

GENICON CS LEGAL MUSINGS

The Fortnightly Legal Updates !!!

#MUSINGS 6
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MINISTRY OF CORPORATE AFFAIRS

EXTENSION OF DEADLINE FOR MANDATORY DEMATERIALIZATION OF PRIVATE COMPANY SHARES - JUNE 30, 2025 ;

Ministry of Corporate Affairs (MCA) announces an extension of the compliance deadline for the mandatory dematerialization of securities for private companies, excluding small and producer companies.

Extended Timeline: The compliance deadline has been extended to **June 30, 2025**, providing additional time for private companies to comply with the dematerialization requirements.

GIST OF ROC ADJUDICATION ORDERS

1.Adjudication order for violation of section 10 of the Companies Act, 2013 in the matter of M/S Infracx Developers Private Limited

ROC Hyderabad issued an adjudication order in the matter of M/S Infracx Developers Private Limited for non-filing of declaration of commencement of business (**INC 20A**) within the prescribed statutory period thus violating the provisions of **Section 10A** of the Companies Act, 2013. The Adjudication Authority imposed a penalty of ₹ **25,000/-** upon the Company and ₹ **9,000/-** each upon the officers in default.

2. Adjudication order for violation of Section 161 of the Companies Act, 2013 in the matter of M/S Oriental India Kisanshakti Nidhi Limited.

ROC Kanpur issued an adjudication order in the matter of M/S Oriental India Kisanshakti Nidhi Limited for not regularising the Appointment of Additional Director in the next Annual General Meeting thus violating the provisions of **Section 161(1)** Companies Act, 2013. The Adjudication Authority imposed a penalty of ₹ **3,00,000/-** upon the Company and ₹ **1,00,000/-** each on the officers in default.

3. Adjudication order for violation of Section 39(4) of the Companies Act, 2013 in the matter of M/S Shriram Nidhi Limited.

ROC Kanpur issued an adjudication order in the matter of M/S Shriram Nidhi Limited for non filing of return to be filed thus violating the provisions of **Section 39(4)** of the Companies Act, 2013. The Adjudication Authority imposed a penalty of ₹ **1,00,000/-** upon the Company and ₹ **1,00,000/-** each upon the officers in default.





dharohar

Milestones in the Indian Securities Market

SECURITIES AND EXCHANGE BOARD OF INDIA

SEBI launches 'Dharohar - Milestones in the Indian Securities Market' A Digital Knowledge Repository

SEBI has introduced '**Dharohar**', a dynamic digital knowledge repository celebrating **150 years** of India's securities market history.

The word "**Dharohar**" refers to the **cultural heritage**, traditions, customs, and historical legacy passed down from generation to generation within a community or a society.

Dharohar has been designed to document and showcase this rich heritage and evolution of the Indian securities market. SEBI, on **January 26, 2025** issued a notification regarding the launched "Dharohar – Milestones in the Indian Securities Market" A Digital Knowledge Repository.

The repository, accessible via an interactive website, features a timeline of significant milestones, 3D galleries and over 3000 assets, including articles, regulatory developments, interviews, historic newspaper clippings, share certificates, info graphics, videos and committee reports. Tailored for a diverse audience- students, investors, researchers, journalists, market participants and the general public – it offers an engaging and educational experience.

For More details : <https://www.mism.org>

SEBI CONSULTANT PAPER

SEBI vide Consultation paper dated **7th February, 2025** has proposed the following changes in SEBI LODR Regulations:

- 1. Revision of Format of Annual Secretarial Compliance Report (ASCR) (Reg. 24A)**
- 2. Disclosure of ASCR in the Annual Report of listed entities, in addition to disclosure of secretarial audit report.**
- 3. Modification of **Regulation 48** to mandate compliance with both accounting standards and secretarial standards.**
- 4. Addition of Secretarial Auditor in **Schedule III Part A Para A** Clause 7 & 7A (though most of the listed entities were already filing the same)**
- 5. Addition of following in Corporate Governance Report of Annual Report:**
 - i. Total fees paid to Secretarial Auditor by Listed entity and its subsidiaries.**
 - ii. Disclosure about resignation or removal of statutory auditor or secretarial auditor before the end of tenure and reasons thereof.**
- 6. Removal of duplication in following certifications:**
 - i. Compliance certificate from either the auditors or practicing company secretaries regarding compliance of conditions of corporate governance annexed with the directors' report.**
 - ii. Certificate from a PCS that none of the directors on the board of the company have been debarred or disqualified from being appointed or continuing as directors of companies by the Board/MCA or any such statutory authority.**

iii. Reg. 13 of SBEB Regulation: certificate from the secretarial auditors of the company that the scheme(s) has been implemented in accordance with these regulations and in accordance with the resolution of the company in the general meeting

iv. Reg. 26 of SBEB Regulation: General Employee Benefits Scheme

v. Reg. 27 of SBEB Regulation: Retirement Benefits Scheme

vi. Reg. 36 of SBEB Regulation: Sweat Equity

7. To make it mandatory for PCS to adhere to the guidance note issued by ICSI for secretarial audit report and secretarial compliance report.

8. Following explanation to be added to **Reg. 2(1)(zc)**:

Explanation: related party of subsidiary shall be identified as per clause (zb) of this sub-regulation.

9. Substituting the proviso (b) & (c) to **Reg. 23(2)**.- Related party transactions.

10. Substituting **Reg. 36(5)**: - Documents and information to shareholders

The notice being sent to shareholders for the general meeting where the statutory auditor(s) or secretarial auditor(s) is/are proposed to be appointed/re-appointed shall include disclosures as specified by the Board from time to time:

Provided that the listed entity shall also place all relevant information, as specified by the Board from time to time, for consideration of the Audit Committee and / or the Board of Directors at the time of considering appointment/ reappointment of the statutory auditor(s) or secretarial auditor(s).

11. Addition of Role of Audit Committee as per Schedule II:

(2A) taking into consideration the qualifications and years of experience of the individual or the firm proposed to be considered for appointment as statutory auditor and whether such qualifications and experience are commensurate with the size and requirements of the listed entity;

(2B) taking into consideration whether the qualifications and years of experience of the signing partner(s) of the firm appointed as statutory auditor are commensurate with the size and requirements of the listed entity;

The comments may be submitted latest by **28th February, 2025**





STOCK EXCHANGE

BSE / NSE CIRCULARS

NSE/BSE Circulars

Clarification on fixing the record date under Regulation 42 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015

SEBI has made key updates with reference to the recent amendment made by the Securities and Exchange Board of India to **Regulation 42 of the SEBI (Listing Obligations and Disclosure Requirements), Regulations, 2015** vide notification dated December 12, 2024:

- **Minimum Gap:** Listed entities must now ensure a minimum gap of **3 working days** between the Board/Shareholders' approval and the Record Date. The gap excludes the approval and record date.
- **Transfer Books Closure:** The requirement to announce the closure of transfer books has been omitted.

TAXES

INCOME TAX

Budget Highlights 2025

The hon'ble Finance Minister of India, on **February 1, 2025**, has introduced new schemes and proposed major reforms to the Direct Tax and Indirect Tax structure. Few of the proposed changes which may have a significant impact on the economy are highlighted below.

Fiscal Deficit: The Fiscal Deficit for the year is projected at **4.8%** of the GDP

(i) Major Announcements applicable to all taxpayers

Proposal	Benefits
No income tax shall be payable for annual income of upto Rs. 12,00,000 (or Rs. 12,75,000 for salaried employees) under the new tax regime.	This proposal shall benefit the middle-class sector hugely allowing them to withhold a major part of their income without payment of tax.
The time limit to file updated returns has been increased from 2 Years to 4 Years .	This shall allow taxpayers to rectify errors made in returns filed upto 48 months from the end of the relevant Assessment Year.

<p>Removal of Tax Collected at Source (TCS) on foreign remittances for education expenses if the funds are sourced from loans taken from designated financial institutions.</p>	<p>This proposal shall benefit students applying for educational loans to study abroad as the total remittance applicable will be free from tax deduction thereby allowing full remittance of disbursed loan which shall also decrease the burden on such students to compensate for TCS deductions.</p>
<p>Tax deduction for senior citizens on bank interest income is proposed to be increased from Rs 50,000 to Rs. 1,00,000 under Section 80TTB.</p>	<p>This allows senior citizens to claim an additional deduction under section 80TTB of Rs 50,000 if they are still paying taxes under the old tax regime.</p>
<p>TDS Deduction Limit for Rent under section 194IB has been increased from Rs. 2,40,000 to Rs. 6,00,000</p>	<p>This proposal shall decrease the burden on small taxpayers to deduct rent where the total rent income earned is less than Rs 6,00,000 in a year.</p>
<p>Remittance limit for TCS deduction of 20% for remittances through Liberalised Remittance Scheme (LRS) on specified transactions has been revised from Rs 7,00,000 to Rs. 10,00,000</p>	<p>This proposal shall allow additional foreign remittances by Residents to Non-Residents/NRE/ NRI for any purpose without payment of tax.</p>

(ii) Other Announcements

- TDS and TCS rationalisation and Personal Income Tax Reforms have been announced.
- The new Income Tax Bill will be introduced in the parliament next week containing half of the existing provisions rephrased for simple and straight forward implementation by taxpayers and professionals.
- ID cards and initiatives including healthcare benefits have been introduced to recognise the contribution of Gig workers (Swiggy, Zepto, Zomato etc).

(iii) Customs

- No Basic Customs Duty on patient assistance programmes conducted by pharmaceutical companies if the medicines are provided free of charge.
- **37** new medicines and **13** new patient assistance programmes have been added to the exemption list for exemption of customs duty.
- The government is planning to impose one cess or surcharge and has exempted Social Welfare Surcharge on **82 tariff lines**.
- Primary duty on Lead and Zinc have been removed.
- No customs duty on crust leather.

(vi) Foreign Direct Investment

It is proposed to increase the FDI limit for insurance sector from **74% to 100%**.

(v) Special Schemes and proposals

- Increased participation of private sector in harnessing the potential of nuclear energy
- Tax Exemptions for withdrawals from **National Savings Scheme** on or after **29/08/2024**.
- Special schemes including creation of new job opportunities in the leather industry.

- It is proposed to restructure India Post as a major logistics organisation.
- The government is focusing to make India a global hub for manufacturing toys.
- Creation of new Indian Institute of Technology (IIT) institutes considering the demand.
- Setting up of Major AI research centres.
- New scheme to be launched to support **5,00,000** women entrepreneurs.

(vi)Startup Companies

- **5 year extension of 100% tax exemption** under **Section 80 IAC** upto **April 01, 2030** upon satisfying the eligibility criteria.
- Fund of Fund (Credit guarantee scheme) for startups have been increased to **Rs. 20,000 crores**.

(vii)Transfer Pricing

- A proposal was made to introduce a scheme for determining arm's length price of international transactions for a block period of three years, to streamline transfer pricing and to provide an alternative to yearly examination.
- It is planned to increase the scope of safe harbour rules to reduce litigation and provide certainty in international transactions.

When to file ITR

- **Old Regime:** If Gross Total Income exceeds **Rs. 2,50,000**
- **New Regime:** If Gross Total Income exceeds **Rs. 4,00,000**
- Rebate under new tax regime is made in such a way that no tax is paid upto an Income Level of **Rs. 12,00,000**.

Link to official publications:

Summary : <https://www.indiabudget.gov.in/doc/bh1.pdf>

Finance Bill: https://www.indiabudget.gov.in/doc/Finance_Bill.pdf

The image shows the Reserve Bank of India building, a large, classical-style structure with a central portico supported by columns. The building is surrounded by greenery and a clear blue sky with some clouds. The text "RESERVE BANK OF INDIA" is overlaid in white, bold, capital letters on a semi-transparent dark band across the middle of the image.

RESERVE BANK OF INDIA

RBI Issues Updated Master Direction on Foreign Investment

Downstream Investment is an investment made by an Indian Entity which received foreign investment in the equity instruments or the capital of another Indian entity

Some of the important changes and clarifications are as follows:

A. Clarification regarding downstream investments

The Update states that, based on the guiding principles of downstream investment, arrangements permitted for direct investment under the **FEMA NDI Rules**, such as investment through equity instrument swaps and deferred payment arrangements, will also be available for downstream investments, provided they comply with the provisions governing such investments under the NDI Rules.

This clarification addresses longstanding uncertainty regarding whether foreign owned or controlled companies (**“FOCCs”**) making downstream investments are permitted to enter into deferred payment arrangements.

B. Other notable changes

- **Form DI** filing requirement has been extended to reclassification of investments where an investor entity, who had made the original investment as a resident, but later becomes an FOCC.

- **Minimum Net Owned Fund (NOF) criteria:** Indian investee company whose proposed activities are regulated by a financial sector regulator, may receive foreign investment only to comply with the criteria of minimum NOF/ capitalization criteria prescribed by such regulator.
- **Acquisition through rights issue:** Indian company may undertake disposition of unsubscribed equity securities in a rights issue by issuing equity instruments to a person resident outside India (other than overseas corporate bodies (OCBs)). Such issuance shall be subject to adherence to entry routes, sectoral caps/investment limits, pricing guidelines and other attendant conditions under the NDI Rules. Previously, such issuance was subject only to individual or sectoral caps.
- **Employees stock options, sweat equity shares and Share Based Employee Benefits:** The percentage of foreign investment shall be calculated on a fully diluted basis upfront, at the time of issue.
- **Transfer on deferred payment basis, under indemnification or escrow:** A transaction intended to be undertaken under any of these mechanisms should be appropriately captured in the share purchase/transfer agreement, along with the related conditions for such arrangement.
- **Authorised Dealer Banks' role:** A mechanism for requests for clarification pertaining to foreign investment framework to be routed through the concerned authorized dealer bank ("AD Bank") has been introduced. The AD Banks can forward such request to the concerned Regional Office of the RBI for guidance at its discretion.

Link to update:

https://www.rbi.org.in/scripts/bs_viewmasdirections.aspx?id=11200

FACTS

MYTHS

INTERESTING FACTS

BRAND NAME vs. COMPANY NAME: Why It Matters!

Zomato's recent decision to rename its company to **Eternal Ltd.** while keeping the brand name Zomato highlights an important distinction in business strategy.

§A **brand name** is what **customers recognize**—Zomato for food delivery, Blinkit for quick commerce.

§A **company name** is the **legal entity** that owns and operates multiple brands—hence, Eternal Ltd.

This move reflects how companies evolve beyond their flagship products, ensuring flexibility for future growth. Many businesses follow this model—Google became Alphabet, Facebook became Meta.





TEAMS CORNER

COMPANY SECRETARIES CAN BE INTERNAL AUDITORS:

Section 138 grants the board of directors of the company to select any qualified professional as internal auditors, based on the experiences and skills it deems necessary and the professional so selected **may or may not be an employee of the company.**

So, a company secretary employed directly by the organization, or a practicing company secretary engaged by the organization, **can serve** as the **internal auditor** of the company.

The major advantage of employing a Company secretary as internal auditor is in the fact that, they have a better understanding of the foundational document that dictates the manner in which the affairs of the company have to be conducted – The Companies Act, 2013. This, along with their inherent understanding of the organization's inner workings and ethical compass, make them uniquely equipped to oversee the very heartbeat of the company – Internal audit.

Wisdom behind the appointment of CS as internal auditors:

Risk and Compliance Management – as company secretaries are well versed in the compliance aspects of a given company, they can play an effective role in day-to-day compliance management of the company providing immense value.



TEAMS CORNER

Evaluation of Internal Controls – as an expert in compliances, any lapses can be easily detected and consequently, the internal control failure that has led to the lapse in the first place is more likely to be found by a company secretary.

Detection and Prevention of Fraud – fraud is the result of breakdown of internal checks and balances OR accumulation of too much power in a single person. As a part of evaluation of internal controls, this can be a task that is well within the comfort of a practicing company secretary.

Is appointing internal auditor mandatory?

Private companies with turnover of 200Cr or above or borrowing of 100Cr or above need to appoint internal auditors apart from large **public companies and listed companies**.

Initial penalty of 10k with additional penalty of 1000/day subject to a maximum penalty of 2lakhs in the case of company and 50k in the case of officer of the company



COMPLIANCE

COMPLIANCE CALENDER

EVENT DATE	AS PER ACT	APPLICABLE FORMS
20/02/2025	Goods and Services Tax, 2017.	GSTR-5A
20/02/2025	Goods and Services Tax, 2017.	GSTR-3B
25/02/2025	Goods and Services Tax, 2017.	PMT-06
28/02/2025	Goods and Services Tax, 2017.	GSTR-11



LEGAL MAXIM

Per Incuriam

Per incuriam means “**carelessness**”, although in practice it is understood as per ignoratium, meaning ignorance of law. When courts ignore law and proceed to pass judgment, the said decision falls under the spectrum of per incuriam and does not necessarily need to be followed.

The Court in **Hyder Consulting (UK) Ltd. v. State of Orissa** held, “A decision can be said to be given per incuriam when the court of record has acted in ignorance of any previous decision of its own, or a subordinate court has acted in ignorance of a decision of the court of record. As regards the judgments of this Court rendered per incuriam, it cannot be said that this Court has “declared the law” on a given subject-matter, if the relevant law was not duly considered by this Court in its decision.”

MUSINGS IN THE MAZE (OR PHRASE?)

Who am I ????

1. I am a document that is filed by a company with the (SEBI) and the stock exchanges before an IPO. I provide investors with sufficient information for making an informed decision, although the final terms of the offering are disclosed later in the final prospectus.
2. I arise when there is a difference between the accounting treatment and tax treatment of certain items, resulting in a future tax liability or asset. I represent taxes that are owed or refundable in the future, due to temporary differences.
3. I am a method used in the liquidation process where the proceeds from the sale of a company's assets are distributed in a specific order of priority.
4. I framed the Principles of drafting “direct, simple, brief, vigorous, and lucid”.
5. I am a situation where a company provides certain benefits or advantages, such as loans or advances, to its shareholders or related parties, and tax authorities treat these as a distribution of profits, even though no formal distribution has occurred.

Answers to Riddles -Musings #5

1. A Piano
2. A Coin
3. None. He has three sisters.
4. Second place
5. A lawsuit.
6. The Baby. Because he is a little bigger.





WISDOM CORNER

"Before Memory Fades".

In memory of the eminent Indian Jurist **Mr. Fali S Nariman** from his book "Before Memory Fades".

Each year, Canon Sinker bid farewell to his students who passed out of school with the dismal words: **'My boys, I wish you all a life full of difficulties.'** At that time we all thought it was a cruel thing to say, and we even swore at him under our breath. But believe me, **after nearly 80 years of experience** in another school – **the hard school of life** – I am convinced that his words had **the merit of wisdom**. When you meet with difficulties early in life, the way in which you confront and overcome them helps to build your character.

If you do not acquire the fine art of suppressing your ego when you are young, it will surely overtake you when you are older, after which it will become an incurable disease. What is worse is that you will also become a bit of a bore. Human beings are not born humble, and the tendency to show off is congenital, but it has to be suppressed. I do recall, with fondness and affection my college teachers, who inspired me to work hard and to keep my ego strictly under control.

I recall the story of **Sir Dinshaw Mulla**, one of India's eminent jurists – a story that has always impressed me with the need to be frank, even if it hurts. When Mulla was in college studying English literature, he used to write poems; worse, he even fancied himself a poet. So, after he graduated with a **BA (Literature)**, he thought he would write poetry for a living but someone advised him to take up law.

So, after he graduated with a **BA (Literature)**, he thought he would write poetry for a living but someone advised him to take up law.

Being in two minds, he picked up pen and paper, and quite impetuously wrote a letter to the then poet laureate, **Lord Alfred Tennyson (1809–92)**, enclosing a few of his choicest pieces. Mulla anxiously waited for a reply. In those days, **letters to England went only by sea**. Then, sure enough, one day he received a frank response from the great man himself, written in his own hand:

‘Dear Mr Mulla, I have carefully gone through all your poems. I think you should try the law.’ What graciousness – a famous poet replying in his own hand to an unknown fellow way out in India. And what invaluable advice! Imagine, if Tennyson had said (just to please the young Mulla) that he should continue writing poetry, India would have lost one of its greatest jurists. Mulla went on to become law member in the Viceroy's Executive Council, and in the early 1930s he was knighted and appointed privy councillor (**a member of His Majesty's Privy Council in England**).

He was the great Indian jurist of pre-independence days. His commentary on the **Code of Civil Procedure, 1908**, indispensable (even now) to every practising lawyer, It was Sir Dinshaw Mulla who expounded, in simple elegant prose, the personal laws of Hindus and Muslims in his treatises on Hindu Law and on Mohammedan Law.



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