buy back and upload the Form with ROC. [Rule 17(13)]

STEP-IX- Destroy Share Certificate [Section 68(7)]:

The Company shall ***within 7 (seven) days of the last day*** of the completion of buy back shall extinguish and physically destroy the shares or securities bought back.

STEP-X - Register of share bought back[Section 68(9)]:

- The Company shall maintain a register of shares or other securities which have been bought-back in **Form SH-10.**
- The Register shall be maintained at registered office of the Company.
- The register shall be under the *CUSTODY* of the Secretary or any other person authorized by the Board for this purpose.
- The entries of the Register shall be *AUTHENTICATED* either by the Secretary or by any other person authorized by the Board for this purpose

- Following details are required to be given in Register- SH-10
    - The consideration paid;
    - The date of cancellation;
    - The date of extinguishment and physical destruction; and
    - Such other particulars as may be prescribed.

STEP-XI - Transfer to Capital Redemption Reserve(Sec-69)

After buy-back a sum equal to the nominal value of the share so purchased shall be transferred to the capital redemption reserve account and details of such transfer shall be disclosed in the balance sheet.

Use of CRR: The capital redemption reserve account shall be utilized by the Company only for the purpose of issuing of fully paid up bonus shares.

Restriction on the further issue of Shares/Securities: Under Section 68(8),

i. Time Period: The Company shall not issue further shares of the *SAME CLASS* within a period of 6 (six) months from the date of completion of buy back.

ii. Except: The Company can issue same class of shares in the following forms:

- By way of bonus issue OR

- In discharge of subsisting obligations such as conversion of warrants, stock option scheme, sweat equity or conversion of preference shares or debentures into equity.

G. Duty of the Company:

- Mode of Payment: The company shall confirm in its offer the opening of a separate bank account adequately funded for this purpose and to pay the consideration only by way of cash.
- Restriction on the issue of New Shares :The company shall not issue any new shares including by way of bonus shares from the date of passing of special resolution authorizing the buy-back till the date of the closure of the offer under these rules.
- Except those arising out of any outstanding convertible instruments.
- Buy-back offer shall not be made within a period of one year reckoned from the date of closure of the preceding offer of buy-back, if any.

H. Provisions of Explanatory Statement of Buy Back [Section 68(3)]:

The notice of the meeting at which the special resolution is proposed to be passed under clause (b) of sub-section (2) shall be accompanied by an explanatory statement stating—

a) A full and complete disclosure of all *Material Facts*
b) The *Necessity* for the buy-back
c) The *Class of Shares* or securities intended to be purchased under the buy-back
d) The amount to be *Invested* under the buy-back; and
e) The *Time-Limit* for completion of buy-back.
f) The *Date of the Board Meeting* at which the proposal for buy-back was approved by the board of directors of the Company.

g) The *Objective* of the buy-back

h) The *Number* of securities that the company proposes to buy-back

i) The *Method* to be adopted for the buy-back

j) The *Price* at which the buy-back of shares or other securities shall be made;

k) The *Basis of Arriving* at the buy-back price

l) The *Maximum Amount* to be paid for the buy-back

m) The *Sources of Funds* from which the buy-back would be financed;

n) The *Time-Limit* for the completion of buy-back

o)

I. Disclosure about the Promoters and Directors:

i. Aggregate Shareholding of Promoters:

ii. Shares Purchased or Sold:

- Shares Purchased and sold during a period of 12 (twelve) months preceding the date of the board meeting at which the buy-back was approved and
- Shares Purchased and sold from that date to the date of notice convening the general meeting.

iii. Consideration Price:

The maximum and minimum price at which purchases and sales were made in point two above made.

J. If the persons mentioned in point (i) intend to tender their shares for buy-back :

i. The *Quantum* of shares proposed to be tendered.

ii. The *details of their transactions and their holdings* for the last twelve months prior to the date of the board meeting at which the buy-back was approved ***including*** information of number of shares acquired, the price and the date of acquisition;

K. No defaults:

A confirmation that there were *NO DEFAULTS* subsisting in the repayment of deposits, interest payment thereon, redemption of debentures or payment of interest thereon or redemption of preference shares or payment of dividend due to any shareholder, or repayment of any term loans or interest payable thereon to any financial institution or banking company.

L. A confirmation that the Board of directors have made a full enquiry into the affairs and prospects of the company and that they have formed the opinion:-

(i) that immediately following the date on which the general meeting is convened there shall be no grounds on which the company could be found unable to pay its debts;

(ii) as regards its prospects for the year immediately following that date, having regard to their intentions with respect to the management of the company's business during that year and to the amount and character of the financial resources which will in their view be available to the company during that year, the company shall be able to meet its liabilities as and when they fall due and shall not be rendered insolvent within a period of one year from that date; and

(iii) the directors have taken into account the liabilities(including prospective and contingent liabilities), as if the company were being wound up under the provisions of the Companies Act, 2013

M. A report to be addressed to the Board of directors By The Company's Auditors stating that:-

(i) They have inquired into the company's state of affairs;

(ii) The amount of the permissible capital payment for the securities in question in their view has been properly determined;

(iii) That the audited accounts on the basis of which calculation with reference to buy back is done is not more than six months old from the date of offer document; and
Provided that where the audited accounts are more than 6 months old, the calculations with reference to buy back shall be on the basis of un-audited accounts not older than 6 months from the date of offer document which are subjected to limited review by the auditors of the Company.

(iv) The Board of directors have formed the opinion that the company, having regard to its state of affairs, shall not be rendered insolvent within a period of one year from that date.

N. Punishment for any Default: If a company makes any default in complying with the provisions of this section,

- The company shall be punishable with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees.

- Every officer of the company who is in default shall be punishable with an imprisonment for a term which may extend to three years or with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees, or with both.

O. Accounting Treatment:

- Disclosure in Balance Sheet: Where a Company purchases its own shares or specified securities out of its free reserves or securities premium account, a sum equal to the nominal value of the shares so purchased shall be transferred to the capital redemption reserve account and details of such transfers shall be disclosed in the balance sheet as per Section 69 of Companies Act 2013.

P. Tax Treatment for Buyback of Shares:

I. DIVIDEND:

As per Indian Income Tax Act, 1961 any sum paid from accumulated profit to the shareholders of the company is treated as dividend under section 22(a). In case of buyback any payment made by a company on purchase of its own shares from a shareholder in accordance with the provisions of Section 68 of the Companies Act, 2013 will not be treated as dividend hence Dividend Distribution Tax (DDT) under Section 115-O will not be applicable in this case.

II. **STAMP DUTY.-**The Chamber of Income Tax Consultants, Mumbai, has expressed the opinion that stamp duty is not payable on buy-back of shares under section 77A. Here is what the Chamber says :

"A question may arise as to whether any stamp duty becomes payable in a case where buy-back of shares is done by a company. One may note that "transfer" of shares attracts stamp duty vide Schedule I, Entry 62 to the Indian Stamp Act 1899. Since stamp duty is payable on "transfer" of shares buy-back cannot be equated with 'transfer". Transfer of shares to be complete requires the company to register the shares bought back in its name. In case of buy-back, as provided in section 77A(7), the shares bought back have to be statutorily extinguished within seven days of the last date of completion of buy-back. Hence, no registration of such shares takes place in the name of the acquirer. Even the names of the members/holders of the shares have to be struck off from the Register of members. Hence, stamp duty would not become payable in a case where buy-back of shares takes place." [P. 35, 1st Edn., 2000].

III. **Income Tax, Tax on Capital Gains**.-Capital gains tax has become leviable on buyback of shares by virtue of section 46A inserted in the Income Tax Act, 1961 by the Finance Act, 1999 effective financial year 1999-2000. The provision is as follows ;

Capital gains on purchase by company of its own shares or other specified securities

46A. Where a shareholder or a holder of other specified securities receives any consideration from any company for purchase of its own shares or other specified securities held by such shareholder or holder of other specified securities, then, subject to the provisions of section 48, the difference between the cost of acquisition and the value of consideration received by the shareholders or the holder of other specified securities, as the case may be, shall be deemed to be the capital gains arising to such shareholder or the holder of other specified securities, as the case may be, in the year in which such shares or other specified securities were purchased by the company.

With Warm Regards,

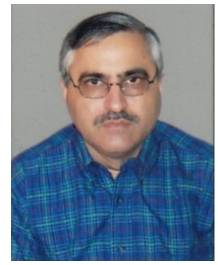
CS Divesh Goyal
Practicing Company Secretary
Email: csdiveshgoyal@gmail.com

========================= FOREX HEDGING GUIDE=========================

Hello Dear Friends,

Greetings of the Day..!

It is my pleasure to share with you all, my weekly USD/INR hedging guide aimed at providing guidance to Importers and Exporters to hedge their forex exposure.



CMA D.S. Kapoor

Last week, we were of the view that currency is likely to consolidate within 67.05 – 66.59 for few days. It was also indicated that chart patterns are not yet supporting any major Rupee depreciation in short term. In our mid-week review, it was indicated that, having taken support around 21DMA and rebounded, currency may remain range bound now within 67.05 – 67.40, till support of 120DMA (67.05) is intact. It was also indicated that, only in case 21DMA goes above 120DMA, further depreciation in Rupee would be possible.

During last week, Open / High / Low / Close have been **67.0300** / **67.5087** / **66.9895** / **66.9895** (earlier week's closing **67.0210**). After opening at 67.0300 on 30th, the currency went up to 67.5087 (last week's high 67.77) on 1st, and then started correcting and after making a bottom at 66.9895 (last week's low 66.8650), it finally closed at **66.9895**, being slightly lower than last week's close. 21DMA could not move above 120DMA, which was required for further Rupee depreciation. On the other hand, support of 120DMA was broken, though it happened after 5 pm on Friday in offshore markets only, hence confirmation would be needed on Monday.

Now, the present status: The moving averages position is presently as under**:**

21DMA	67.04	**3 WMA**	67.13	**3 MMA**	66.86	**3 QMA**	66.47
30DMA	66.87	**5 WMA**	66.96	**5 MMA**	67.01	**5 QMA**	65.70
50DMA	66.69	**21WMA**	67.18	**21MMA**	64.77	**21QMA**	58.80
200DMA	66.62	**30WMA**	66.96	**30MMA**	63.57	**30QMA**	55.07

- Currency has closed above most of the above-mentioned moving averages (except 21DMA / 3WMA / 21WMA / 5MMA). It is also running above 50WMA (66.08) / 10WMA (66.72) / 65DMA (66.74), but is below 120DMA (67.07). 3WMA is running above 5WMA since 3 weeks (after 2 weeks of down-trend). 3MMA is running below 5MMA.
- Currency is running above 8WMA (66.82) / 10WMA (66.74) / 13WMA (66.73); these averages are in positive phase.
- Currency is running above 8MMA (66.94) / 10MMA (66.64) / 13MMA (66.18), **the difference between 8MMA & 10MMA has gone up to 0.30 (0.27 on 29th Apr'16) (0.55 on 31st Mar'16).**
- 21DMA (67.04) is running above 30DMA (66.87) since last 5 weeks (after 8 weeks of down-trend). 21WMA is running above 30WMA; however the difference between the two is coming down and presently is at 0.22 (earlier week 0.22); till 21WMA runs above 30WMA, Dollar may be expected to remain bullish or bounce back from lower levels.
- Current difference between 50DMA and 200DMA has gone up to 0.07 (earlier week 0.05; end Jan'15 1.47). **It would be very crucial to watch how these averages behave in next 7-10 days.**
- The currency has been taking support at 8QMA (presently at 64.47) continuously since start 2012. Besides, 8QMA is running above 10QMA (63.58) / 13QMA (63.05). **Long term trend reversal would only be there, once currency decisively moves below 8QMA.** Further, in case 8QMA goes below 10QMA, it would also be an indication of long term Rupee appreciation.
- **MACD** – the status is as under:

  Daily Chart – running above zero line, but **has gone below** its average;

  Weekly Chart – running above zero line, but **is below its average**;

  Monthly Chart – running above zero line, but **is below its average**;

  Quarterly Chart – running above zero line and above its average as well.

  Signal indicates consolidation in Rupee with appreciating bias in short term and indecisiveness in medium term.

- **Crossover Signal –** the status is as under:

  Daily Chart – running positive since 4th May'16 (**but exhausting**), and is above zero line;

  Weekly Chart – running negative since 11th Mar'16, but is above zero line;

  Monthly Chart - has been running positive since Aug'11.

  Signal indicates possibility of Rupee appreciation in short to medium term.

- **RSI –** the status is as under:

  Daily Chart - moved down to 49.78 (last week 52.77), and is below average;

  Weekly Chart - moved down to 53.08 (last week 53.43), and is below average;

  Monthly Chart – moved down to 63.20 (last week 63.82), and is below average;

  Quarterly Chart - moved down to 73.92 (last week 73.96), but is above average.

  Signal indicates consolidation in Rupee in short term with appreciating bias.

- **Stochastic Oscillator -** It is running downward in quarterly chart indicating possibility of trend reversal i.e. bullish Rupee / weaker Dollar in medium to long term. In monthly chart, too, similar signals are there.

- **Dollar Index –** It remained within 95.9600 – 93.8600 range and finally closed at 94.0280 (last week 95.5000)(**movements have been on the expected lines**). The status is as under:

  Monthly crossover signal remains in up mode (above zero line since Feb'15); **however there are exhaustion signals;**

  Daily Crossover signal running positive since 9th May'16, but is below zero line;

  Weekly Crossover signal running negative since week ending 5th Feb'16, but is above zero line;

  Daily RSI has moved down to 40.58 (last week 60.22), and is below average;

  Weekly RSI has moved down to 42.58 (last week 48.14), and is below average;

  Monthly RSI has moved down to 52.66 (last week 56.12), and is below average;

  Daily MACD is running above zero line, but has **moved below** average;

  Weekly MACD is running below zero line, and is below average;

  3WMA (94.95) is running above 5WMA (94.66) since 3 weeks (after 9 weeks of downtrend), but index has closed below these averages.

  We are of the view that having closed below 50DMA (94.60), intermediate downtrend has begun once again. Now, one has to watch 93.65, as once index goes below this level, it would move lower towards 93.10 / 91.90. The major support exists around 120QMA (91.13) and the immediate resistance exists at 50DMA (94.60). As indicated earlier also, the medium term trend is running bearish.

Going forward, the following summarized facts may be observed:

a. Dollar Index – it is running bearish and intermediate trend has turned negative;

b. **120DMA (67.07) is running above 200DMA (66.62), but the difference between the two is slowly coming down; 120DMA went below 200DMA last in Mar'14, when Rupee got appreciated from around 62 to 58.25 in May'14;**

c. 50DMA (66.69) is running above 200DMA (66.62), however the difference between the two, which was continuously decreasing so far since long, has very marginally increased last week and has reached 0.07, but is much below the levels of Jan'15 (1.47); 50DMA (66.64) is running below 65DMA (66.79);

d. Daily, Weekly & Monthly MACD are running below average;

e. 21DMA (67.04) is running above 30DMA (66.87) since 5 weeks; **currency has gone below 21DMA, but seems to have taken support still on 30DMA;**

f. 21WMA (67.18) is running above 30WMA (66.96), but the difference between the two is moving down;

g. 3WMA (67.13) is running above 5WMA (66.96) since 3 weeks; 3MMA (66.86) is running below 5MMA (67.01) since 6 weeks.

In view of all above, we are of the view that currency is likely to remain quite volatile in next 2-4 months on both the sides. In short term, it may be observed that currency has once again closed below 120DMA (67.07), and accordingly, Rupee may appreciate in short term and may move lower towards 66.87 (30DMA); once 66.87 is broken, it may then move towards 66.74 (65DMA) / 66.62 (200DMA) also. As explained above, difference between 120DMA & 200DMA is continuously getting down, which may be taken as a danger bell. However, till 200DMA (66.62) remains intact and 21DMA remains above 30DMA, further Rupee appreciation may get avoided. Rather, in short term there are multiple events lined up in next 20-22 days, which may also help in getting it avoided, but in short term only. Till all this happens, Rupee may consolidate in a bigger range of 66.62 – 67.05 – 67.40.

As being indicated since last two weeks, the positioning of major daily moving averages 50DMA (66.69) / 65DMA (66.74) / 120DMA (67.07) is not supporting Rupee depreciation, since these moving averages are in negative phase; also, chart patterns are not supporting any major Rupee depreciation in short term. Accordingly, one has to remain quite vigilant in next 3 weeks and continuous review would be required of the positioning of different averages / indicators.

Besides above, it may be continuously kept in mind that, in / around Sept'16, RBI has to make payment of about 34 Billion Dollars worth of payables and this may result in creating pressure on Rupee around that time (pressure may even start from July end onwards).

========================== FOREX HEDGING GUIDE==========================

Importers should hedge medium term payables on any downtick towards 66.90 – 66.80. Short term payables may continue to be settled at market rates. Long term payables beyond August should be left and should be reviewed next week. Total hedging may be maintained around 55%. Review of hedging strategies should be made, in case currency closes above 67.40 or below 66.55 on daily closing basis.

Exporters should hedge medium term receivables around 67.05 - 67.20. Hedged position may be maintained around 60-65%.

Major Resistances : 67.20 / 67.40 / 67.70 / 68.30

Major Supports : 66.75 / 66.60 / 66.15

Note: All the above rates are from Meta Stock

Regards,

D. S. Kapoor
Cost Accountant
E-Mail: dhyankapoor@gmail.com
Mobile: 9628411116

Ministry of Corporate Affairs
Government of India

CIRCULARS/ NOTIFICATIONS ISSUED DURING THE PERIOD

Ref No.	Date	Description
General Circular 05/2016	16.05.2016	Clarification with regard to provisions of Corporate Social Responsibility under section 135 of the Companies Act, 2013
General Circular 06/2016	16.05.2016	Relaxation of additional fees and extension of last date of filing of various e-Forms under the Companies Act
S.O.(E)	18.05.2016	Special courts under section 435 of Companies Act, 2013
S.O.(E)	18.05.2016	Commencement of section 2(29), sections 435 to 438 and 440 of Companies Act, 2013
General Circular 07/2016	31.05.2016	Relaxation of additional fees and extension of time and filing of e-Forms by the Companies under Companies Act, 2013 and for filing of Annual Return (Form 11) by the LLPs under the Limited Liability Partnership Act, 2008
S.O. 1936(E)	01.06.2016	Transfer of matters or proceedings or cases pending before the Company Law Board to National Company Law Tribunal
S.O. 1934(E) and S.O. 1935(E)	01.06.2016	Commencement Notification under Section 1(3) of the Companies Act, 2013 and Notification constituting the Benches of National Company Law Tribunal
S.O. 1932(E) and 1933(E)	01.06.2016	Notification constituting the National Company Law Tribunal and National Company Law Appellate Tribunal under Sections 408 and 410 respectively of the Companies Act, 2013

Ministry of Corporate Affairs
Government of India

RELAXATION OF ADDITIONAL FEES AND EXTENSION OF TIME FOR FILING OF E-FORMS BY COMPANIES AND ANNUAL RETURN BY LLPS (FORM 11)

Ministry of Corporate Affairs had vide its General Circular no. 07/2016 dated 31st May, 2016 has extended the period for which the one time waiver of additional fees is applicable to all e-forms which are due for filing by companies between 25th March, 2016 to 30th June, 2016 and has also extended the last date for filing such documents and availing the benefit of waiver till 10th July, 2016.

This circular is in continuation of MCA general circular no.03/2016 dated 12th April, 2016 in which relaxation and extension was given upto 10th May, 2016 and general circular no.06/2016 dated 16th May, 2016 in which a further relaxation and extension was given upto 10th June, 2016.

Further, extension is also given for filing Annual Return of Limited Liability Partnership (LLPs) in Form 11 with respect to the Financial Year ending on 31st March, 2016, upto 30th June, 2016.

Ministry of Corporate Affairs
Government of India

ESTABLISHMENT OF NATIONAL COMPANY LAW APPELLATE TRIBUNAL

Ministry of Corporate Affairs has w.e.f. 1st June, 2016 notified the National Company Law Tribunal (NCLT) and National Company Law Appellate Tribunal (NCLAT) to exercise and discharge the powers and functions as are or may be conferred on it under the Companies Act, 2013

Principal bench of the NCLT and NCLAT has been established in New Delhi and 9 other benches are also notified viz. Ahmedabad, Allahabad, Bangalore, Chandigarh, Chennai, Guwahati, Hyderabad, Kolkata and Mumbai. With the constitution of the NCLT and NCLAT the following section of the Companies Act has come in to force with effect from 1st June, 2016:

With the constitution of the NCLT and NCLAT following sections of the Companies Act, 2013 have also been come into force w.e.f. 1st June, 2016:

Sl No.	Section	Subject Matter
1	Sub-section (7) of section 7 [except clause (c) and (d)]	Actions against false or incorrect information filed for incorporation of the Company.
2&3	Second proviso to sub-section (1) of section 14 Sub-section (2) of section 14	Conversion of Public Company into a Private Company
4	Sub-section (3) of section 55	Rollover Redemption of preference shares
5	Proviso to Clause (b) of sub-section (1) of section 61	Consolidation and division of share capital resulting changes in the voting percentage of the shareholders
6	Sub-sections (4) to (6) of section 62	Change in terms of issue of debentures to facilitate conversion into equity shares
7	Sub-sections (9) to (11) of section 71	Redemption of debentures through tribunal
8	Section 75	Actions against Company for defrauding depositors wherein it fails to repay the deposit, any part thereof or interest.

9	Section 97	Power to call AGM
10	Section 98	Power to call meetings (other than AGM) of members
11	Section 99	Punishment for default in comply with Tribunal directions regarding Meetings
12	Sub-section (4) of section 119	Order for inspection of minutes book in case of refusal by the Company
13	Section 130	Re-opening of accounts on Tribunal order
14	Section 131	Voluntary Revision of Financial Statements and or Board Report
15	Second proviso to sub-section (4) and sub-section (5) of section 140	Relaxation in representation & Removal of Auditors before due date and sue moto actions of Tribunal for removal.
16	Sub-section (4) of section 169	Relaxation in representation- Removal of Director
17	Section 213	Investigation into Company's affair
18	Sub-section (2) of Section 216	Appointment of inspectors for investigation of ownership
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	Sub-sections (5) of section 224	Application by Central Govt. for Appropriate orders against Company or Directors with on inspector report
23	Sections 241, 242 [except clause (b) of sub-section (1), clause (c) & (g) of sub-section (2)], 243, 244, and 245	Actions against oppression and mismanagement
24	Reference of word 'Tribunal' in sub-section (2) of section 399	Order for production of documents by the Registrar

25	Sections 415 to 433 (both inclusive)	Tribunal, its Chairman and members and provisions related thereto
26 & 27	Sub-section (1)(a) and (b) of section 434 Sub-section (2) of section 434	Transfer of pending proceeding to Tribunal Central Govt to make rules for timely transfer of pending matters
28	Section 441	Compounding of offences
29	Section 466	Dissolution of CLB and consequential provisions.

भारतीय प्रतिभूति और विनिमय बोर्ड
Securities and Exchange Board of India

AMENDMENTS IN SEBI (LISTING OBLIGATIONS AND DISCLOSURE REQUIREMENTS) REGULATIONS, 2015

SEBI, with the intent of investor protection and enabling them to take better and well informed investment decisions, has vide its Circulars dated 25th May 2016 and 27th May 2016 brought in certain amendments to the LODR Regulations (primarily Regulations 33 & 52). With these amendments SEBI has put in place a mechanism to review the audit qualifications contained in the audit reports of the listed entities.

These Regulations pertain to the requirements of submitting Financial Results of the Company. As per the extant provisions, along with the Audited results for the financial year, Form A/ Form B were needed to be submitted, depending upon there being any Auditors' Qualifications or not.

Now, vide the above mentioned Circulars, it has been decided to **do away with the requirement of filing** Form A/ Form B**. The listed Companies are now required to disseminate the cumulative impact of all the audit qualifications in a separate format, simultaneously, while submitting the annual audited financial results to the stock exchanges.**

The provisions of the said Circulars are applicable for all the annual audited standalone / consolidated financial results submitted by the listed entities for the period ending on or after March 31, 2016. That is to say, even for the results for the FY 15-16-either already submitted or under the process of being submitted.

A brief gist of the said Circulars is as under:

1. The requirements of filing Form A/ Form B along with the annual financial results has been dispensed with.
2. In case of Audit Reports with modified opinions (i.e. Qualified Audit Reports), a Statement on Impact of Audit Qualifications is needed to be submitted.
3. The management of the listed entity shall have the option to explain its views on the audit qualifications

4. Where the impact of the audit qualification is not quantified by the auditor, the management shall make an estimate. In case the management is unable to make an estimate, it shall provide reasons for the same. In both the scenarios, the auditor shall review and give the comments.
5. Further, the said Statement is also needed to be given in the Company's Annual Reports.
6. Further, in case of audit reports with unmodified opinion(s), the listed entity shall furnish a declaration to that effect to the Stock Exchange(s) while publishing the annual audited financial results.
7. Schedule VIII of the LODR Regulations has been deleted.
8. These requirements are applicable for both listed equity shares and also listed NCDs/ NCRPSs.

Format of Statement on Impact of Audit Qualifications (for audit report with modified opinion) submitted along-with Annual Audited Financial Results - (*Standalone and Consolidated separately)*

Statement on Impact of Audit Qualifications for the Financial Year ended March 31, ... [*Under* Regulation 33 / 52 of the SEBI (LODR) (Amendment) Regulations, 2016]				
I.	**Sl. No.**	**Particulars**	**Audited Figures (as reported before adjusting for qualifications)**	**Adjusted Figures (audited figures after adjusting for qualifications)**
	1	Turnover / Total Income		
	2	Total Expenditure		
	3	Net Profit/ (Loss)		
	4	Earnings Per Share		
	5	Total Assets		
	6	Total Liabilities		
	7	Net Worth		
	8	Any other financial item(s) (as felt appropriate by the management)		
II.	**Audit Qualification (each audit qualification separately):**			
	a. Details of Audit Qualification:			
	b. **Type of Audit Qualification :** Qualified Opinion / Disclaimer of Opinion / Adverse Opinion			
	c. **Frequency of qualification:** Whether appeared first time / repetitive / since how long continuing			
	d. For Audit Qualification(s) where the impact is quantified by the auditor, Management's Views:			
	e. For Audit Qualification(s) where the impact is not quantified by the auditor:			
	(i) **Management's estimation on the impact of audit qualification:**			
	(ii) **If management is unable to estimate the impact, reasons for the same:**			
	(iii) **Auditors' Comments on (i) or (ii) above:**			
III.	**Signatories**			
	□ CEO/Managing Director			
	□ CFO			
	□ Audit Committee Chairman			
	□ Statutory Auditor			
	Place:			
	Date:			

भारतीय प्रतिभूति और विनिमय बोर्ड
Securities and Exchange Board of India

"A new recognition to the Company Secretaries"

PROCEDURE TO DEAL WITH THE CASES PRIOR TO 1ST APRIL, 2014 INVOLVING OFFER OR ALLOTMENT OF SECURITIES MORE THAN 49 AND UPTO 200 INVESTORS

SEBI has issue a Circular no. CFD/DIL3/CIR/P/2016/53 dated 3rd May, 2016 and identified a new certification of the Company Secretaries, in case of allotment of securities of the Listed Entity.

1. Sebi has vide Circular no. CFD/DIL3/18/2015 dated 31st December, 2015, pescribed the procedure to deal with the cases involving offer / allotment of securities to more than 49 and upto 200 persons.
2. Para 7 of the said circular provides for submission of the certificate from an independent peer reviewed practicing Chartered Accountant certifying compliance as prescribed in the circular.
3. It has now been decided that the certification as provided in the said Para 7 of Circular no. CFD/DIL3/18/2015 dated 31st December, 2015, may also be provided by an Independent peer reviewed practicing Company Secretary.

भारतीय प्रतिभूति और विनिमय बोर्ड
Securities and Exchange Board of India

SEBI CAUTIONS INVESTORS NOT TO INVEST IN SCHEMES OFFERED BY ENTITIES BARRED BY SEBI OR ENTITIES NOT REGISTERED WITH SEBI

Certain Collective Investment Scheme(s) (CIS) have come to the notice of SEBI, which were offered by entities not registered with SEBI nor offer document of such schemes have been filed with SEBI. Appropriate actions have been taken against such entities and its Directors and since January 01, 2011, SEBI has passed orders against certain entities and its Directors (listed below), carrying on unregistered CIS. As part of interim directions, SEBI *inter-alia* directs the entities and its Directors to stop collecting further money under existing / new schemes, not to launch any new scheme or float any new companies/firm to raise fresh money, not to divert or alienate any assets or money collected. As part of final directions, SEBI directs winding up of unregistered schemes of the entities, repayments to investors and *inter-alia* also debars the entity and its Directors from accessing the Capital markets.

A list of the Companies against whom orders have been passed by SEBI since 2011 till May 31, 2016 is also issued by the SEBI. The respective orders are available on the SEBI website at www.sebi.gov.in

Investors and general public are hereby cautioned that other than "GIFT Collective Investment Management Company Limited" no other entity is registered with SEBI under the CIS Regulations. Further, investors are advised to bear the following cautionary checks before investing in a collective investment scheme:

a. Whether the entity is registered with SEBI
b. Whether the scheme (CIS) has filed an offer document with SEBI
c. Subscription to CIS units is permitted only though a banking channel, no cash transactions are permitted
d. No guaranteed or assured returns are permitted (at most, an indicative return may be stated in offer document)

If any of the unregistered entity/ies are found to be collecting / mobilizing money, investors are advised not to subscribe to such schemes and to report the same to SEBI and State authorities including Police authorities immediately, along with appropriate details / documents.

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कानपुर जागरण
कानपुर, 6 मई 2016 दैनिक जागरण | 11

कारपोरेट जस्टिस में धुरी बनेंगे सीएस

● नेशनल कंपनी लॉ ट्रिब्यूनल बनने से कम होगा हाईकोर्ट पर पड़ने वाला बोझ

अंजनी निगम, कानपुर

भारत सहित पूरी दुनिया में बिजनेस प्रोसेस को सरल और एकरूपता देने की कोशिश हो रही है ताकि 'ईज आफ डूइंग' बिजनेस की परिकल्पना साकार की जा सके। व्यापारिक प्रक्रिया के सरलीकरण के साथ न्यायिक प्रक्रिया को भी सरल और त्वरित बनाया जा रहा है। इसी प्रयास में कारपोरेट जस्टिस के लिए सिंगल विंडो इंस्टीट्यूशन के तहत नेशनल कंपनी लॉ ट्रिब्यूनल (एनसीएलटी) और नेशनल कंपनी लॉ अपीलेट ट्रिब्यूनल (एनसीएलएटी) का गठन हो रहा है। वर्तमान में इसके चेयरमैन व सदस्यों के चयन की प्रक्रिया चल रही है।

अभी कारपोरेट मामले हाईकोर्ट या कंपनी लॉ बोर्ड में निस्तारित होते हैं। संविधान के अनुच्छेद 323 ए ने एडमिनिस्ट्रेटिव ट्रिब्यूनल एक्ट 1985 बनाया था। इसका उद्देश्य हाईकोर्ट में पड़ने वाले दबाव को कम करने के साथ ही विशेष मामलों के लिए विशेष न्यायिक व्यवस्था अपनाना था। इसी के बाद डेट रिकवरी ट्रिब्यूनल, सिक्योरिटीज अपीलेट ट्रिब्यूनल आदि का गठन हुआ है।

इन मामलों का होगा निस्तारण

एनसीएलटी और एनसीएलएटी कारपोरेट मामलों के लिए विशेष न्यायिक पीठ के रूप में काम करेंगी। अभी तक जो मामले हाईकोर्ट या कंपनी लॉ बोर्ड में निपटाए जाते थे, वह सभी एनसीएलटी में सुने जाएंगे। एनसीएलटी के गठन के बाद कंपनी लॉ बोर्ड और बीआईएफआर का विलय उसमें हो जाएगा। एनसीएलटी की स्थापना की मांग कंपनी संविधान अधिनियम 2002 में की गयी थी, तब से काफी उठा पटक के बाद कंपनी एक्ट 2013 की धारा 408 व 410 में एनसीएलटी और एनसीएलएटी के गठन का रूप दिया गया। इसकी प्रिंसिपल बेंच दिल्ली में होगी जहां ट्रिब्यूनल का चेयरमैन बैठेगा। जहां भी आवश्यकता होंगी वहां ट्रिब्यूनल की बेंच खोली जाएंगी। प्रदेश की बेंच इलाहाबाद में खोली जा रही है।

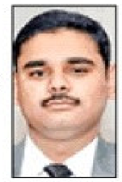
- **कारोबार के साथ न्यायिक प्रक्रिया भी सरल व त्वरित बनाने की कवायद**
- **अपीलेट ट्रिब्यूनल होगा दिल्ली में, इलाहाबाद में बेंच खोलने की तैयारी**

खास खबर

हो सकेगी अपील

सभी कारपोरेट मामले एनसीएलटी में जाएंगे और वहां के निर्णय की अपील एनसीएलएटी में करने की व्यवस्था रहेगी। एनसीएलएटी के निर्णय को सुप्रीम कोर्ट में चुनौती दी जा सकेगी। एनसीएलटी में एक और खास बात होगी कि वह अपने ही निर्णय पर पुनर्विचार कर सकेगी।

सीएस कर सकेंगे जिरह



इंस्टीट्यूट आफ कंपनी सेक्रेट्रीज के कानपुर चेप्टर के पूर्व चेयरमैन अंकुर श्रीवास्तव ने बताया कि कारपोरेट मामलों में कंपनी सेक्रेट्री को ट्रिब्यूनल में उपस्थित होकर केस में जिरह करने का अधिकार है। इससे सीएस के प्रोफेशन में नए आयाम आएंगे। अब सीएस कंपनियों के विलय और मिलन के मामलों में स्कीम बनाने के साथ ही ट्रिब्यूनल में भी हाजिर होंगे। इसमें बीमार इकाइयों, कंपनियों के बाउंस होने पर ट्रिब्यूनल का दरवाजा खटखटाना जेसे मामले शामिल रहेंगे। 15 साल की प्रेक्टिस वाले सीएस को एनसीएलटी में सदस्य के रूप में लिया जा सकता है।

कानपुर LIVE कैम्पस
सोमवार , 02 मई 2016
हिन्दुस्तान 18

प्रैक्टिस के ढेरों अवसरों से चमकेगा सीएस कॅरियर, नेशनल कम्पनी ला ट्रिब्यूनल का हुआ गठन

एनसीएलटी ने खोले कंपनी सेकेट्री को नए रास्ते

कानपुर | प्रमुख संवाददाता

अब कंपनी सेकेट्रीज का कॅरियर का आसमान पहले से ज्यादा खुला और बड़ा हो गया है। नेशनल कंपनी लॉ ट्रिब्यूनल (एनसीएलटी) के गठन के बाद सीए को नौकरी के अलावा खुद की प्रैक्टिस के नए रास्ते खुल गए हैं।

अभी तक कॉरपोरेट मामलों को हाईकोर्ट और कंपनी ला बोर्ड ही सुलझाता है। हाईकोर्ट के ऊपर काम के दबाव को कम करने के लिए डेब्ट रिकवरी ट्रिब्यूनल, सिक्योरिटीज अपीलेट ट्रिब्यूनल सेस्टल जैसे ट्रिब्यूनल का गठन किया गया है। लगातार जटिल होते कानून को देखते हुए एनसीएलटी का गठन किया गया है। अभी तक जो मामले हाईकोर्ट या कंपनी ला बोर्ड से निपटाए जाते थे, उन्हें एनसीएलटी से निपटाया जाएगा। यहां कंपनी सेकेट्री को उपस्थित होने व वहां जिरह करने का अधिकार होगा। एनसीएलटी की मुख्य बेंच नई दिल्ली में होगी। यूपी में इलाहाबाद में इसकी बेंच होगी। इससे कंपनी सेकेट्री को ज्यादा लाभ मिलेगा और उनकी सेवाओं का विस्तार होगा।

एनसीएलटी की ताकत

- सभी कंपनी ला बोर्ड के मामले
- बीआईएफआर की सभी शक्ति
- उच्च न्यायालय की पावर मर्जर, डीमर्जर, वाइंड अप आदि के मामले
- नान बैंकिंग कंपनी के डिपाजिट वापस करने का आदेश
- कंपनी बंद करने की शक्ति
- अपने आदेश की खुद समीक्षा करने की ताकत
- पूंजी कर करने जैसे मामले

खुलेंगे नए क्षेत्र

- विलय आदि के मामलों में स्कीम बनाना, ट्रिब्यूनल में पेश होना, अप्रूव कराना और विलय के बाद प्रक्रिया
- बीमार कंपनियों के मामले में एनसीएलटी में रिफ्रेंस देना
- ट्रिब्यूनल मे कंपनी सेकेट्री ही आधिकारिक लिक्विडेटर नियुक्त किया जा सकेगा
- कंपनियों की चुकता पूंजी कम करना और ट्रिब्यूनल में पेश होना
- एनसीएलटी में कंपनी सेकेट्री को सदस्य में नियुक्त किए जा सकते हैं

कॉरपोरेट मामलों को जल्द और तथ्यामत्क तरीके से सुलझाने को एनसीएलटी का गठन होगा। गठन के बाद कंपनी ला बोर्ड और बीआईएफआर का विलय इसमें होगा। इसकी मांग चार साल से हो रही थी। गठन के साथ सीएस को प्रोफेशन के तौर पर संभावनाएं बढ़ जाएंगी। इस प्रोफेशन में युवाओं का क्रेज बढ़ेगा।

–अंकुर श्रीवास्तव, पूर्व चेयरमैन, द इंस्टीट्यूट आफ कंपनी सेकेट्रीज ऑफ इंडिया (कानपुर चैप्टर)

================================ UPDATES ================================

कानपुर **My City**

कथनी करनी एक हो यह नीति का आदर्श है। - पद्माकर

अमर उजाला

कानपुर | शुक्रवार | 3 जून 2016

नेशनल कंपनी लॉ ट्रिब्यूनल गठित

अमर उजाला ब्यूरो

कानपुर। कॉरपोरेट सेक्टर को कंपनियों से संबंधित वाद, विवाद और अनुमतियों की सुनवाई के लिए अब हाईकोर्ट की दौड़ नहीं लगानी पड़ेगी। मिनिस्ट्री ऑफ कारपोरेट अफेयर्स ने एक जून को नोटिफिकेशन जारी कर देश के पहले नेशनल कंपनी लॉ ट्रिब्यूनल (एनसीएलटी) और नेशनल कंपनी लॉ अपीलेट ट्रिब्यूनल का गठन कर दिया है। इसकी प्रिंसिपल बेंच नई दिल्ली में बनाई गई है। नार्दर्न रीजन में चंडीगढ़ और इलाहाबाद में बेंच होगी। इसके अलावा अहमदाबाद, बंगलूरू, चेन्नई, गुवाहाटी, हैदराबाद, कोलकाता और मुंबई में बेंच बनाई गई है। ट्रिब्यूनल में वाद प्रस्तुत करने और कंपनी को रिप्रजेंट करने का अधिकार कंपनी सचिव को दिया गया है। अभी यह अधिकार हाईकोर्ट के वकील के पास था। नेशनल कंपनी लॉ ट्रिब्यूनल के प्रभावी होने के बाद कंपनियों से जुड़े सभी वादों का निपटारा, कंपनी के मर्जर, विलय एवं एकीकरण की अनुमति ट्रिब्यूनल में होगी। शेयरधारकों को कंपनी के अंदर प्रबंधकीय फ्रॉड की शिकायत भी ट्रिब्यूनल में करनी पड़ेगी। ट्रिब्यूनल का फैसला ही अंतिम फैसला होगा।

ये होंगे फायदे

- कंपनी सचिवों के लिए प्रैक्टिस का नया क्षेत्र
- हाईकोर्ट के चक्कर नहीं लगाने पड़ेंगे।
- वकीलों की महंगी फीस से मुक्ति मिलेगी।
- कंपनी सचिव इन मामलों को देख सकेंगे।

इन मामलों की होगी सुनवाई

- कंपनी के इनकारपोरेशन के समय दी गई गलत जानकारी व होने वाली कार्रवाई
- पब्लिक कंपनी को प्राइवेट कंपनी में बदलना
- डिबेंचर का पैसा वापस करना
- डिपॉजिट होल्डर को धोखा देने के मामले
- शेयर धारकों की मीटिंग बुलाना
- कंपनी के मिनट्स के इंस्पेक्शन का आर्डर
- फाइनेंशियल रिजल्ट को दोबारा खुलवाना
- कंपनी के मामलों की जांच
- छोटे शेयरधारकों के हितों की रक्षा करना
- कंपनी लॉ बोर्ड का निरस्तीकरण

ट्रिब्यूनल से यूपी का बढ़ेगा कद

कानपुर। नेशनल कंपनी लॉ ट्रिब्यूनल के गठन के बाद हाईकोर्ट में पेंडिंग मामले ट्रिब्यूनल को ट्रांसफर हो जाएंगे। यूपी में करीब 90 हजार कंपनियां हैं और यहां हजारों मामले हाईकोर्ट में पेंडिंग हैं। उत्तराखंड में करीब 50 हजार कंपनियां हैं।

3.6.2016 अमर उजाला MYCITY कानपुर | शुक्रवार 05

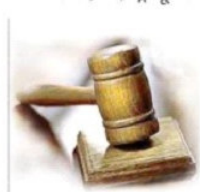
नेशनल कंपनी लॉ ट्रिब्यूनल का गठन

मिनिस्ट्री ऑफ कारपोरेट अफेयर्स ने जारी किया नोटिफिकेशन

कानपुर। कारपोरेट सेक्टर को कंपनियों से संबंधित वाद, विवाद और अनुमतियों की सुनवाई के लिए अब हाईकोर्ट की दौड़ नहीं लगानी पड़ेगी। मिनिस्ट्री ऑफ कारपोरेट अफेयर्स ने एक जून को नोटिफिकेशन जारी कर देश के पहले नेशनल कंपनी लॉ ट्रिब्यूनल (एनसीएलटी) और नेशनल कंपनी लॉ अपीलेट ट्रिब्यूनल का गठन कर दिया है।

इसकी प्रिंसिपल बेंच नई दिल्ली में बनाई गई है। नार्दर्न रीजन में चंडीगढ़ और इलाहाबाद में बेंच होगी। इसके अलावा अहमदाबाद, बंगलूरू, चेन्नई, गुवाहाटी, हैदराबाद, कोलकाता और मुंबई में बेंच बनाई गई है। ट्रिब्यूनल में वाद प्रस्तुत करने और कंपनी को रिप्रजेंट करने का अधिकार कंपनी सचिव को दिया गया है। अभी यह अधिकार हाईकोर्ट के वकील के पास था। नेशनल कंपनी लॉ ट्रिब्यूनल के प्रभावी होने के बाद कंपनियों से जुड़े सभी वादों का निपटारा, कंपनी के मर्जर, विलय एवं एकीकरण की अनुमति ट्रिब्यूनल में होगी। शेयरधारकों को कंपनी के अंदर प्रबंधकीय फ्रॉड की शिकायत भी ट्रिब्यूनल में करनी पड़ेगी। ट्रिब्यूनल का फैसला ही अंतिम फैसला होगा।

- नार्दन रीजन में दिल्ली, चंडीगढ़ व इलाहाबाद में बनाए गए ट्रिब्यूनल



ये होंगे फायदे

- कंपनी सचिवों के लिए प्रैक्टिस का नया क्षेत्र
- सालों तक हाईकोर्ट के चक्कर नहीं लगाने पड़ेंगे।
- वकीलों की महंगी फीस से मुक्ति मिलेगी।
- कंपनी सचिव इन मामलों को देख सकेंगे।

नेशनल कंपनी लॉ ट्रिब्यूनल के गठन से देश का पूरा कारपोरेट सेक्टर बदल जाएगा। अब एक स्पेशल प्लेटफार्म पर स्पेशलाइज्ड प्रोफेशनल कंपनी मामलों की सुनवाई करेंगे। उन्हें इनकी बारीकियां भी पता होंगी और इसके जोखिम भी। सबसे बड़ी बात ये कि कारपोरेट मामलों में उचित समय पर सही न्याय मिल सकेगा।

-सीएस अंकुर श्रीवास्तव, पूर्व प्रेसिडेंट, इंस्टीट्यूट ऑफ कंपनी सेक्रेटरी

ट्रिब्यूनल से यूपी का बढ़ेगा कद

कानपुर। नेशनल कंपनी लॉ ट्रिब्यूनल के गठन के बाद हाईकोर्ट में पेंडिंग मामले ट्रिब्यूनल को ट्रांसफर हो जाएंगे। यूपी में करीब 90 हजार कंपनियां हैं और यहां हजारों मामले हाईकोर्ट में पेंडिंग हैं। इसी तरह उत्तराखंड में करीब 50 हजार कंपनियां हैं। वहां की हाईकोर्ट में लंबित मामले भी इलाहाबाद ट्रिब्यूनल के पास आ जाएंगे। नेशनल कंपनी लॉ ट्रिब्यूनल की बेंच इलाहाबाद में होने से न सिर्फ इस शहर का कद बढ़ेगा बल्कि यूपी का भी वर्चस्व बरकरार रहेगा।

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