



Mysore Chapter

eNewsletter

December 2009

New Book: Page 6

Only This Much
FOR COMPANY SECRETARY PROFESSIONAL PROGRAM

- Corporate Restructuring and Insolvency
- Strategic Management, Alliances and International Trade
- Drafting, Appointments and Pledges
- Company Secretarial Practice
- Due Diligence and Corporate Compliance Management
- Corporate Governance, Business Ethics and Sustainability

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KARNATAKA ICSI MAHOTSAVA
LEADING THE CHANGE - MEETING THE CHALLENGES

Date: 18th & 19th December 2009
Venue: Taj Residency, M.G. Road, Bangalore

FINAL
KARNATAKA STATE CONFERENCE OF COMPANY SECRETARIES

India rejects Kyoto Protocol changes

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Dear Readers,

The core group constituted by the council of ICSI to analyze issues regarding the Satyam revelations in January 2009 have made its recommendations after benchmarking the best practices that can be mandated on the basis of a detailed study of the prevailing corporate governance practices across the world, the recommendations of various committees and corporate governance codes and the best practices adopted by the industry.

The "ICSI Recommendations to Strengthen Corporate Governance Framework" have been submitted to the Ministry of Corporate Affairs which has placed these recommendations on their website www.mca.gov.in. The Ministry has sought comments so that government can take a consolidated view on the recommendations. I request the members to submit their valuable comments to strengthen the recommendations.

The activity report of the chapter printed elsewhere in this issue will give an indication that the chapter had a variety of programs last month. I am glad that this month, the Chapter is joining the Ministry of Corporate Affairs in celebrating "India Corporate Week" from 14th to 21st December 2009. Week long programs are being organized by the chapter to commemorate the event. I request the members to participate in large numbers and make the programs a success.

I wish all the best to the students who are taking up the examinations of the Institute this month end.

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:eNewsletter Team:

CS. Dattatri H M, CS. Sarina C H,
CS. Omkar N G, CS. Rashmi M R, &
'Spectrum' Team

KARNATAKA CS MAHOTSAVA

"LEADING THE CHANGE
MEETING THE CHALLENGES"

18th & 19th December 2009

at Taj Residency, M.G. Road, Bangalore.

organised by Bangalore, Mangalore & Mysore chapters
jointly with SIRC.

CHIEF GUEST: HONOURABLE SHRI H.R.BHARDWAJ,
HIS EXCELLENCY THE GOVERNOR OF KARNATAKA,.

GUEST OF HONOUR: Dr. VEERENDRA HEGGADE,
Dharmadhikari, Shree Kshetra Dharmasthala, Karnataka,

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For past editions of eNewsletter click:

<http://www.icsi.edu/mysore> or

<http://www.esnips.com/web/icsimysore>

Mysore Chapter has its eParivaar "CSMysore". To join visit:

<http://www.groups.google.com/group/csmysore>

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Refresher Camp For Commerce and Management Teachers

Chapter associated with Staff Training College, University of Mysore for updating the knowledge of management and commerce teachers of University of Mysore. On 11th November 2009, CS. Anshuman delivered a lecture on "IFRS - Are the Academicians ready to face the Challenges" which was well appreciated by the participants.

Study Circle Meeting

The chapter conducted study circle meetings for foundation, executive and professional program students on all the Sundays of the month.

Talks On Guidance Note

On 01/11/2009, CS. Rohini Joshi took up discussion on the 'Guidance Note on Passing of Resolution by Postal Ballot'. The practical experience of the speaker added a lot to the session.

On 08/11/2009, Mr. Alok, Advocate and Student of Professional Program of ICSI, took up discussion on the 'Guidance Note on General Meetings'. The rules of interpretation of the provisions were well explained by the speaker.

On 15/11/2009, Ms. Veena Bhat, Professional Student of ICSI took up discussion on the 'Guidance Note on Board's Report'. The discussion on practical aspects in consultation with the guidance note was well covered.

On 22/11/2009, CS. Rashmi M. R. took up discussion on the 'Guidance Note on Preferential Issue of Shares'. The entire guidance note was well covered by the speaker sharing the practical issues.

On 29/11/2009 CS. Parvathi K. R. took up discussion on the 'Guidance Note on Buy-Back of Securities'. The guidance note was covered in a systematic manner sharing the practical aspects.

Seminar On Corporate Issues

On 28th November 2009, the Chapter conducted a half day seminar on Corporate Issues.

The first Technical Session on **Raising of Capital through Preferential issue** was handled by CS. Lakshmmi Subramanian, Vice Chairperson, SIRC of ICSI. CS. Lakshmmi mesmerized the audience with her depth of knowledge on the subject.

The second Technical Session on **Guidance Note on Compliance Certificate and Corporate Governance Certificate** was addressed by CS. Sridharan R., Central Council Member, ICSI. He stressed upon the importance of guidance notes for the members of our Institute by giving various practical examples from his rich practical experience of decades, as a Practicing Company Secretary.

The participants appreciated the rich contents of both the sessions. The program was compeered by CS. Rohini Joshi.

Welcoming New Members to CS fraternity

In the first program held on 1st November 2009, CS. Kamal Kumar S., was welcomed. Further, on 28th November 2009, the CS. Parvathi K.R., CS. Abhishek Bharadwaj A.B., CS. Sunil Kumar B.G., and CS. Balakrishnan V.J. were welcomed by the Chapter.

Visit Of Chairman, SIRC

CS. Gopalkrishna Hegde, Chairman, SIRC of ICSI visited the Chapter on 29th November 2009 along with CS. Dwarakanath C., Past Chairman, Bangalore Chapter of ICSI. He participated in the Managing Committee Meeting of the Chapter and provided his valuable guidance to the Managing Committee and appreciative of various activities undertaken by the chapter. Later CS. Gopalkrishna Hegde discussed with the students and members of the chapter about the Karnataka CS Mahotsava being jointly organized by all the chapters of Karnataka on 18th and 19th Dec 2009.

Investors Awareness Programs

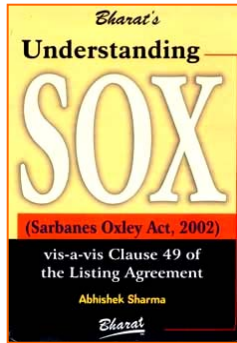
The first program was held at Paduvalahippe in Hassan District on 18th November 2009 on **Overview of Capital Markets, IPO and Book Building**. 158 participants attended the program held at the Auditorium of the Government First Grade College. CA. Jagannath H R, FCA, LLB, eloquently explained about various protection mechanisms promoted by the Government for the benefit of general investment public.

The Second program was at K. R. Nagar in Mysore District on 19th November 2009. Mr. Manju, Senior Grade Faculty and Research Scholar in Investors Awareness gave an overview of the capital markets and also explained lucidly the book building process and general working of the stock markets. The program was attended by 172 persons.

Press Notes Issued:

- Last date for joining company secretary course
- IAPs at K R Nagara & Paduvalahippe

'Understanding SOX vis-a-vis Clause 49 of the Listing Agreement'



Publisher : Bharat Law House
Author : Abhishek Sharma
Price : Rs. 200/-

We all know that Sarbanes Oxley Act, 2002 ('SOX') was enacted in USA post debacle of WorldCom, 2nd largest Telecom Company and Enron. Enactment of SOX was fastest in the history of USA which had laid down new phase to accounting and disclosure norms. Present Clause 49 of Listing Agreement has similar provisions of SOX.

A material containing all information in simple terms have been captured by the Author of the book in 'Understanding SOX vis-a-vis Clause 49 of the Listing Agreement'. Certain key features of book are

(a) FAQs on SOX; (b) FAQs on Clause 49; (c) comparison of SOX vis-a-vis Clause 49; (d) important technical abbreviations; and (e) sketching a Roadmap to comply both Clause 49 and SOX.

This book is useful for Accounting and Auditing professionals, Company Secretaries, Consultants, Students and Teachers since the reader of the book will be able to understand the subject and comprehend easily.

Book Review

CS Narendra Singh

Associate Company Secretary

GMR Infrastructure Limited, Bangalore



Ashampoo® Burning Studio 2009

IT for Professionals

CS. Sunil Kumar B G,

Mysore



Anyone who has ever struggled with complicated disc burning software is always amazed when they try Ashampoo Burning Studio. This is how software should be: Instead of studying complicated manuals you just choose what you want to do and then follow the instructions displayed on the screen. The complete, compact and easy burning suite.



Overview of major features:

1. Burn data to CD, DVD or Blu-ray discs and update previously burned discs by adding and removing files and folders.
2. Back up your valuable data to one or more CD, DVD or Blu-ray discs. Single backups can span multiple discs. Restore your backups in a single easy operation.
3. Rip music from CDs and burn music to audio CDs and MP3 or WMA discs on CD, DVD and Blu-ray in a variety of formats.
4. You can create slideshow DVDs with photos and video clips and you can author and burn video DVDs, Video CDs (VCD), Super Video CDs (SVCD) and data video discs. Video files are automatically converted to the necessary formats.

This is a full version free for limited period!

Download Link:

http://www.ashampoo.com/frontend/anysite/php/anysite.php?file=softpedia_en.htm&session_langid=2

Words worth Millions

If we all threw our problems in a pile and saw everyone else's, we'd grab ours back.

No matter how you feel, get up, dress up and show up.

- Anonymous



De Merger

Ultimate Value Unlocking Tool

CS. Amar Kakaria ACS, ACA, ACWA
amar@fusionadvisors.in

We often come across words having multiple functional essences in different subjects. One such word is “Merger”, in legal parlance. Though being a singular word it has plural concepts envisaged in it. No matter even if we creatively devise various strategies for amalgamation / merger, it is governed by the principal rules stated in Sec 391-394 of the Companies Act. Of the rest, one such strategy is “Demerger”; which is a very prominent concept, practiced in the corporate world, for striving success.

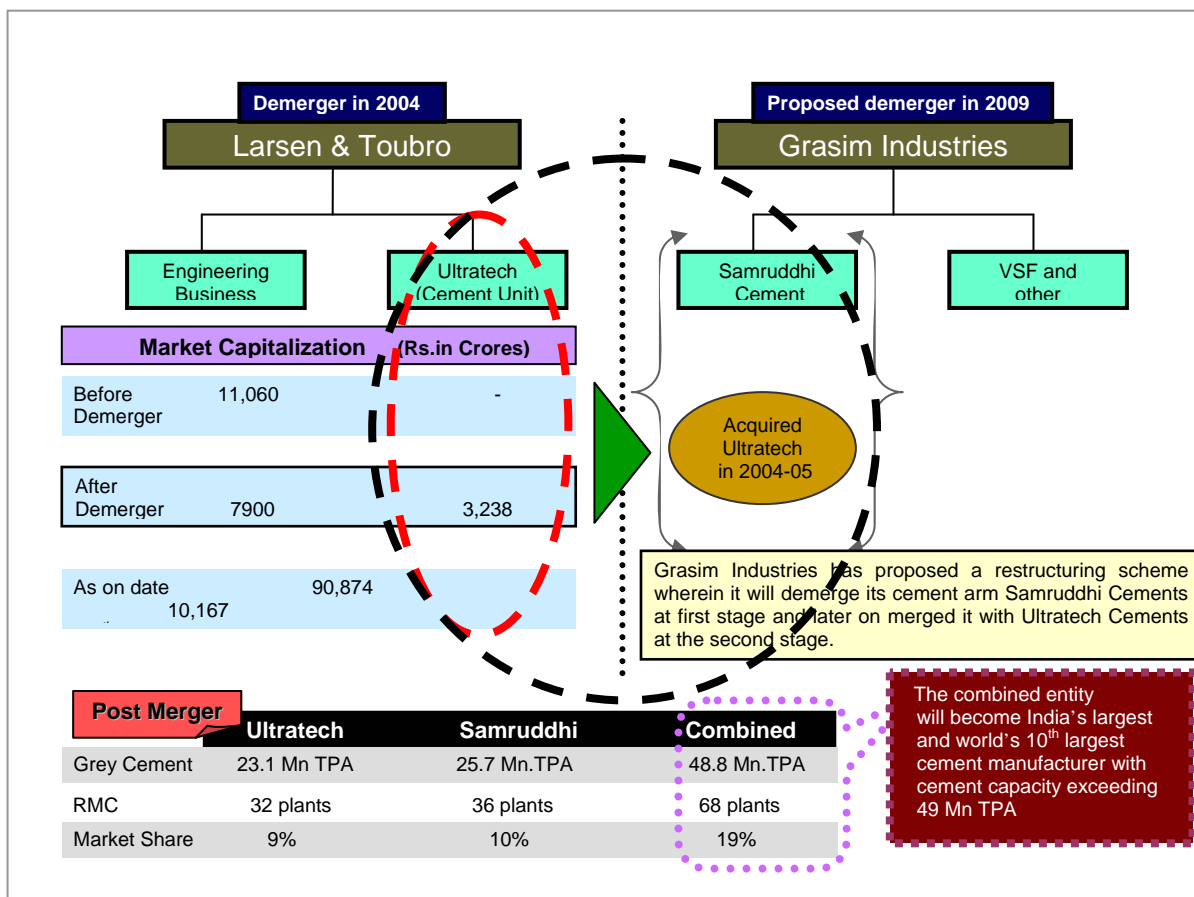
The expression “Demerger” is not expressly defined in the Companies Act, 1956 albeit it is a by-product of the definition “Arrangement” as defined in Sec.390 of the Companies Act, 1956. In demerger, a company transfers one or more of its undertaking / division into another newly formed company or existing company at a pre-decided share exchange ratio or any other agreed consideration. The dissecting company is known as “Demerged Company” and the new company, thus formed, is known as the “Resulting Company”.

In simpler words i.e. Company “A” is having business activities in varied industries demerges / dissects one of its various activities, for strategic reasons, into a separate company, say Company “B”. Company “A” is called “Demerged Company” and company “B” is said to be “Resulting Company”.

The decision of demerger by a company is subjective to the socio-economic scenario encompassing the company.

Of the various attributes triggering such a strategic corporate action a few are enumerated below as;

- Family settlements (Demerger of Reliance Industries)
- To make managerial resources available for better business opportunities (Demerger of Bharti Enterprises)
- Increasing segment focus (Demerger of Ultratech Cement by Larsen & Toubro)
- Creating a platform to have financial flexibility i.e. capital infusion for future growth (Demerger of Samruddhi Cement by Grasim)



The key legislations influencing the transaction structure, for a demerger, are Companies Act, Direct and Indirect tax, Stamp duty, Listing guidelines, FEMA regulations, etc.

- Facilitating informed decision making to the investors as the market price would reflect the performance of the underlying business (Restructuring of Zee Telefilms)

- Taxation benefits i.e. carry forward of losses and unabsorbed depreciation (Demerger of Jindal Iron & Steel Company)
- Selling off unwanted business activities (Business Restructuring by Hindustan Uniliver)
- Simplifying the organisation structure (Business Restructuring by Bajaj Auto)

Here, is a **classic illustration** (please refer the box) of value creation through demerger. Larsen & Toubro had demerged its cement division (Ultratech Cement) in 2004 to concentrate on its core line of business i.e. engineering and construction. Upon demerger, Ultratech cement was acquired by Grasim Industries at an agreed consideration and open offer was made to shareholders of Ultratech.

As we know, Grasim Industries had a multifaceted business structure which is getting simplified as per recent announcement. As a re-organisation strategy, it has proposed to demerge its cement business, from the parent organisation, and list Samruddhi cement as a separate company. Later on, it also proposes to merge Ultratech and Samruddhi to reap the benefits of economies of scale and portray itself as the largest cement manufacturer in India and 10th largest around the globe.

Over a period of years, corporates have devised various concepts of demerger like spin-off, split-up, divestures etc. but the same requires to be implemented with abundance of caution, after analysis of the various aspects, so as to create value to the corporates and the shareholders.

New Book Release

Company Secretary Professional Program - its Only This Much

CS. A.N.S. Vijay

<http://onlythismuch.lawlabz.com>

The immense success of the Second Edition of *Only This Much for CS Executive Program* (3-in-1 book) has prompted us to come out with a sequel for Professional Program (6-in-1 book).

Our concerted effort has been to enable students and readers to be successful in their endeavour in learning and comprehending the subject with ease. Your appreciation is highly valued and we have the pleasure of introducing the CS Professional Program version of ONLY THIS MUCH.

NOTHING SHOULD BE READ, UNLESS OTHERWISE IT'S INTERESTING!

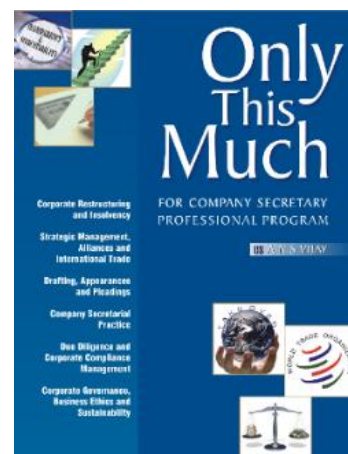
The above statement is the guiding force and conveys the philosophy behind this compilation. We live in a world which is full of change and dynamism. ONLY THIS MUCH is an attempt to change your learning experience in a manner which is both appealing and comprehensible. Understanding is easier when one has interest. ONLY THIS MUCH helps you develop this interest!

The concept of 'Only This Much' for Professional Program has been created by a team of young professionals with an aim that students, in their quest to become professionals should grasp the important and finer points of the subjects and to facilitate easy and repeated reading.

Only This Much for Professional Program covers the following subjects:

1. Corporate Restructuring and Insolvency
2. Strategic Management, Alliances and International Trade
3. Drafting Appearances and Pleadings
4. Company Secretarial Practice
5. Due Diligence and Corporate Compliance Management
6. Corporate Governance, Business Ethics and Sustainability.

We have presented Only This Much in a pictorial manner with a reader friendly representation of provisions of law to facilitate repeated reading. We have also maintained the friendly icon - "line" to help you with your reviews and study.





Preferential Issue –Not really a Preference

CS. Priti Astarag Patnaik

Capital is the lifeblood for a Company. Preferential issue is one of the methods of Capital raising. Under the preferential issue the Company can opt directly for issue of Equity shares or for issue of Fully Convertible Debentures (FCDs) or Partly Convertible Debentures (PCDs) or any other financial instruments which would be converted into or exchanged with equity shares at a later date.

The name “Preferential issue” itself suggests that the issue is made to a particular group of people who are assigned a preferential right to get the shares, over the other shareholders of the company by way of special resolution. These particular section may be any person (eligible to subscribe) whether an existing share holder or any outsider.

Why preferential issue?

- ❖ Raising capital directly from the market through public offer may be easy for Big Names, but for mid-size and small-size firms the task seems tougher and risky.
- ❖ Even in case of big companies, if the concerned company is not doing too well at that point in time but requires capital, then retail investors may not want to participate in an issue.
- ❖ In such a situation some well experienced financial institutions who view the company's troubles as being temporary and feel that some injection of capital could help it out of the crises may come forward to participate in Preferential issue.
- ❖ During the recent recession none of the companies went for public issue, due to the confidence lacked investors. Such type of situation gives rise to the essence of preferential issue for fresh infusion of fund to the business.
- ❖ Lenders show interest to provide loan to those which have stronger capital base. It means you can get more loans if you have more capital.

- ❖ Preferential issue helps to save costs and time than that is involved in a public issue.

Why regulation?

Every thing has its own merits and demerits. Likewise preferential issue also has possibility of being misused. Some school of thought suggests that the Promoters of the company use preferential issue as an instrument to raise their stake in the company.

In some case there is a chance that Promoters in close association with investors (Group of persons) may in an unfair manner enrich them, to the detriment of the company and smaller shareholders.

Some school of thought suggests that the Promoters of the company use preferential issue as an instrument to raise their stake in the company or to initially sell their existing holdings at a higher price in the secondary market, and then build up their stakes through such issues at a lower price.

The whole idea running behind this unfair enrichment is to initially sell their existing holdings at a higher price in the secondary market, and then build up their stakes through such issues at a lower price. In order to overcome these sever drawbacks which prejudice the minority interest and the interest of the Company as a whole, SEBI has issued guidelines governing the preferential issue.

This provides a total framework under which the transparency and fairness of the process can be achieved. Here there is an effort to analyze the provisions of law to find out the real purpose behind them. The guidelines provides for the pricing of the issue at an average market price of the shares traded in stock exchanges during a prescribed period of time just before the preferential issue.

The main intention behind this Pricing norm is to bring uniformity in the method of calculating the issue price by all companies and to ensure that the Issue price under the preferential issues is in consonance with the average market price of the shares prevalent during the particular period of the issue.

The other objective guiding the Pricing norms is to ensure that the Promoters do not take the undue advantage of issuing the shares at a lower price than the market price. The SEBI guidelines also speak about the allotment of shares within a period of fifteen days from the passing of the

special resolution for the issue. If allotment is not made within the specific period the resolution loses its validity.

In case of issue of share warrants also, an amount equivalent to at least twenty five percent of the price fixed becomes payable for the warrants on the date of their allotment. These provisions ensure that the main objective behind the preferential issue i.e. to meet the (urgent) fund requirement is accomplished.

The company is obliged to disclose the purpose of the fund raising through Preferential issue at the initial stage, in the explanatory statement accompanying the notice of share holders meeting. The guidelines also require disclosure of the extent of fund utilization and amount remaining unutilized at the end of the financial year in its balance sheet.

This makes the management more accountable to the shareholders in this regard. The instruments allotted to the Promoters and Promoter group, in terms of preferential issue are subject to lock-in period of three years from the date of allotment. Allottees other than the person belonging

ICSI on Preferential Issue...

Preferential issue is a way of infusing fresh capital into the business expeditiously and cost effectively and sometimes with no lock-in period. Although mostly perceived as an easy route for promoters to increase their stake at less than the market price, in the recent times, a spate of companies have adopted preferential issue to injecting capital into their business to finance the various activities and invite strategic investors.

From the investors' point of view, the fact that promoters wish to increase their stake is a signal that the company has potential to grow. Preferential issues backed by adequate disclosures have gained impetus in recent times in view of the benefits derived therefrom.

This Guidance Note, as a single referencer to all companies, both listed and unlisted, is aimed at streamlining the practices for making such issues. This Guidance Note outlines the various aspects of the law, compliance and rules and regulations applicable to companies, both listed and unlisted, for issue of securities on preferential basis. The inclusion of Checklists and specimen resolutions in this Guidance Note adds value and should prove to be of immense benefit to the members of the profession and the corporates.

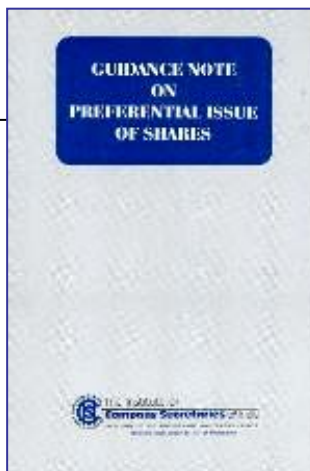
to Promoter and promoter group are subject to lock-in period of one year. The intention behind the lock-in period is to prohibit them from selling out their shares in the secondary market so that integrity and stability in the share market and concerned share price is not disturbed.

However the lock-in norm is applicable to 20 percent of the total capital of the company, including capital brought in by way of preferential issue.

It means the promoter and promoter group may sell the shares allotted to them on preferential basis if such shares are in excess of the 20 percent of the capital of the company. However some ideas have come out to replace the 20 percent of total capital requirement and apply the lock-in restriction on the whole shares allotted to the Promoters and promoter group under preferential issue.

Many companies take the recourse of issuing share Warrants/ PCDs/ FCDs/ or any other financial instruments with a provision for the allotment of equity shares at a future date, either through conversion or otherwise. However these instruments are subject to mandatory conversion in to equity share with in a period of 18 months from the date of their issue.

In case of preferential issue to the existing shareholders (including Promoter and Promoter Group) having considerable holding in the company (who can be termed as



Acquirer) this option of issuing warrants provides a bypass to the SEBI (Substantial Acquisition Of Shares and Takeovers) Regulation which makes it obligatory for the acquirer to make a public announcement to acquire shares in accordance with the regulations in case acquirer's additional stake entitles him to exercise more than 5% of the voting rights in any financial year.

By the Preferential issue of share warrants or other instruments (having no voting right) to the so defined acquirers, their voting rights do not exceed the prescribed limit in the relevant financial year and at the same time they get entitlement to the underlying shares. As the instruments are convertible within 18 months, they can be converted in to equity shares in the next financial year.

Conclusion:

Preferential issue is not really a preference. As long as regulations are there the fairness and transparency will sustain in every corporate action. The promoters are the parents of a Company and their efforts to expand, improve, strengthen and nourish the Company, duly complying with the law in its letter and spirit will lead India ahead in the world economy.

LIVING ROOM



"Does God exist?" said the Master one day.

"Yes," said the disciples in chorus.

"Wrong," said the Master.

"No," said the disciples.

"Wrong again," said the Master.

"What's the answer?" asked the disciples.

"There is no answer."

"Why ever not?"

"Because there is no question," said the Master.

Later he explained: "If you cannot say anything about Him who is beyond thoughts and words, how can you ask anything about Him?"



Demonstration

by
Anthony de Mello, SJ

Spectrum Space

Pick of the Month – Relisting of Securities

Whether a company which has voluntarily delisted its securities, relist itself?

Information courtesy:
CS. B N Harish, GMR Group, Bangalore

Yes. Such companies will have to comply with listing norms and get their shares listed again for trading on stock exchanges. A company that has voluntarily delisted its securities can re list its securities only after a cooling period of 5 years. A Company that has been compulsory delisted by the exchange can re list its securities only after a cooling period of 10 years.

Did you know? - e-Voting

In this E – era, after e-Mail, e-Cards, e-Payment, e-Stamping, it is now e-Voting! The e-voting system was inaugurated on 17th November 2009 by Hon'ble Minister Shri. Salman Khurshid, Ministry of Corporate Affairs.

CDSL Ventures Ltd. a wholly owned subsidiary of Central Depository Services (India) Ltd. (CDSL) has designed the e-voting system as an alternative to paper based postal ballot system. e-Voting is an internet based system through which shareholders can login and register their votes on company resolutions. The system would process, record votes automatically and facilitate declaration of voting results quickly. e-Voting system would be relatively more efficient, convenient and cost effective. The Companies (Passing of the Resolution by Postal Ballot) Rules, 2001 issued by Central Government under Section 642 of the Companies Act, 1956, includes electronic voting.

E-Voting will indeed ensure increased Shareholder participation in Corporate Decision making and thus 'Good Corporate Governance.'

Learners' Corner: With the exams just around the corner, here's the secret to your 'Success':



- S**tay fit and healthy - only a healthy body can support a smart mind;
- U**se time efficiently – because 'Time' waits for none;
- C**oncentration – stay undeterred from your Goal;
- C**larity about concepts – don't just 'study' but 'learn';
- E**ffort – This is indispensable;
- S**tudy but of course ensure there are,
- S**ufficient breaks!!!



Introduction to WIPO



CS. Shrinivas Devadiga

Associate Manager- Secretarial, MSPL Limited, Hospet

What is World Intellectual Property Organization (WIPO)?

The World Intellectual Property Organization (WIPO) is a specialized agency of the United Nations. It is dedicated to developing a balanced and accessible international [intellectual property](#) (IP) system, which rewards creativity, stimulates innovation and contributes to economic development while safeguarding the public interest. It was established by the WIPO Convention, in 1967 with a mandate from its Member states to promote the protection of IP throughout the world through cooperation among states and in collaboration with other international organizations. Its headquarter is in Geneva, Switzerland. The Present Director General is 'FRANCIS GURRY'.



Major activities of WIPO

WIPO's activities are conducted within the strategic framework set out in the biennial Program and Budget document. Activity of WIPO is driven by demand from Member States. They fall broadly into the following areas.

Encouraging the use of IP for economic development

It conducts a range of programs aimed at increasing the effective use of the IP system by developing countries to promote economic, social and cultural development. Programs include technical assistance in support of member countries' initiatives to improve their IP legislative, institutional and human resources frameworks.

Promoting a better understanding of IP

It conducts Seminars and informative sessions to target specific groups, such as creators, small and medium-sized enterprises, research institutions and policymakers. Other awareness-raising activities contribute to Member States' efforts in the area of building respect for IP.

Delivering global IP protection services

WIPO provides fee-based services, based on international agreements, which enable users in member countries to file international applications for patents, and international

registrations for trademarks, designs, and appellations of origin. It administers four IP Classification systems, which organize the mass of information concerning inventions, trademarks and industrial designs into indexed, manageable structures for easy retrieval.

Developing international IP laws and standards

WIPO is responsible for promoting the progressive development and harmonization of IP legislation, standards and procedures among its Member States. This includes further development of international laws and treaties on patents; trademarks, industrial designs and geographical indications; and copyright and related rights.

Providing a forum for debate

WIPO do meet regularly bring together stakeholders from governments, right holders' groups and civil society in order to facilitate constructive debate on current challenges and the sharing of expertise.

WIPO's Member States determine the strategic direction and activities of the Organization. There are currently more than 184 States are Member of WIPO. Some 250 NGOs and IGOs currently have official observer status at WIPO meetings.

Every two years WIPO's Director General presents a Program and Budget document to Member States for approval.



The WIPO does lot of publication. 'WIPO Overview', introduced in 2007, is a free publication, which explains in simple terms how WIPO works and how the Organization carries out its mission of promoting a balanced IP system.

<http://www.wipo.int/portal/index.html.en> contains gamut of information relating to WIPO, IP and Administration of IP. There is a earmarked columns for delegates, journalists, businessmen, innovators and students.

WIPO is Ocean of Knowledge, this article is like a handful of water from the ocean. I strongly recommend you to have a dip in this ocean of knowledge.



Customs

Notifications/Circulars

Exemption period from basic customs duty on import of raw sugar extended till January 1, 2011.

(Customs Notification No. 125/2009 dated 11/11/2009)

Customs authorities not to reject splitting up of the value of imported packaged software into the media value unless there is a valid reason.

(Customs Instructions F. No. 354/189/2009/TRU dated 04/11/2009)

Exemption from levy of countervailing duty on import of packaged software.

(Customs Instructions F. No. 354/189/2009/TRU dated 04/11/2009)

Procedures Revised U/s 149 of Customs Act for post shipment amendments.

(Public Notice No. 88/2009 dated 21.11.2009)

Case Law - Valuation

While determining value of imported goods under Rule 8 of CVR, data available in India alone can be considered.

(Peddinton Lubrimetal Pvt. Ltd. Vs. CC (2009 (243) ELT 291)

Antidumping Duty

Notifications

Provisional Anti-dumping duty has been imposed on Nylon Tyre cord fabric exported from Belarus.

(Customs Notification No. 121/2009-Cus dated 30/10/2009)

Provisional Anti-dumping duty imposed on polyester yarn exported from China and Thailand.

(Customs Notification No. 124/2009-Cus dated 11/11/2009)

Provisional Safeguard duty imposed on soda ash imports from China.

(Customs Notification No. 122/2009-Cus dated 5/11/2009)

Foreign Trade Policy (FTP)

News

Vietnam market economy to join the indo-ASEAN FTA.

(http://commerce.nic.in/)

CG Plans to setup DTRM to bring down antidumping cases by end of March 2010.

(The Business Standard, New Delhi, 2/11/2009)

Notifications/Circulars

Net Foreign Exchange Earnings (NFE) of SEZ units are to be calculated in INR only.

(SEZ Instruction No. 41 dated November, 2009)

CG has allowed status holders to obtain Registration cum Membership Certificate under FTP.

(DGFT Public Notice No. 16/2009-14 dated 10/11/2009)

Central Government has issued list of Sector/product groups under EPCG for the financial year 2008-09 to re-determine the export obligations under the EPCG scheme for the year 2008-09 for these sectors.

(DGFT Policy Circular No. 13/2009-14 dated 27/10/2009)

Case Laws

Duty cannot be demanded from 100% EOU on capital goods taken away by Government Authorities for recovery of revenue and subsequent returns.

(Inventaa Chemicals Ltd. Vs. CCE (2009 (243) ELT 584)

Value of goods imported under EPCG can be challenged by Customs Authorities.

(Crown Milk Specialties Pvt. Ltd. Vs. CC (2009 (243) ELT 296)

CENVAT

Case Law: Manufacture/Dutibility

Crushing/grinding of waste rubber pieces of tyre/tubes into powder form not resulting in a new product.

(Gujarat Reclaim and Rubber Products Ltd. Vs. CCE (243) ELT 426)

Ducts emerging during installation of heat ventilators and air conditioners have no marketability.

(CCE Vs HVAC Systems Pvt. Ltd (2009 (243) ELT 637)

Installation of Kitchen cabinets/wardrobes results to emergence of immovable property and is not excisable.

(Trident Inter wood Pvt. Ltd. Vs. CCE., Bangalore (2009 (94) RLT 588)

Appropriate Duty payable on samples drawn for in house testing.

(Positive Packaging Industries Ltd. Vs. CCE (2009 (95) RLT 141)

Case Law: Valuation

Interest collected from buyers for delayed payments is not includible in the excisable value of goods.

(Andhra Pradesh Paper Mills Ltd. Vs. CCE (2009-TIOL-1680)

Fabrication of body by body builder supplied by manufacturer for free of cost would amount to carrying out of job work.

(Audi Automobiles Vs CCE (2009 (95) RLT 260)

CENVAT/MODVAT

Case law

CENVAT Credit is allowed in case of goods returned for reprocessing under Rule 16.

(Hitech Plastics Pvt. Ltd. Vs. CCE (2009 (243) ELT 419)

CENVAT credit is admissible on usage of conveyor belt for moving raw materials.

(Ultratech Cement Ltd. Vs. CCE (2009 (243) ELT 575)

Waste generated during manufacturing process - no requirement of reversal of CENVAT Credit.

(Geltec Ltd. Vs. CCE (2009 (243) ELT 586)

Others

No interest is payable on erroneous availment of credit during the relevant period.

(CCE Vs. Bodal Chemicals Ltd. (2009 (243) ELT 464)

Service Tax

Notification/Circulars

Exemption notification for cycles and sewing machines manufacturing industry.

(Notification No. 42/2009 dated 12.11.2009)

Case Law

Insurance, repair and maintenance contract on telecom equipment and courier charges are input services.

(CCE & C Vs. CCL Products (India) Ltd. [2009 (94) RLT 848]

Residential complex construction for own members of a cooperative society in not taxable service.

(Shrinandnagar Co-op. Housing Society Ltd. & Ors. Vs. CST [2009 (94) RLT 745]

Services received outside the factory - eligible input service.

(CCE Vs. Vikram Cement [2009 (94) RLT 748]

Credit is admissible on input services received by the assessee even if the invoices indicate the name of the head office or any branch office.

(CCE Vs. ITW India Ltd. [2009 (95) RLT 219]

Rebate of service tax on input services on fulfillment of the conditions of Notification No. 12/2005.

(Dell International Services India (P) Ltd Vs. CCE (Appeals) [2009 (22) STT 478]

Taxability of technical services received in India from a non-resident.

(Hi Tech Arai Ltd. Vs. CCE [2009 (22) STT 440]

Person who procures orders and is compensated by way of commission cannot be treated as a 'clearing and forwarding agent'.

(CCE, Service Tax Commissionerate Vs. Nava Karnataka Steels (P) Ltd [2009 (23) STT 43]

Refund claim filed after expiry of limitation period will be treated as time barred.

(CCE Vs. Manorath Builder (P) Ltd. [09- VIOL-14]

Services received from outside India prior to 18 April 2006 - not taxable.

(Sandvik Asia Ltd. Vs. CCE [2009 (23) STT 118]

Premium paid for insuring capital goods & employee group insurance is eligible as input service.

(CCE Vs. Raipur Rotocast Ltd. [2009 (95) RLT 319]

Interest liability under Section 11AB on erroneous availment of credit would arise from the date of utilization of such credit.

(CCE Vs. Jagatjit Industries Ltd [2009- TIOL-1837]

Sales Tax

Case Law

Check post officer has no power to determine the nature of a transaction.

(Devi Dass Gopal Krishan Ltd. Vs. State of Punjab [(2009) 25 VST 434]

Interest is payable on the differential tax resulting from failure to furnish form C.

(Commissioner of Commercial Tax Vs. Jalpac India Ltd [(2009) 26 VST 168]

Differentiation between works contract and contract for sale analysed.

(State of Tamil Nadu Vs. Premier Litho Works [(2009) 26 VST 203]

WTO Updates

WTO Ministerial Lifts Hopes for Doha, but Scepticism Lingers - ICTSD Reports

The WTO's seventh ministerial conference, which ran from 30 November to 2 December, largely met expectations, trade delegates said this week. But the three-day meeting, which was billed as a no-surprises 'housekeeping' exercise, also produced a somewhat unexpected political push for the WTO's Doha Round trade talks. "It was a worthwhile ministerial insofar as it showed that the WTO was still alive," said one developing country delegate, who added that he was sure that the gathering will lead to "renewed optimism," at least for a time, in the Doha talks.

India rejects Kyoto Protocol changes: 'No More Burden Imposed on Developing Countries on Carbon Emissions' Times of India, 14-12-2009

Copenhagen: India on Sunday opposed any amendment to the Kyoto Protocol at the Copenhagen climate meet as the EU pushed for an agreement that is broader than the 1997 treaty and puts more obligations on developing countries for cutting emissions. The tiny Pacific island of Tuvalu has raised the proposal of adding another protocol to the Kyoto Protocol. Developing nations mainly India, China, South Africa and Brazil are, however, sticking to a one-protocol approach. The spotlight is on existing commitments.

Economic Times Report: INDIA finally has a reason to smile at Copenhagen. In the first achievement of the conference, an agreed negotiating text on technology was put in place on Saturday 12.12.09. This agreement will allow for the deployment diffusion and transfer of technology, a move that is crucial to moving to a low carbon economy. Technology is one of the four pillars of the Bali Action Plan that includes mitigation, adaptation and finance for India, the final negotiating document represents a victory that is both diplomatic and substantive in the realm of technology.

