



SIRC MYSURU CHAPTER



eMagazine

February, 2024
238th Edition

Vision

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

Motto

सत्यं वद। धर्मं चर। इच्छते तेन लोके। शंसते इयं तेन।

Mission

"To develop high calibre professionals facilitating good corporate governance"

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CS Padmanabha V
 CHAIRMAN
 MYSURU CHAPTER

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Dear Professional Colleagues

I would take this opportunity to express my sincere gratitude to all of you and our committee and chapter members for reposing confidence in me and electing me as Chairman of Mysuru Chapter.

The year 2023 has been an eventful year, my predecessors have set high expectations in the minds of stakeholders through their commendable performance. I am confident that, with active support and involvement of new managing committee members I will meet the expectations of the stakeholders.

We have Celebrated 75th Republic Day and we have also re-started Monthly study circle meeting for the members and students, I request all members and students to participate in more numbers, so that we can successfully continue to have Study circle meeting every month. We have also felicitated the January 2024 CSEET passed students.

Our Chapter has participated in Education Expo, Mysore Education Fair 2024, at Maharaja College Grounds, Mysuru for 3 days starting from 26th January 2024 to 28th January, 2024, in order to spread awareness about our Company Secretary course, the managing committee members addressed the students and spoke about the Company Secretaryship Course and the opportunities.

We have already drawn the activities Calendar of the Chapter for the whole year and planning to have innovative programmes for the members and students. To start with we have planned to organise a Two Days seminar in the month of March, 2024. We invite all members to attend this 2 day seminar and make it a grand success.

The results of CS Executive and Professional examination is nearing and I wish good results to all the students who appeared for the examination.

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ICSI Mysuru Chapter
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Toastmasters



ICSI Mysuru RoyalPro Toastmasters Club

The New Executive Committee's installation ceremony was held on 26th January, 2024.

Here is a glimpse of the Installation ceremony of the Club officers of ICSI Mysuru RoyalPro Toastmasters Club



The Club's current VP Education Completed her Level 3 in the Strategic Relationship's pathway. Leading by example.

If you are interested in joining our Toastmasters club and reaping its benefits, please do get in touch with the club VP Membership TM Krishnegowda 98453 - 27588 or Chapter Chairman TM Padmanabha V at 99645 - 77199 (only through WhatsApp please). We would love to have you as part of our family!



Chapter Activities

Republic Day

Chapter celebrated 75th Republic Day: On 26th Jan the chapter celebrated Republic Day. Members and students participated in the ceremony. On the occasion chapter felicitated the CSEET passed students



Study Circle



On Jan 26th, chapter held a study circle meeting with members and students. Discussion was on the Topic “Demat of Private Companies Securities and SBO” led by CS Shashidhar R. More than 30 members and students participated in the discussion.

Education Fair

The Mysuru Chapter of ICSI participated in the Mysore Education Fair 2024, at Maharaja College Grounds, Mysuru for 3 days starting from 26th January 2024 to 28th January 2024, in order to spread awareness about our Company Secretary course. The managing committee members addressed the students and spoke about the Company Secretaryship Course and the opportunities.



Committee of Creditors: An Institution of Public Faith under the Insolvency and Bankruptcy Code

Introduction:

The Insolvency and Bankruptcy Code of India (IBC) introduced a revolutionary mechanism for resolving stressed assets with the creation of the Committee of Creditors (CoC). Empowered with immense decision-making authority, the CoC became the fulcrum of the corporate insolvency resolution process (CIRP). However, its journey under the IBC has been one of continuous evolution, grappling with challenges and adapting to judicial pronouncements. This unique body, entrusted with immense power and responsibility, is rightly described as an "institution of public faith" within the bankruptcy framework. But what makes the CoC deserving of this title? This article delves into the provisions of the IBC to explore the crucial role of the CoC and its inherent need for ethical conduct.

The Power and Responsibility of the CoC:

- **Decision-making body:** The CoC holds the reins of the corporate insolvency resolution process (CIRP). It decides on the fate of a distressed company – from approving resolution plans to opting for liquidation. This vast power demands utmost care and diligence in decision-making.
- **Balancing interests:** The CoC's mandate extends beyond maximizing creditor recovery. The CoC is not just a creditor forum. It is mandated to consider the interests of all stakeholders – employees, suppliers, government, and the overall economy. Striking a balance between maximizing value for creditors and fostering business revival requires a well-rounded perspective.
- **Transparency and accountability:** The CoC's decisions are subject to judicial scrutiny and public interest. Therefore, transparency in its proceedings and accountability for its actions are essential to uphold public trust.

Challenges and Safeguards:

- **Conflicts of interest:** Individual creditors might prioritize their own recovery over the company's revival. Robust conflict resolution mechanisms are vital to ensure decisions are made for the collective good.

“

The CoC's journey so far has seen successes and challenges. However, its potential to serve as a robust and fair mechanism for resolving stressed assets remains immense.”

CS Peer Mehboob
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- **Information asymmetry:** Access to crucial information might be skewed towards larger creditors. Fair information dissemination and independent expertise are necessary to level the playing field.
- **Vulnerability to manipulation:** External influences or vested interests could sway the CoC's decisions. Strong ethical standards and legal safeguards are crucial to maintain integrity.
- **Internal Negotiation and Voting:** The CoC primarily relies on internal discussions and voting to resolve conflicts. While promoting stakeholder engagement, this method can be susceptible to power imbalances and dominance by larger creditors.
- **Third-party Mediation:** The IBC allows the CoC to appoint an independent mediator to facilitate discussions and bridge differences. However, voluntary participation and lack of binding power limit its effectiveness in resolving entrenched disputes.
- **Judicial Intervention:** Ultimately, judicial recourse remains available for creditors dissatisfied with the CoC's decisions. However, this can be time-consuming and expensive, delaying the CIRP and undermining its efficiency.

Upholding the Public Faith:

The CoC's success hinges on its ability to operate as an institution of public faith. This requires:

- **Adherence to legal principles:** Decisions must be grounded in the IBC's provisions and fair business practices.
- **Impartiality and objectivity:** Individual interests should be set aside for the collective benefit of stakeholders and the economy.
- **Professionalism and competence:** Members must possess the requisite financial and legal expertise to make informed decisions.
- **Transparency and accountability:** Open communication and adherence to due process are crucial to build trust and prevent malpractices.

Case Studies:

To illustrate the CoC's role and challenges, consider following case studies:

- **Essar Steel:** The CoC's approval of ArcelorMittal's resolution plan for Essar Steel was lauded for its focus on maximizing value for all stakeholders, including employees and the Indian economy. The Supreme Court upheld the CoC's approval of ArcelorMittal's resolution plan, emphasizing maximizing value for all stakeholders and setting a precedent for prioritizing resolution over liquidation.
- **Bhushan Power & Steel:** The CoC's decision to liquidate Bhushan Power & Steel after failing to find a viable resolution plan highlighted the challenges of balancing creditor interests with revival prospects and finding viable resolutions and navigating situations where maximizing value is not readily achievable.
- **Swiss Ribbons:** The National Company Law Appellate Tribunal emphasized the CoC's responsibility to consider public interest alongside creditor recovery, solidifying its dualistic role as both a creditor representative and custodian of economic welfare.

Conclusion and Road Ahead:

The CoC's journey under the IBC has been a mixed bag. While successes like Essar Steel showcase its potential to drive economic recovery, challenges like Bhushan Power & Steel emphasize the need for constant vigilance and improvement. The CoC's journey so far has seen successes and challenges. However, its potential to serve as a robust and fair mechanism for resolving stressed assets remains immense. By continuously emphasizing ethical conduct, transparency, and stakeholder inclusivity, the CoC can truly live up to its designation as an institution of public faith, driving India's economic growth and stability. By emphasizing ethical conduct, transparency, and stakeholder inclusivity, the CoC can fulfill its potential as a cornerstone of India's economic restructuring efforts.

Moving forward, the CoC must strive to evolve into a truly inclusive decision-making body. By emphasizing transparency, stakeholder engagement, and a balanced approach to value creation, they can fulfill their mandate as an institution of public faith. The IBC presents an opportunity to rewrite the narrative of corporate distress, prioritizing not just economic recovery but also social responsibility and stakeholder well-being. Through careful analysis of past decisions and proactive measures to address existing challenges, the CoC can navigate the delicate balance between creditor recovery and broader societal impact, paving the way for a more sustainable and equitable future for all stakeholders.



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Another Remarkable Step Towards Global Governance
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Strengthening
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of the ICSI
in Global South

Facilitating
Knowledge
Sharing and
Capacity Building

Expanding
Horizons and
Professional
Opportunities



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Capital Gain on Sale of Agricultural Land and its Taxability

Capital Gain:

Capital gain means any gain or profit earned on sale/transfer of a “capital asset:

Capital Asset (Sec. 2(14):

Any gain arising on sale of such capital asset shall be subject to Capital Gain tax U/s. 45(1) of the Income Tax Act 1961.

Capital Asset refers to Property of any Kind, whether fixed or circulating, moveable or immovable, tangible or intangible.

There is a positive list of items (i.e. assets) specifically covered in scope of the term “capital assets”.

There is a negative list of items (i.e. assets) specifically excluded from scope of the term “capital assets”.

Positive List-Items Specifically Covered in the Scope of the Term ‘Capital Asset’:

- a) Property of any kind held by the assessee.
- b) Any securities held by a FII.
- c) Any Unit Linked Insurance Policy.
- d) Jewellery (other than held as stock-in-trade).
- e) Archaeological collections (other than held as stock-in-trade).
- f) Paintings & Drawings (other than held as stock-in-trade).
- g) Sculptures (other than held as stock-in-trade).
- h) Any work of art (other than held as stock-in-trade).

Negative List-Assets Specifically Excluded from Scope of the Term ‘Capital Asset’:

The following are the important assets included in Negative List for the purpose of exclusion from levying Capital Gain Tax U/s. 45(1).

- a) Any Stock-in-Trade held for the purpose of business or profession;
- b) Purely personal effects of the assessee.
- c) Agricultural Land in India situated in a rural area.
- d) Specified Gold Bonds.
- e) Special Bearer Bonds, 1991.
- f) Gold Deposit Bonds issued as per GDS, 1999.

“

Computation of the

capital gain depends on the nature of capital asset transferred, viz, short term capital asset or long-term capital asset.

The tax incidence is generally higher in the case of short-term capital gain as compared to long term capital gain.”

CS KRISHNE GOWDA C
Practicing Company Secretary
Email ID: cskrishnegowdac@gmail.com



Though the list is given, to decide the levy of the Capital Gain Tax, two TESTS must be applied;

1. Whether the Asset sold is “CAPITAL ASSET” covered under the Positive List above?
2. If the answer is YES for the above question, whether any specific exception given in the Income Tax Act for not levying Capital Gain Tax on such sale transactions? (Like provided in compulsory acquisition of lands for highway/railway etc. U/s 10(37)).

Capital Gain Tax on Sale of Agricultural Lands, in India.

For the purpose of levying capital gain tax on sale of agricultural lands, the first test needs to be applied is whether such agricultural land is

1. Rural Agricultural Land (land situated in rural area); or
2. Urban Agricultural Land.

Rural Area (Rural Agricultural Land) w.e.f. AY 2014-15

Any area which is outside the jurisdiction of a Municipality or Cantonment Board having a population of 10,000 or more and which does not fall within the distance (to be measured aerially) given below -

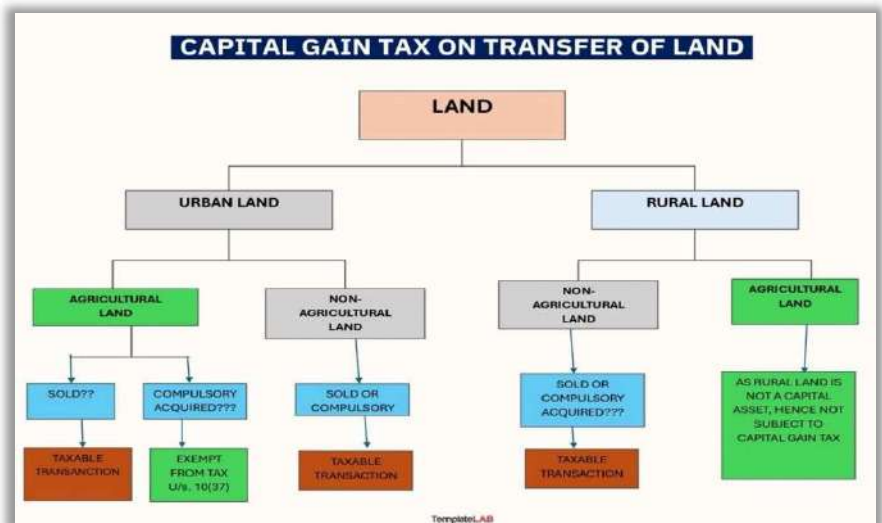
2 kilometres from the local limits of municipality/ cantonment board.	If the population of the municipality/ cantonment board is more than 10,000 but not more than 1 lakh;
6 kilometres from the local limits of municipality/cantonment board.	If the population of the municipality/ cantonment board is more than 1 lakh but not more than 10 lakh;
8 kilometres from the local limits of municipality/cantonment board.	If the population of the municipality/ cantonment board is more than 10 lakh;

For the above purpose, "population" means the population according to the last preceding census of which the relevant figures have been published before the first day of the previous year.

“Distance” is distance between the Municipal local limit and the agricultural land is to be measured having regard to the shortest road distance or aerial distance.

For the above purpose, “local Limit” means “distance to be measured after the City/Municipal/Town Limit ends” and not from the centre of such city/town.

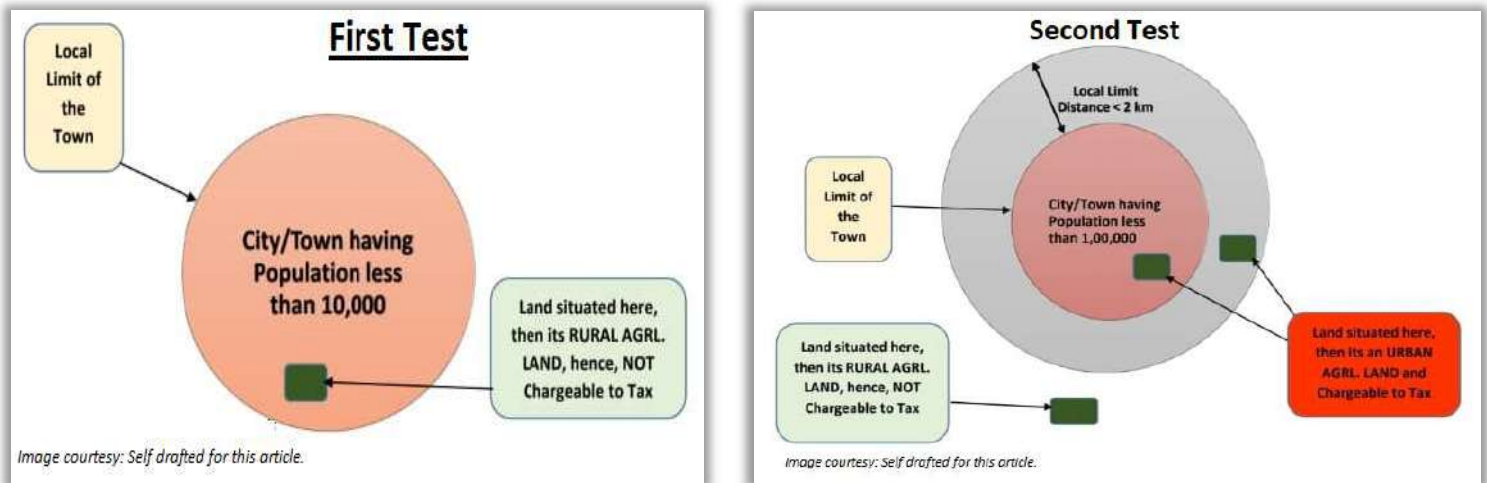
Held in Nitish Rameshchandra Chordia [2015] 57 taxmann.com 394 and the Board (i.e. CBDT) has accepted the ruling of High Court and the issue has not been further contested-Circular No.17/2015, dated October 6, 2015.



To constitute “Agricultural Land” it is enough,

- if that land is used for agricultural purposes.
- even if the agricultural use has been ceased but it is apparent that the land is fit to be used for agricultural purposes; Ranchhodbhai Bhajibhai Patel v. CIT [1971] 81 ITR 446 (Guj.).

For the easy understanding of the term “local limit” herewith a pictorial diagram is being given:



Third Test:

The same logic & rule may apply in the case of distance from local limit is 6 km with >1 L but <10 L population and 8 km with >10 L population.

Urban Agricultural Land:

Urban Agricultural Land is a land situated in specified location i.e., not a Rural Agricultural Land and used for agricultural purposes.

The following are simple testes to identify the agricultural land as Urban Agricultural Land;

1. Any agricultural land which is not “Rural Agricultural Land” as per the tests above;
2. Any agricultural land, on the date of sale, is a converted/alienated land;
3. Conversion of agricultural land for any purposes (i.e. residential or commercial etc.)

Taxability of Transfer of Agricultural Land in India:

Transfer of land can result in two kinds of income.

- a) If the land is held as stock in trade, then the transfer of such lands would result in business income; whereas,
- b) if the land is held as investment (i.e., as a personal asset) then the surplus on the transfer of the land would result in Capital Gain.

Holding Period of Urban Agricultural Land (w.e.f. AY 2018-19):

The liability to capital gain tax depends upon on the holding period of the asset. If the Urban Agricultural Land is held;

- a) For minimum period of 24 Months, then the capital gain arise on the sale of such land is qualified as Long-Term Capital Gain and taxable @ 20% of the Capital Gain.

- b) For less than 24 months, then the capital gain arise on the sale of such land is treated as Short Term Capital Gain and taxable @ Normal Slab Rate applicable to the taxpayer.

Computation of Capital Gain (Sec.48):

Computation of the capital gain depends on the nature of capital asset transferred, viz, short term capital asset or long-term capital asset.

The tax incidence is generally higher in the case of short-term capital gain as compared to long term capital gain.

The following is the method of computation of capital gain,

Computation of SHORT-TERM capital gain		Computation of LONG-TERM capital gain	
1. Full Value of Consideration (Sec.50C)	XXX	1. Full Value of Consideration (Sec.50C)	XXX
2. Less: Brokerages paid	XXX	2. Less: Brokerages paid	XXX
3. Less: Litigation settlement charges paid (through banking channels only).	XXX	3. Less: Litigation settlement charges paid (through banking channels only).	XXX
4. Less: Cost of Acquisition	XXX	4. Less: Indexed Cost of Acquisition	XXX
5. Less: Cost of Improvement, if any	XXX	5. Less: Indexed Cost of Improvement if any	XXX
6. Less: Exemption claimed on investment U/s 54B, 54D, 54G & 54GA.	XXX	6. Less: Exemption claimed on investment U/s 54, 54B, 54D, 54EC, 54EE, 54F, 54G, 54GA & 54GB.	XXX
7. Balance is Short-Term Capital Gain.	XXX	7. Balance is Long-Term Capital Gain.	XXX

Special Notes: Securities transaction tax is not deductible while computing income under the head "Capital gains".

From the assessment year 2021-22, amount chargeable to tax under section 45(4) in the hands of specified entity which is attributable to the capital asset being transferred by the specified entity calculated as per rules shall be deducted to compute long-term or short-term capital gains.

References:

1. Taxation of Capital Gain, S Krishnan, Taxmann publication 2023.
2. Finance Bill 2023.
3. Income Tax Law & Practice, Taxmann publication.

“There are many wrong notions that Sale of Agricultural Land is not subject to Income Tax in India. In this article, the author has provided the readers a comprehensive understanding of the Capital Gain Tax on Sale of Agricultural Land in India”.



Help Yourself

Food for Thought

The Quick and Easy Way to Speaking Effectively

by Dale Carnegie

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.

Dale Carnegie, born in 1888, is popular for his books on public speaking even in this century that we belong. This book that we are discussing in this issue was published by his wife Dorothy Carnegie, after his death. 'The Art of Public Speaking' and 'How to Win Friends and Influence People' are amongst his most popular books and are discussed in the November 2020 issue and March, 2022 issue of this e-magazine, respectively.

Unlike the books mentioned above, this book that we are discussing today is relatively short, containing only two hundred pages. If you have not read any of Dale Carnegie's books, this book we discuss today can be a good start as it is crisp and concise. His other books are quite lengthy and require a little more of your time and efforts to read and implement. On the contrary, if you have read other books of the author on public speaking, this would be a good way to brush up.

The book begins with the fundamentals of effective speaking and then moves on to state a series of facts about public speaking with the intention to help us shed the fear of it. We may have a few assumptions that may be holding us back, which the book aims to help us tackle or eradicate. Dreading public speaking is common to people of this century as well as those of the previous ones which is what makes this book timeless.

The author lists in detail the kind of preparations required to hone one's public speaking skills. He also gives various anecdotes of people he has trained, so that we learn from their mistakes and avoid our own.

Going further in the book, I came across exactly what I was in need of- Impromptu Talks. We face situations where we have to give a talk instantly and doing it without any preparation may be a challenge to many.

“Spontaneity is a meticulously prepared art.”

-Oscar Wilde.

Therefore, like any other skill, spontaneity can be cultivated over time and with consistent efforts. It is possible to make spontaneity a well inculcated trait for which the author suggests that you run this question in your mind all the time- “What can be said if I am called upon to speak at this moment?” This way, you are conditioned to speak impromptu all the time. This very mindset is sufficient, words will flow.

The book has many other aspects and methods to make one well-versed in speaking effectively. Overall, the book has a 360° approach to public speaking. Its closing remarks are that we need to get into water if we want to learn how to swim. Therefore, the author advises to seize every opportunity we get to put our skills to test or display. Our consistent efforts will determine if we can achieve the ‘quick and easy way to effective speaking’ as the book promises. So, wait no more, grab this book and speak up your thoughts!

Columnist:

Aparna U
Executive Student
Email ID: aparnakumar14@gmail.com





Tech Corner

How Good the AI is.

In the previous edition we got to know how good the AI is in writing on the normal topic.

Now let's see how technically the AI can draft an agreement:

Here we have given a command to the AI to draft an agreement for the Hire Purchase and this is what the AI has generated:

HIRE PURCHASE AGREEMENT FOR PRINTING MACHINE

This Hire Purchase Agreement ("Agreement") is entered into on [Date], by and between:

[Seller's Name and Address]

(hereinafter referred to as the "Seller")

and

[Buyer's Name and Address]

(hereinafter referred to as the "Buyer")

1. DESCRIPTION OF PRINTING MACHINE:

The Seller agrees to sell, and the Buyer agrees to purchase, the following printing machine:

Make/Model: [Printing Machine Make/Model]

Serial Number: [Serial Number]

Year of Manufacture: [Year]

Other specifications: [Any other relevant specifications]

2. HIRE PURCHASE TERMS:

2.1 Purchase Price:

The total purchase price of the printing machine is [Total Purchase Price]. This amount shall be paid by the Buyer to the Seller in accordance with the payment schedule outlined in Section

2.2 Payment Schedule:

The Buyer shall make payments in [Number of Installments] installments as follows:

First Installment: [Amount] due on [Due Date]

Second Installment: [Amount] due on [Due Date]

[Continue as per the number of installments]

All payments shall be made in [Currency] to the Seller's designated bank account.

2.3 Delivery:

Upon receipt of the initial instalment, the Seller shall deliver the printing machine to the Buyer at [Delivery Address]. The risk of loss or damage shall pass to the Buyer upon delivery.

2.4 Ownership:

Ownership of the printing machine shall remain with the Seller until the Buyer has made all payments in accordance with this Agreement. Upon full payment, ownership shall transfer to the Buyer.

3. DEFAULT:

In the event of default by the Buyer in making any payment or breaching any other terms of this Agreement, the Seller may, at its discretion, terminate this Agreement and repossess the printing machine.

4. WARRANTIES:

The Seller warrants that the printing machine is free from defects in material and workmanship at the time of delivery. Any claims under warranty must be made within [Warranty Period] days of delivery.

5. FORCE MAJEURE:

Neither party shall be liable for any failure or delay in the performance of its obligations under this Agreement if such failure or delay is due to causes beyond its reasonable control, including but not limited to acts of God, war, terrorism, strikes, or government regulations ("Force Majeure Event"). The party affected by the Force Majeure Event shall promptly notify the other party of the occurrence of such event and take all reasonable steps to resume performance.

6. RIGHTS OF THE BUYER:

6.1 Inspection and Acceptance:

The Buyer shall have [Number of Days] days from the date of delivery to inspect the printing machine. If the machine does not conform to the specifications or is defective, the Buyer may notify the Seller in writing, and the Seller shall remedy the issue within a reasonable time.

6.2 Early Payment:

The Buyer has the right to make early payments or prepay the outstanding balance without incurring any penalties.

7. RIGHTS OF THE SELLER:

7.1 Repossession:

In the event of default by the Buyer, the Seller reserves the right to repossess the printing machine without notice or legal process.

7.2 Interest on Late Payments:

If any payment is not made on the due date, the Seller is entitled to charge interest on the outstanding amount at a rate of [Interest Rate]% per annum, calculated from the due date until the date of actual payment.

8. GOVERNING LAW:

This Agreement shall be governed by and construed in accordance with the laws of [Jurisdiction]. Any disputes arising out of or in connection with this Agreement shall be resolved through arbitration in accordance with the rules of the [Arbitration Organization].

IN WITNESS WHEREOF, the Parties hereto have executed this Hire Purchase Agreement as of the date first above written.

SELLER:

[Signature] [Date]

[Printed Name and Title]

BUYER:

[Signature] [Date]

[Printed Name and Title]

Note: This template is a general guide and may need to be customized based on the specific details of your hire purchase transaction and the laws of your jurisdiction. It is advisable to seek legal advice to ensure compliance with applicable regulations.

The above entire agreement has been generated by the CHATGPT, though it's a simple agreement it can be tailored accordingly by giving proper commands and inputs.

The AI will usually consider the laws and draft accordingly, but its better to check the agreement entirely before using the same.

Use the AI with due care.





Students Corner

Budget Basics-

All that Students Need to Know

The Union Finance Minister presents the Union Budget every year and this year on 1st February, it was proposed by Nirmala Sitharaman for the sixth time in her tenure. As a new government will be formed after the upcoming general elections, the budget proposed is only interim to the Union Budget. But it significantly sets the tone for what lies ahead and what areas will be priorities if the same government continues to remain in power again. The budget focuses to empower four groups which the Minister termed as 'four important pillars'- the poor, women, youth and farmers. Here is a bird's eye view of the Indian Interim Budget proposed for the year 2024.

1. Taxation

The most awaited part of any budget are the tax slabs. There is no change in direct taxes, indirect taxes and import duties. Outstanding direct tax demands upto Rupees 25,000 to be withdrawn.

2. Viksit Bharat by 2047

The government has an ambitious target to make India a developed economy by 2047- a prosperous nation in harmony with nature, modern infrastructure and opportunities for all. It calls the time period leading to the target year as 'Kartavya Kaal' meaning the time to fulfil our duties.

3. Annadaata

- a. Direct assistance to 11.8 crore farmers under PM-Kisan Yojna.
- b. 4 crore farmers get loans under PM Fasal Bima Yojna.
- c. Integration of 1361 Mandis under e-NAM supporting a trading volume of rupees three lakh crores.

4. Nari Shakti

- a. 30 crore Mudra Yojana loans disbursed to women entrepreneurs
- b. Increased female enrolment in higher education by 28 per cent in 10 years
- c. 43 per cent of female enrolment in STEM courses
- d. 1 crore women assisted by 83 lakh SHGs to become Lakhpati Didis

5. Youth

The Budget aims to empower our tech-savvy youth by establishing a corpus of one lakh crore rupees for long term financing or re-financing youth with low or nil interest rates and calls it a ‘golden era’ for the youth.

6. Affordable Homes for ALL:

The Government aims to build 20 million homes, the construction of which is expected to take 5 years under a Central Government scheme focusing on the middle-class.

7. Green Energy

The Government aims to promote sustainability by installing roof-top solar panels by identifying one crore homes and provide 300 units of free solar power every month. The intention is to reduce dependence on non-renewable sources in the years to come.

8. Fiscal Deficit

The government aims to spend more and borrow less for which the money will be sourced by disinvestment whose target is set at approximately \$6 Billion. The fiscal Deficit target has been set at 5.1%.

The Budget is showcasing the confidence of the current government to be continuing to be in power for the next term as well. The most significant trait of the interim budget is its focus on empowering the four pillars- the poor, the youth, women and farmers and helping them not to rely on handouts.

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Students Corner

Navigating Corporate Growth: A Comprehensive Examination of Mergers, Amalgamations, and Takeovers

Abstract:

This article undertakes a thorough exploration of strategic corporate actions, focusing on mergers, amalgamations, and takeovers. Delving into the intricate world of inorganic growth, the study meticulously examines their types, regulatory frameworks, procedural intricacies, and post-transaction integration. By scrutinizing legalities, accounting standards, and considerations under various acts, the article aims to provide a nuanced perspective on the advantages and challenges of these complex corporate maneuvers.

Introduction:

In the ever-evolving corporate landscape, companies frequently resort to inorganic growth strategies for sustained competitiveness. This article initiates with a comprehensive overview of mergers, amalgamations, and takeovers, outlining their strategic role in facilitating corporate expansion. The primary objective is to augment long-term company performance and shareholder value.

1.1 Types of Transactions:

The exploration begins with a categorization of mergers into horizontal, vertical, congeneric, conglomerate, reverse, and subsidiary types. Similar classifications are provided for amalgamations, differentiating between those in the nature of a merger and those in the nature of a purchase. The article accentuates each type with real-world examples, offering a practical understanding of these strategic moves.

1.2 Regulatory Framework:

An in-depth analysis of the regulatory framework governing these transactions follows, encompassing acts such as the Companies Act, 2013, Companies (Compromise, Arrangements and Amalgamations) Rules, 2016, National Company Law Tribunal (NCLT) Rules, 2016, Income Tax Act, 1961, SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, and the Competition Act, 2002. The article elucidates how compliance with these regulations is imperative for a seamless transaction.

1.3 Procedures under Companies Act, 2013:

The procedural aspects under the Companies Act, 2013, are meticulously outlined. From scrutinizing the company's memorandum of association to obtaining valuation reports, convening board meetings, drafting schemes, and making applications to the National Company Law Tribunal, each step is explained with emphasis on compliance with rules and forms.

1.4 Special Provisions:

Specific sections dealing with the merger and amalgamation of small companies, holding and subsidiary companies, and foreign companies are explored in detail. This includes an examination of procedures, approvals, and filings required under Sections 233-234, emphasizing the significance of each step.

1.5 Preservation of Books and Papers:

The article highlights the importance of preserving books and papers post-amalgamation, as mandated by Section 239. It underscores the need for prior permission from the Central Government before disposal, and the requirement of examination by an appointed person.

1.6 Post Transaction Integration:

The critical phase of post-transaction integration is examined, covering aspects such as name and logo changes, organizational restructuring, employee considerations, legal proceedings, and regulatory engagements. The article stresses the significance of a meticulous post-merger strategy for seamless integration.

1.7 Implications under Various Acts:

The article further expounds on the implications of these transactions under the Income Tax Act, SEBI (Listing Obligation and Disclosure Requirements) Regulations, 2015, and the Competition Act, 2002, offering a comprehensive view of the regulatory landscape.

1.8 Accounting Standards:

A detailed discussion on accounting standards (AS 14) follows, differentiating between pooling of interest and purchase methods. The article sheds light on the treatment of reserves and goodwill, providing clarity on the financial aspects of these transactions.

1.9 Pros and Cons:

The article concludes by weighing the pros and cons of mergers, amalgamations, and takeovers. It emphasizes the potential economic benefits against short-term financial consequences and cultural clashes, providing a balanced perspective for businesses contemplating or navigating through these strategic moves.

Exploring Corporate Growth Dynamics: A Holistic Analysis of Mergers,

Amalgamations, and Takeovers

Introduction:

In the contemporary business landscape, characterized by fierce competition and rapid advancements, companies often resort to inorganic growth strategies to stay ahead. This article delves into the intricacies of mergers, amalgamations, and takeovers, providing

a comprehensive understanding of their definitions, legal aspects, motives, types, and procedural intricacies. Furthermore, it elucidates the relevance of these strategic moves in the broader context of corporate restructuring.

2.1 Understanding Takeovers:

Takeovers represent a strategic maneuver wherein one company gains control over another by acquiring a majority or all shares. The process involves the acquisition of management control and can occur through various modes, including acquiring a majority stake, shares of an unlisted company, or following the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011.

2.2 Key Definitions:

To navigate the complex landscape of takeovers, it is important to understand the significance of the key terms such as target company, acquirer, acquisition, persons acting in concert, control, offer period, tendering period, and others play a vital role in shaping the regulatory framework.

2.3 Motives and Types:

Corporations pursue takeovers for diverse reasons, ranging from technological diversification and market share expansion to reducing competition and achieving mass production at economic costs. It can be categorized into friendly and hostile takeovers, need to understand the motives and strategic considerations behind each type.

2.4 Legal Aspects and Regulations:

Takeovers are subject to a comprehensive regulatory framework, including the SEBI (SAST) Regulations, 2011, Companies Act, 2013, and SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015. It is important to interpret properly the procedures for open offers, voluntary offers, and the various steps involved in the takeover process.

2.5 Procedures under SEBI Regulations:

A step-by-step analysis of the procedures involved in a takeover under SEBI (SAST) Regulations, 2011, is provided. It is important to understand the process, from the appointment of a manager to the offer and the creation of an escrow account to the dispatch of the letter of offer,. Key steps include the finalization of the offer price, disclosure of acquisitions during the offer period, and the completion of requirements for payment of consideration.

2.6 Benefits and Drawbacks:

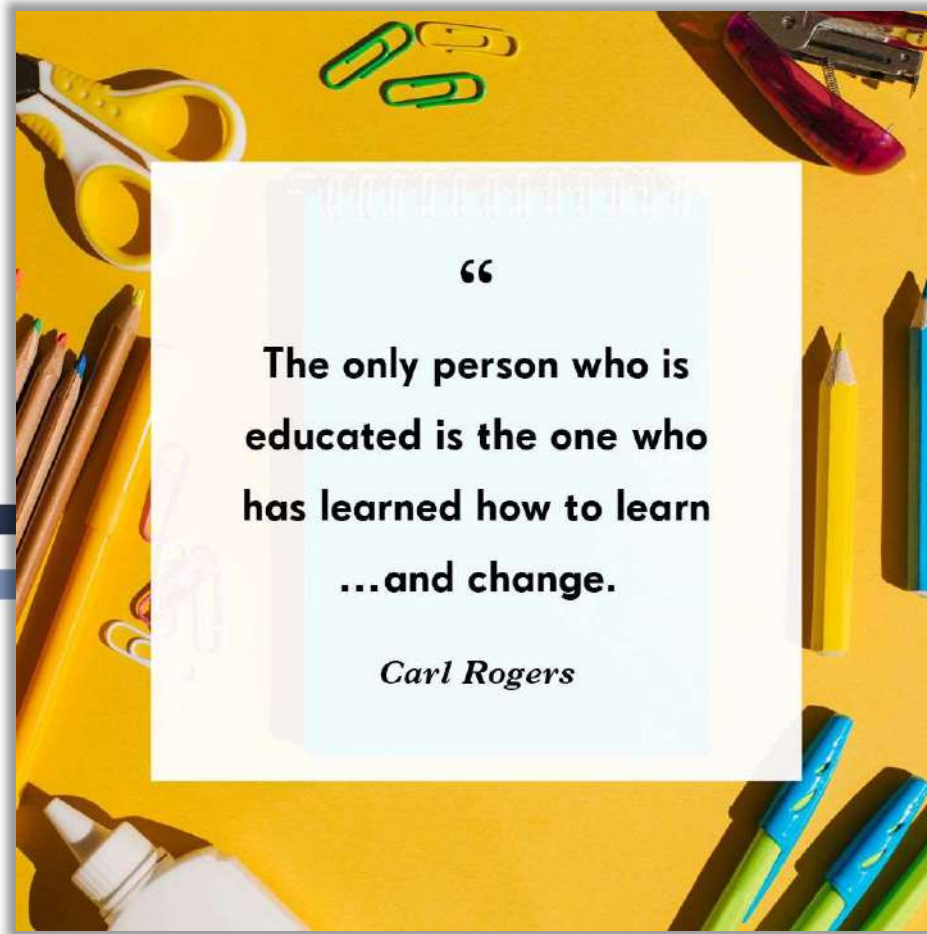
Takeovers offer companies increased revenue, skills, and market impact, along with diversification of risks and the reduction of competition. However, drawbacks such as high costs, valuation challenges, negative consumer impact, integration problems, and cultural incompatibility need to be evaluated.

2.7 Relevance in Corporate Restructuring:

The crucial role of corporate restructuring in ensuring businesses remain competitive and responsive to market dynamics. Mergers, amalgamations, and takeovers are integral to this process, facilitating improved corporate value, productivity, and profitability. The company secretaries have a pivotal role in ensuring compliance with legal and regulatory requirements throughout the restructuring journey.

2.8 Conclusion:

Concluding the exploration of takeovers, the multifaceted nature of these endeavours requires careful planning, legal compliance, and strategic foresight. A comprehensive overview of the intricacies involved in takeovers, underscoring the importance of understanding motives, legal aspects, and procedural details for successful execution in today's dynamic business landscape is important.





Regulatory Updates

Companies Act, 2013

Updates on Notifications

MCA has introduced Companies (Listing of equity shares in permissible jurisdictions) Rules, 2024.

This rule talks about the listing of shares in the permissible jurisdiction, Hence the meaning of permissible Jurisdiction becomes highly important.

permissible Jurisdiction means International Financial Services Centre in India.

Further, permitted Stock Exchange are **India International Exchange, NSE and International Exchange.**

The provisions of these rules are applicable to:

- a. unlisted public companies
- b. listed public companies, so far as they are in accordance with regulations framed or directions issued in this regard by the Securities and Exchange Board or the Authority

which issue their securities for the purposes of listing on permitted stock exchanges in permissible jurisdictions.

The unlisted public company shall file e-Form LEAP 1 along with the fees within a period of seven days after the same has been finalised and filed in the permitted exchange.

The rule contains detailed eligible and in-eligible conditions for listing in permissible jurisdiction.

The Notification can be found at <https://www.mca.gov.in/content/mca/global/en/acts-rules/ebooks/notifications.html>

G.S.R. 61(E) dated 24th January, 2024

The Central Government has established Central Processing Centre.

The Central Processing Centre shall process and dispose off e-forms filed along with the fee as provided in the Companies (Registration of Offices and Fees) Rules, 2014.

The jurisdictional Registrar, other than Registrar of the Central Processing Centre, within whose jurisdiction the registered office of the company is situated shall continue to have jurisdiction over the companies whose e-forms are processed by the Registrar of the Central Processing Centre in respect of all other provisions of the Companies Act, 2013 and the rules made thereunder.

The Notification can be found at <https://www.mca.gov.in/content/mca/global/en/acts-rules/ebooks/notifications.html>

S.O. 446(E) dated 02nd February, 2024

SEBI Act, 1992

Updates on Circulars

Guidelines for returning of draft offer document and its resubmission

The draft offer document / draft letter of offer filed with the Board for public issue / rights issue of securities shall be scrutinized based on the broad guidelines specified as under and accordingly, the draft offer document shall be returned to the Issuer and the Lead Manager(s).

The **Annexure A** of the circular contains list of requirements, in contravention of which the Draft offer document may be returned by the Board.

There shall be no requirement for payment of any fees on account of resubmission of draft offer document, the requirement for paying applicable fees for the changes, if any, in terms of changes specified in Schedule XVI of the ICDR Regulations for the updated offer document shall continue to apply as is applicable to issuer for updation in offer document.

The issuer, within two days of resubmission of draft offer document with the Board, shall make a public announcement in the mode and manner as prescribed under ICDR Regulations, as applicable, and the issuer shall also include a disclosure that it is a resubmitted document.

The Issuer and the Lead Manager(s) shall ensure that the draft offer document is resubmitted only after addressing insufficiency for which the draft offer document was returned and such draft offer document is in compliance with provisions of ICDR Regulations and other applicable laws.

The Circular is available at https://www.sebi.gov.in/legal/circulars/feb-2024/guidelines-for-returning-of-draft-offer-document-and-its-resubmission_81146.html

SEBI/HO/CFD/PoD-1/P/CIR/2024/009

Compiled by:

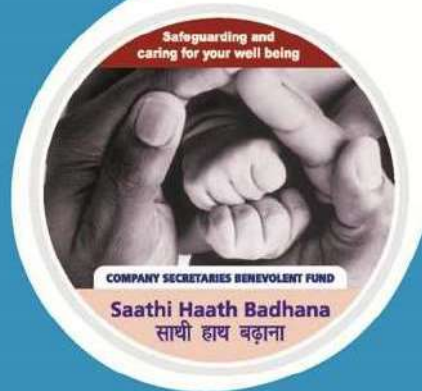
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**THE INSTITUTE OF
Company Secretaries of India**
भारतीय कम्पनी सचिव संस्थान
IN PURSUIT OF PROFESSIONAL EXCELLENCE
Statutory body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)

CSBF
COMPANY SECRETARIES
BENEVOLENT FUND



Saathi Haath Badhana
साथी हाथ बढ़ाना

What exactly is CSBF?

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

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

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

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

Is it the right time to enrol in CSBF?

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

Is it a requirement?

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

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

Advantages of enrolling into CSBF

- 1 To ensure that your immediate family has some financial support in the event of your unfortunate demise
- 2 To finance your children's education and other needs
- 3 To ensure that you have extra resource during serious illness or accident
- 4 Subscription/Contribution to CSBF qualifies for deduction under Section 80G of the Income Tax Act, 1961

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

Decide Now! Decide Wise!

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