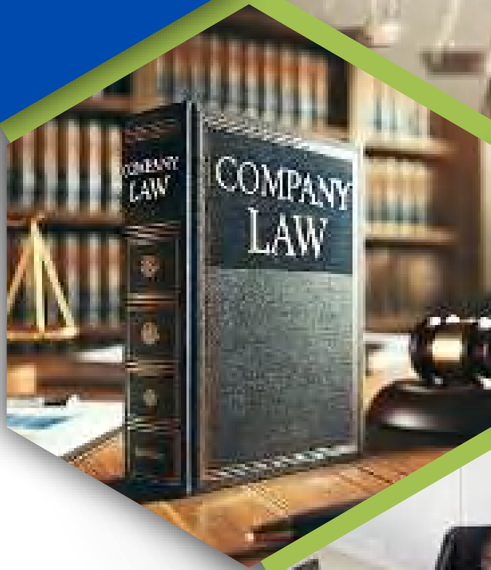

GENICON CS
LEGAL MUSINGS

The Fornightly Legal Updates !!!

#MUSINGS 3
January 2025

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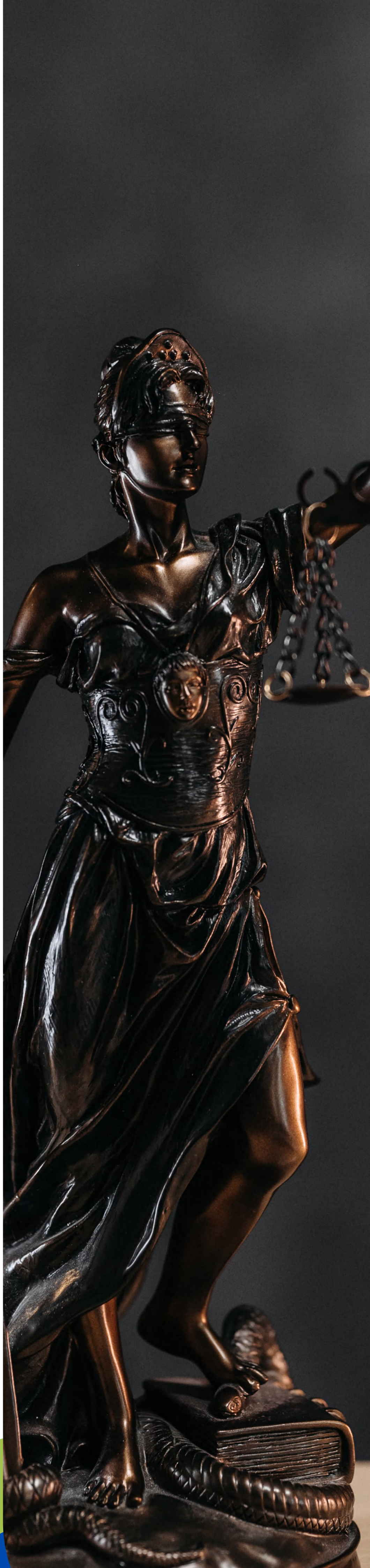
Index



MINISTRY OF CORPORATE AFFAIRS

GIST OF ROC ADJUDICATION ORDERS

1. Adjudication order for violation of Section 155 of the Companies Act, 2013 in the matter of Mrs. Anubama .

ROC Chennai issued an adjudication order in the matter of Mrs. Anubama for having two DIN numbers at the same time and thus violating the provisions of Section 155 of Companies Act, 2013. The Adjudicating Authority imposed a penalty of ₹ 19,51,000 under Section 159 upon the Director.

2. Adjudication order for violation of Section 177 r/w Section 178 of the Companies Act, 2013 in the matter of M/S KCP Infra Ltd.

ROC Chennai issued an adjudication order in the matter of M/S KCP Infra Ltd for improper composition of Audit Committee and Nomination and Remuneration Committee thus violating the provisions of Section 177 and Section 178 of the Companies Act, 2013. The Adjudicating Authority imposed a penalty of ₹ 5,00,000 upon the Company and ₹ 1,00,000 upon the officer in default.

3. Adjudication order for violation of Section 12 of the Companies Act, 2013 in the matter of M/S Mahe Royal Tranvancore Nidhi Ltd

ROC Puducherry issued an adjudication order in the matter of M/S Mahe Royal Tranvancore Nidhi Ltd for not having the office at the registered address and for not displaying the name board of the company thus violating the provisions of Section 12(1) and Section 12(4) of the Companies Act, 2013.The Adjudicating Authority imposed a penalty of ₹ 50,000 upon the Company and ₹ 50,000 upon the officers in default.

4. Adjudication order for violation of Section 90 of the Companies Act, 2013 in the matter of M/S Madhyamam Technologies Ltd

ROC Ernakulam issued an adjudication order in the matter of M/S Madhyamam Technologies Ltd for not filing BEN-2 Form within the time by violating the provisions of Section 90 of Companies Act, 2013. The Adjudicating Authority imposed a penalty of ₹ 5,00,000 upon the Company and ₹ 1,00,000 upon the officers in default.

SECURITIES AND EXCHANGE BOARD OF INDIA

INFORMAL GUIDELINES ISSUED ON PRIOR APPROVAL FOR CHANGE IN CONTROL

Transfer of shareholdings among immediate relatives and transmission of shareholdings and their effect on change in control

1.Transfer /transmission of shareholding in case of unlisted body corporate intermediary:

In following scenarios, change in shareholding of the intermediary will not be construed as change in control:

a) Transfer of shareholding among immediate relatives shall not result into change in control.

b) Transfer of shareholding by way of transmission to immediate relative or not, shall not result into change in control.

2.Transfer /transmission of shareholding in case of a proprietary firm type intermediary:

In case of an intermediary being a proprietary concern, the transfer or bequeathing of the business/capital by way of transmission to another person is a change in the legal formation or ownership and hence by the definition of change in control, such transmission or transfer shall be considered as change in control. The legal heir / transferee in such cases are required to obtain prior approval and thereafter fresh registration shall be obtained in the name of legal heir/transferee.

SECURITIES AND EXCHANGE BOARD OF INDIA

3.Transfer /transmission of ownership interest in case of partnership firm type intermediary:

Change in partners and their ownership interest of the partnership firm type intermediary shall be dealt in following manner:

a) Transfer of ownership interest in case of partnership firm: In case a SEBI registered entity is registered as a partnership firm with more than two partners, then inter-se transfer amongst the partners shall not be construed to be change in control.

b) Transmission of ownership interest in case of partnership firm: Bequeathing of partnership right to legal heir(s) by way of transmission shall not be considered as change in control.

4 .Incoming entities/ shareholders becoming part of controlling interest need to satisfy the fit and proper person criteria

5.The provisions of this circularshall be applicable with immediate effect.

SECURITIES AND EXCHANGE BOARD OF INDIA

<u>Circular - Implementation of recommendations of the Expert Committee</u>

1. Ease of Doing Business

SEBI has operationalized the recommendations of the Expert Committee constituted to review and amend the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (“LODR”). The amendments seek to streamline compliance obligations and harmonize regulatory provisions to enhance procedural simplicity and reduce operational burdens for listed entities.

2. Integrated Filing

Pursuant to Regulation 10(1A) of the LODR, SEBI has introduced the Integrated Filing framework for governance and financial disclosures, applicable for the quarter ending December 31, 2024, and thereafter. Governance-related filings must be submitted within 30 days of the quarter's end, while financial filings must adhere to deadlines of 45 days for all quarters except the last, where the timeline is extended to 60 days. This initiative consolidates reporting requirements, streamlines compliance processes, and ensures uniformity across listed entities.SEBI has however relaxed the first quarterly (Governance) filing which can b e filed within 45 days for the end of December 31, 2024

3. Secretarial Auditor Guidelines

In accordance with Regulation 24A of the LODR, SEBI has prescribed eligibility criteria for Secretarial Auditors, restricting appointments to Peer Reviewed Company Secretaries without conflicts of interest or disqualifications.

SECURITIES AND EXCHANGE BOARD OF INDIA

4. Employee Benefit Scheme Disclosure

Pursuant to Regulation 46(2)(za) of the LODR, listed entities are required to publish Employee Benefit Scheme documents, on their websites. Redaction of such information must be board - approved and compliant with SEBI guidelines, with adherence confirmed in Secretarial Compliance Reports.

5. System-Driven Disclosures

Stock Exchanges, in consultation with SEBI, shall specify the process, procedure, and timelines for system-driven disclosure of the following filing/disclosure requirements applicable to listed entities under the LODR Regulations:

1. Regulation 31(1)(b) of LODR: Shareholding Pattern.
2. Regulation 30(6) read with sub-para 3 of para A of part A of schedule III of LODR: New Rating(s) or Revision in Rating(s).

This system-driven disclosure mechanism seeks to reduce manual intervention, improve efficiency, and ensure real-time compliance through automated processes.

6. Single Filing System

The facility of single filing by listed entities has already been put in place by BSE and NSE w.e.f. October 1, 2024, beginning with the filing of the statement on redressal of investor grievances under Regulation 13(3) of the LODR Regulations and subsequently extended to corporate governance reports under Regulation 27(2), reconciliation of share capital audit reports, and disclosure of voting results under Regulation 44(3).

SECURITIES AND EXCHANGE BOARD OF INDIA

7. Revised Reporting Formats

The formats for filings such as Corporate Governance Reports, Financial Results, and Related Party Transactions have been updated and incorporated into the Integrated Filing framework. These revisions standardize reporting requirements, ensuring consistency with regulatory objectives and enhancing clarity for stakeholders.

8. Material Events and Timelines

As per Regulation 30 of the LODR, SEBI mandates strict timelines for disclosing material events or information:

Board Decisions: Events decided in board meetings must be disclosed within 30 minutes of the meeting's conclusion. If the meeting ends after regular trading hours but at least 3 hours before the next trading session, disclosures must be made within 3 hours of the meeting's closure.

Internally Originating Events: Events or information originating from within the listed entity must be disclosed within 12 hours of their occurrence.

Externally Originating Events: Events originating outside the listed entity must be disclosed within 24 hours of their occurrence.

Additionally, entities must provide quarterly updates on ongoing tax litigations or disputes to ensure continuous transparency and compliance with materiality thresholds.

9. Fines and Penalties

SEBI introduces monetary penalties for non-compliance with timelines under Regulation 31A(3)(a) of the LODR, particularly for reclassification of promoters or promoter groups. The imposition of these penalties aims to enforce timely adherence to regulatory requirements and ensure accountability.

SECURITIES AND EXCHANGE BOARD OF INDIA

10. Infrastructure and Implementation

Recognized Stock Exchanges and Depositories are directed under Section 11(1) of the SEBI Act, 1992, to establish requisite infrastructure and monitoring mechanisms to operationalize the provisions of this circular. This includes ensuring effective implementation, stakeholder awareness, and systemic upgrades to facilitate compliance.

Compliance Calendar

Event Date	As Per Act	Applicable Forms
07/Jan/2025	Income Tax Act, 1961.	Last day to remit TDS/TCS deductions for December 2024
10/Jan/2025	Goods and Services Act, 2017.	GSTR-7 and GSTR-8
13/Jan/2025	Goods and Services Act,2017.	GSTR-1 "Quarterly Return" GSTR-5 and GSTR-6
14/Jan/2025	Income Tax Act, 1961.	Form 16B, Form 16C, Form 16D and Form 16E
15/Jan/2025	Income Tax Act, 1961.	Form 15CC, Form 15G/15H, Form 49BA and 27EQ

TEAM'S CORNER

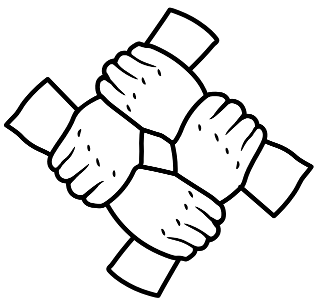
Inclusivity and Diversity – the need of the hour for the Corporates to Thrive

"We are reminded that in the fleeting time we have on this Earth, what matters is not wealth, or status, or power, or fame, but rather how well we have loved and what small part we have played in making the lives of other people better."

- **Barack Obama**

The biggest thing a company can do to make people's lives better is to promote inclusivity and diversity.

Thinking the same way as everyone else, kills creativity and keeps us from coming up with new ideas. Think about the fall of mobile computing giant Blackberry, due to its inability to keep up with technological advancements and consumer preferences, particularly the shift towards touchscreen devices and a robust app ecosystem. The authors of "**Why Nations Fail**" emphasize that companies, like nations, need to be inclusive and adaptive to thrive in a competitive environment.



TEAM'S CORNER

Employees from under-represented groups may feel excluded, leading to lower engagement, job satisfaction, and higher turnover rates. Moreover, poor diversity practices can result in discrimination claims and legal issues, damaging the company's reputation and finances.

In recent times, we see a lot of welcome moves toward inclusivity and diversity in the corporate world.

Some key developments are:

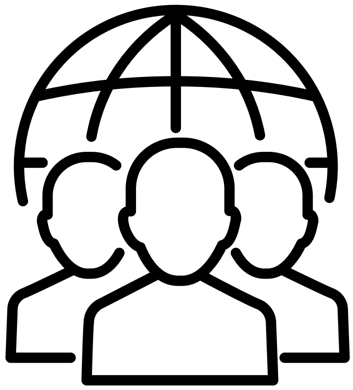
•Kenya - no gender should occupy more than two-thirds of boardroom seats in state-owned companies or those in which the government is the majority owner.
•Chile - 60% limit on the representation of a single gender on the boards of public companies and state-owned societies.
•Stock Exchange of Hong Kong prohibits single-gender boards among listed companies.
•Large, listed EU companies that do not meet the target of 40% among non- executive board members or 33% among all directors of the under-represented sex by 30 June 2026 must ensure fair and transparent selection procedures for the selection of candidates for board positions.

TEAM’S CORNER

In the words of Verna Myers, “**Diversity is being invited to the party; inclusion is being asked to dance**.”

Diversity without inclusion in the decision-making process will defeat the whole purpose of improving diversity. When giants like BlackBerry are cast aside, we, as company secretaries recognized as thought leaders and key influencers within organizations, will do well to carry the importance of inclusion and diversity to the board.

The corporates in India, through legislations and good corporate governance practices are already in the process of inculcating this inclusivity and diversity and we just need to accelerate the process.



WISDOM CORNER

Wit and Wisdom by Osho- “Do good and throw it in the well.”

There are people, they feel very unfortunate because whatsoever they do, goes wrong. And they try not to do wrong again, but that’s not going to help because the center has to be changed. Their minds function in a wrong way. They may think that they are doing good, but they will do bad. With all their good wishes, they cannot help; they are helpless.

Mulla Nasruddin used to visit a saint. He visited for many, many days. And the saint was a silent one; he will not speak anything. Then Mulla Nasruddin had to say, he had to ask, “I have been coming again and again, waiting that you will say something, and you have not said anything. And unless you say, I cannot understand, so just give me a message for my life, a direction so that I can move in that direction.”

So that Sufi sage said, “Do good and throw it in the well.” It is one of the oldest Sufi sayings: “Do good and throw it in the well.” It means do good and forget it immediately; don’t carry that “I have done good.”

So next day Mulla Nasruddin helped one old woman to cross the road, and then he pushed her into the well. ”DO good and throw it in the well.”

If your wrong center is functioning, whatsoever you do....

LEGAL MAXIM

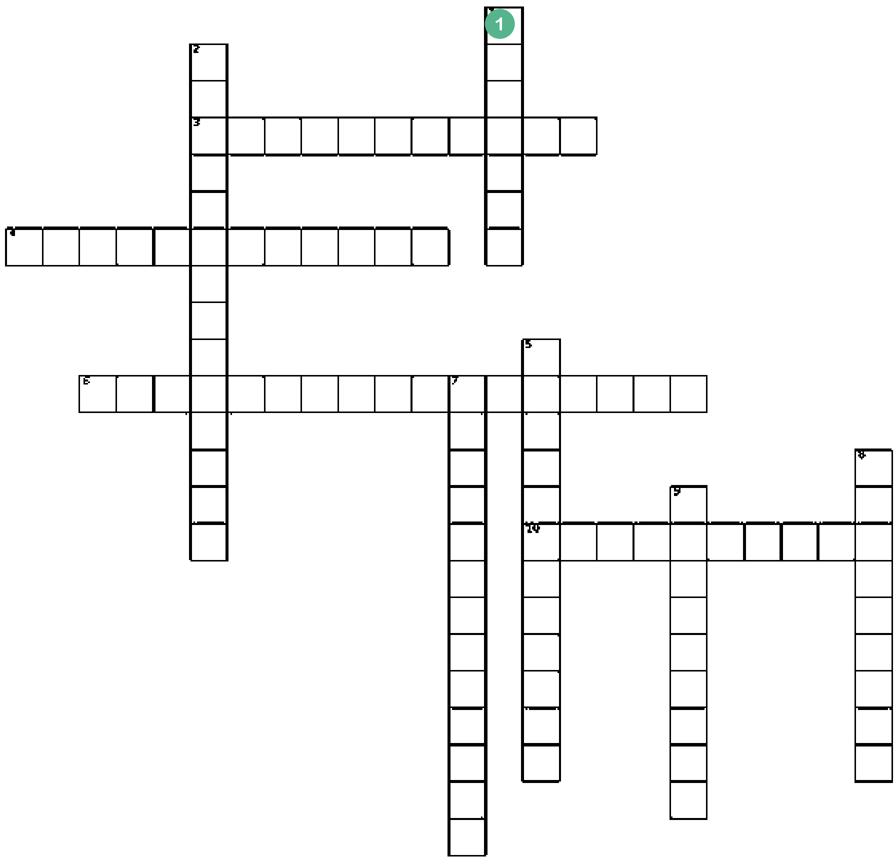
“Nullus commodum capere potest de injuria sua propria”

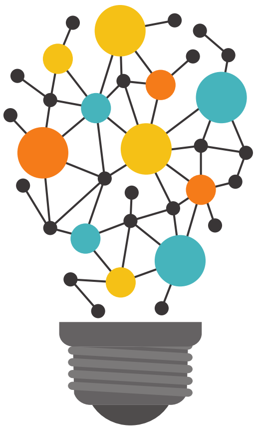
Meaning: “No advantage gained from one’s own wrong”.

”A maxim meaning that the law will not recognize or validate any profit a person derives from his own wrongdoing. For example, one may not destroy evidence of the extent of damages caused by one’s illegal act, and then counter a claim for damages based on that act by pointing to the lack of evidence.

It is derived from the good faith arrangement that parties within a contract often undertake. By this arrangement, parties mutually agree upon the fact that in a scenario where, due to an unlawful act on the part of one party, the other party is not able to fulfil its contractual duty to the former, the former may not take advantage of the non-performance condition. They agree to not deceive each other and operate with ‘clean hands’ and in complete confidence and cooperation with each other. In India, where the common law system prevails, such a provision is primarily seen in contracts such as partnership agreements and other agreements prescribing a fiduciary duty such as insurance contracts.

Musings in the Maze





ACROSS

3. A settlement mechanism under the Companies Act, 2013 that allows a company or its officers to pay a fee in lieu of prosecution for an offense.

4. Reduction in value of Intangible Assets over a period of time 6. Legal procedure of transferring physical certificates to digital form.

10. Loss of a right or property as a penalty for failure to ful ll a legal obligation.

DOWN

1. Individual possessing con dential information about a corporation's affairs, often subject to legal restrictions.
2. Process of transforming mortgaged assets into tradable securities.
5. The settlement of a secured loan acquired against charge on the assets of the borrower.
7. The legal process of forming a distinct legal entity, separate from its founders.
8. Publicly made bid to shareholders, usually in the context of a takeover.
9. Alternative dispute resolution method where a neutral third party assists in reaching a legally binding agreement.

Use the clues to fill in the words above.
Words can go across or down. Letters are shared when the words intersect.
You may zoom to check number in the boxes.
You may check your answers in the next Musings.

TEAM GENICON CS WISHES YOU A

HAPPY NEW YEAR

2025

Thank you

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