

Vinod Kothari & Company

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SPARSH.....

Touches

December, 2013

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VKC and VK & Co.**
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Editorial



Vinod Kothari & Company
Practising Company Secretaries

Vinod Kothari Consultants
Financial Consultants

Vinod Kothari, Nidhi Bothra, Nidhi Ladha, Aditi Jhunjhunwala, Vinita Nair,
Nivedita Shankar, Prachi Narayan, Shampita Das, Pooja Rawal,
Ruchira Shinde, Neha Gupta, Abhirup Ghosh, Shambo Dey,
Vijaya Agarwala, Munmi Phukon, Gyanendra Singh

Contact Us: info@vinodkothari.com

"The will to win, the desire to succeed, the urge to reach your full potential... these are the keys that will unlock the door to personal excellence."

To win, to desire, to succeed, all these come through motivation. We at VKCPL & VK & Co, not only believe in imparting knowledge in our associate but also motivate them in the area of their interest.

With this thought in mind, we come again with **"Spارش"**

Stay in touch with us through **SPARSH!!**

Editor:
-Pooja Rawal
editor@vinodkothari.com



■ **Articles Published**

- ▶ *An Article on Corporate Governance Disputes & Liability of Professionals and Non-Executive Directors by Vinod Kothari was published on IndianCorpLaw Blog.*
- ▶ *An Article on RBI proposal reveals the magnitude of bulging NPAs by Vinod Kothari was published in MoneyLife.*
- ▶ *An Article on Whether the “ghosts” of sale & leaseback have finally been exorcised? by Nidhi Bothra was published in AssetFinanceInternational.*
- ▶ *An Article on Section 62 (1)(c) of Companies Act, 2013 and Liberty of Capital Raising by Companies, by Vinod Kothari was published in Annual Conference 2013-VIP Road Chartered Accountants Study Circle-EIRC.*
- ▶ *An Article on One Person Companies: A useful tool of ring-fencing and corporatization by Aditi Jhunhunwala was published in Companiesact.in.*
- ▶ *An Article on One Person Companies: A useful tool of ring-fencing and corporatization by Aditi Jhunhunwala was published in Annual Conference 2013-VIP Road Chartered Accountants Study Circle-EIRC.*
- ▶ *An Article on Look forward to heydays of CS Profession: Certification requirements under the new Act by Vinita Nair & Aditi Jhunhunwala was published in E-Focus, digital magazine of ICSI-WIRC.*
- ▶ *An Article on SEBI's new Foreign Portfolio Investor Regulations by Vinita Nair & Pooja Rawal was published in E-Focus, digital magazine of ICSI-WIRC*

■ **Our Forthcoming Workshops**

- ▶ *Workshop on Factoring, Mumbai, 17th January, 13*
- ▶ *Workshop on Stress Testing under Basel II, Mumbai, 28-29 January, 13.*

► ***Sessions taken by Vinod Kothari***

- ❖ A session on "Construction Equipment Financing: Innovative Options in a tough market" at Excon 2013 at Bangalore on 22nd Nov, 13.
- ❖ Session on 'Companies Act, 2013 - Critical Aspects' in the Annual Conference of 'VIP Road Chartered Accountants' Study Circle – EIRC on 7th Dec, 13.
- ❖ Session on law of financial markets at NUJS, Kolkata on 8th Dec, 13.
- ❖ Session on Prospectus & Allotment of Securities in the Company Law Classroom organised by ICSI-EIRC on 12th Dec, 13.
- ❖ Session on Companies Act 2013 at Central Calcutta Study Circle on 14th Dec, 13.
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► ***Session taken by Nidhi Bothra***

- ❖ Session on 'Carbon Credit' in the Seminar on Carbon Credit & Sarbanes Oxley organised by ICAI, EIRC on 13th Dec, 13.

► ***Our Corner***

- Chit-o-Chat with Saket Jalan (Former Associate)

Our Articles Published

Corporate Governance Disputes & Liability of Professionals and Non-Executive Directors

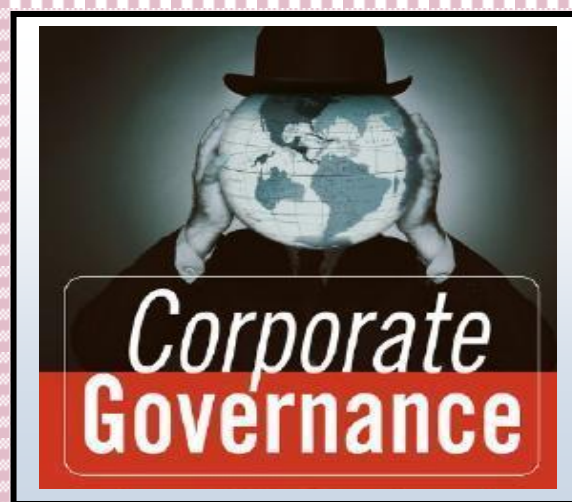
By Vinod Kothari

Published on [IndianCorpLaw](http://IndianCorpLaw.com).

The trail of litigation in Newcastle International Airport Limited vs. Eversheds LLP [2013] EWCA Civ 1514, decided by the Court of Appeal on 28 November 2013, may be interesting for more than reason. One is quite obvious – a litigation that might have cost the plaintiff close to a million dollars in legal costs ended up in just 2 pounds of damages against the professional firm Eversheds LLP. However, more importantly, the litigation highlights the new world of professionals' liabilities – that companies in time to come will not hesitate to sue non-executive directors, professionals, or whoever else, for failing to ensure the balance of duties and self-interest required to ensure proper system of corporate governance.

At the same time, the trail of litigation points to the ever-difficult regime of legal liabilities of non-executive directors.

To view the entire article click [here](#).
Click here to view it on [IndianCorpLaw](http://IndianCorpLaw.com)



RBI proposal reveals the magnitude of bulging NPAs

By Vinod Kothari

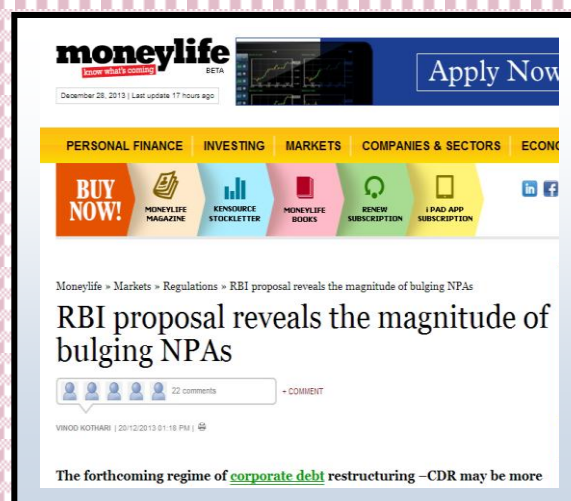
Published in [MoneyLife](#).

The forthcoming regime of corporate debt restructuring –CDR may be more lethal, and borrowers may only shudder at the prospects of their account having to be restructured

The RBI's just-released discussion paper on Early Recognition of Financial Distress, Prompt Steps for Resolution and Fair Recovery for Lenders: Framework for Revitalising Distressed Assets in the Economy is, right perceived, a frank admission of the mammoth problem that Indian banking industry is currently sitting on – the spectre of lots of actual and potential non-performing assets (NPAs). Actual NPAs may still be manageable, but the potential NPAs may be a huge problem.

The discussion paper was described as a carrot and stick, but on balance, it is more of a stick against the borrower, rather than any carrot. The forthcoming regime of restructuring of corporate debt may be more lethal, and borrowers may only shudder at the prospects of their account having to be restructured.

To view the entire article click [here](#).
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Section 62 (1)(c) of Companies Act, 2013 and Liberty of Capital Raising by Companies,

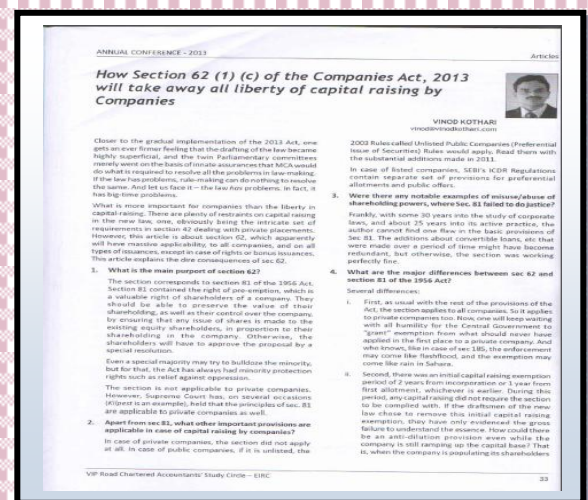
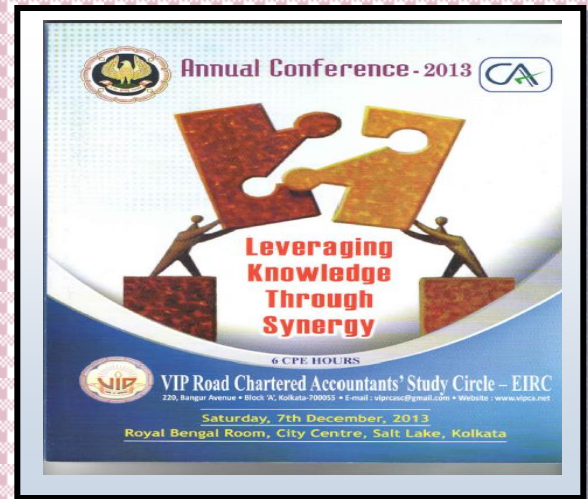
By Vinod Kothari

Published in Annual Conference 2013-VIP Road Chartered Accountants Study Circle-EIRC

Closer to the gradual implementation of the 2013 Act, one gets an ever firmer feeling that the drafting of the law became highly superficial, and the twin Parliamentary committees merely went on the basis of innate assurances that MCA would do what is required to resolve all the problems in law-making. If the law has problems, rule-making can do nothing to resolve the same. And let us face it – the law has problems. In fact, it has big-time problems.

What is more important for companies than the liberty in capital-raising. There are plenty of restraints on capital raising in the new law, one, obviously being the intricate set of requirements in section 42 dealing with private placements. However, this article is about section 62, which apparently will have massive applicability, to all companies, and on all types of issuances, except in case of rights or bonus issuances. This article explains the dire consequences of sec 62.

Click [here](#) to view the entire article.



Whether the “ghosts” of sale & leaseback have finally been exorcised?

By Nidhi Bothra

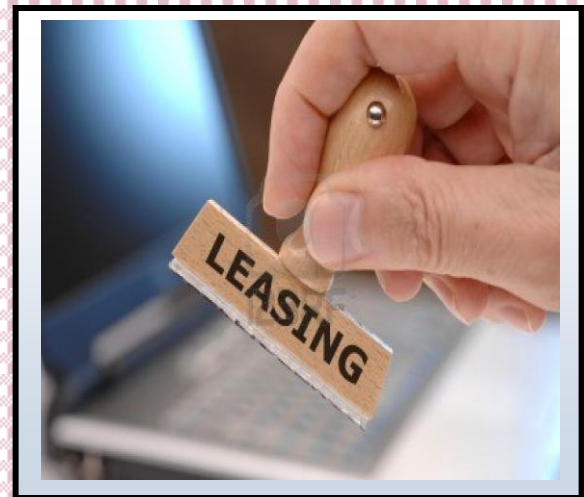
Published in [AssetFinanceInternational](http://AssetFinanceInternational.com)

In the previous heyday of leasing in India, sale and leaseback transactions were popular amongst leasing companies - and were equally misused by them.

So much so, in fact, that all sorts of sham transactions were undertaken in the garb of sale and leaseback which put to question the sanctity of such transactions in India.

During the period 1996-98, one of the most infamous cases was the sale and leaseback of electric meters by state electricity boards (SEBs). For SEBs the deals made perfect sense as they amounted to cheap borrowing by the cash-starved SEBs who had practically no other source of borrowing.

To view the entire article click [here](http://AssetFinanceInternational.com).
Click here to view it on [AssetFinanceInternational](http://AssetFinanceInternational.com)



One Person Companies: A useful tool of ring-fencing and corporatization

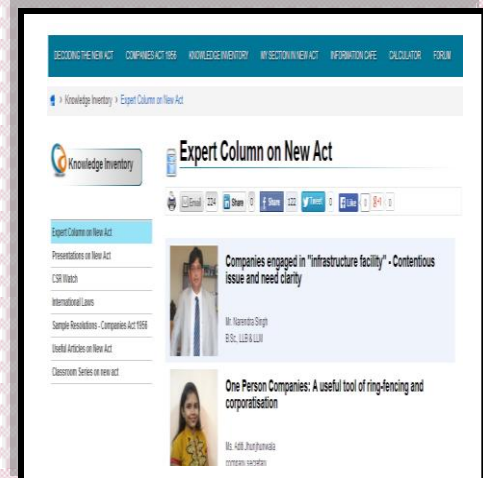
By Aditi Jhunjhunwala

Published in Companiesact.in

With the Companies Act, 2013 (New Act) now being notified in phases there are several new provisions which have been introduced. The new provisions may not be novel in itself in as much as the Indian Companies Act is concerned as much of the concepts have been bought from International Laws as well.

In this write up we discuss the concept of One Person Company, its benefits and provisions applicable line with the Rules introduced in that regard by Ministry of Corporate Affairs (MCA) on September 09, 2013. The concept was first recommended in India by an expert committee in 2005 and was subsequently inserted in the Companies Bill so as to provide an option to persons operating under the sole proprietorship model to operate as a company

To view the entire article click [here](#).
Click here to view it on Companiesact.in



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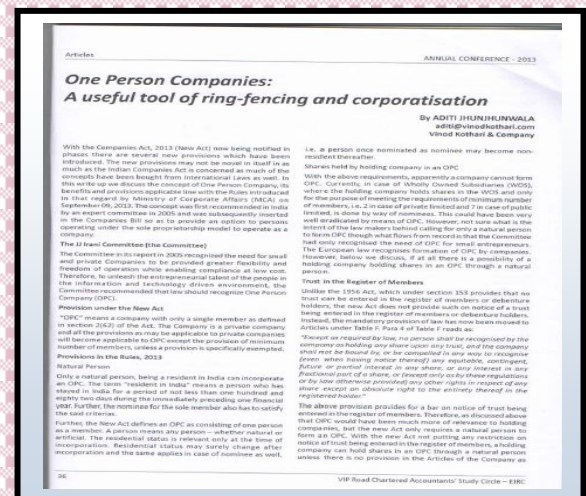
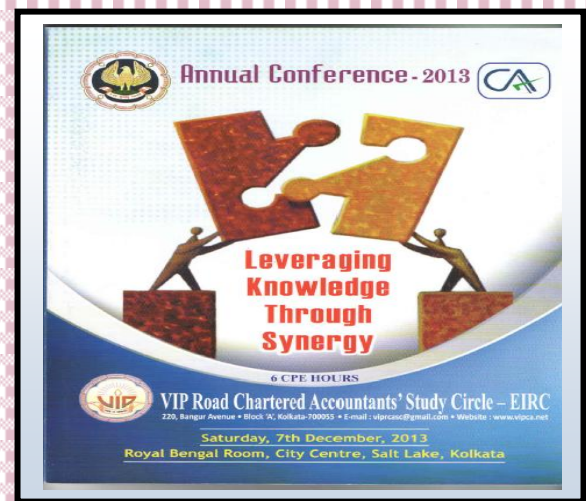
By Aditi Jhunjunwala

Published in Annual Conference 2013-VIP Road Chartered Accountants Study Circle-EIRC

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To view the entire article click [here](#).



Look forward to heydays of CS Profession: Certification requirements under the new Act

By Vinita Nair & Aditi Jhunjunwala

Published in [E-Focus](#), digital magazine of ICSI-WIRC

There is enough buzz in the corporate world regarding the role of Practising Company Secretaries (PCS) under the Companies Act, 2013 (the Act, 2013). Professionals were worried inasmuch as the scope and position of a Company Secretary in employment seemed to have increased, the role of PCS was a matter of concern when the corresponding section of 383A under the Companies Act, 1956 (the Act, 1956) was missing in the Act 2013. However, it seems that Act 2013 has widened the scope of services that a PCS can offer. One of such area is Annual Return to be filed by a Company under Section 92 of the Act, 2013

Provisions of law

As per Section 92 of the Companies Act, 2013 (the Act, 2013), the Annual Return is required to be signed by a Company Secretary and in the absence of a Company Secretary by a PCS.

Provided that in case of in relation to One Person Company and Small Company, the annual return shall be signed by the company secretary, or where there is no company secretary, by the director of the Company.

To view the entire article click [here](#).
Click here to view it on [E-Focus](#).



SEBI's new Foreign Portfolio Investor Regulations

By Vinita Nair & Pooja Rawal

*Published in **E-Focus**, digital magazine of ICSI-WIRC*

SEBI vide Press Release PR No. 99/2013 on 5th October, 2013 conveyed the approval of draft SEBI (Foreign Portfolio Investors) Regulations, 2013 (the draft Regulations) in the Board Meeting of SEBI. The draft Regulations will merge all the existing FIIs, Sub Accounts and Qualified Foreign Investors (QFIs) into a new investor class termed as “Foreign Portfolio Investor”(FPI).

The base of the draft Regulations has been (Foreign Institutional Investors) Regulations, 1995, Qualified Foreign Investors (QFIs) framework and the recommendations of the “Committee on Rationalization of Investment Routes and Monitoring of Foreign Portfolio Investments” (the Committee Report) dated 12th June, 2013.

To view the entire article click [here](#).
Click here to view it on [E-Focus](#)



Upcoming Events

Workshop on Factoring, Mumbai 17th Jan, 2013
Details can be viewed [Here](#)

Stress Testing under Basel II, Mumbai, 28-29 Jan, 13.
Details can be viewed [Here](#)

The Calendar of our Forthcoming Courses can be viewed [here](#)

What's happening at VKC and VK & CO

Submissions to



SOCIAL SCIENCE RESEARCH NETWORK

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A Beginning for REITs in India - SEBI Issues Draft Regulations by Nidhi Bothra and Vinita Nair.

Overview of REIT Structures in Singapore (S-REITs) by Nidhi Bothra.



Sessions taken by Vinod Kothari

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Our Corner!!!!

Chit-O-Chat with

Mr. Saket Jalan (Former-Associate)



About Saket:

I am born and brought up in Kolkata and have done my schooling from Birla Vidya Mandir, Nainital. I am a commerce graduate and a qualified C.S. Presently I am working with Landmark Group, Muscat, Sultanate of Oman as an Asst. Manager – Operations in their furniture division i.e. Home Center. I am married to Nidhi Agarwal Jalan who is M.C.A. by qualification and presently working with Bank of Baroda, Bhubaneswar Regional Office as Zonal IT Officer.

How did you feel when you were a part of VKC and how do you feel now?

I was working with VKC in the year 2003 as a Research Assistant – Corporate Laws. Every day was a challenge for me since it was my first on job practical training. Being amidst such magnetic personalities viz. Vinod Sir and Manoj Sir was in itself a matter of pride. Just thinking of those days makes me overwhelmed with joy. Today I feel very proud to tell people around me that I was once a part of VKC. I definitely miss the guidance and love which was bestowed upon me then.

How do you think being in this profession has helped you chase your dreams?

Actually, I have changed my profession. Presently, I am into hard core operations looking after Inventory, Audit, Operations, and Logistics. But having passed this challenging course has definitely made me a better professional. I definitely am more respected and adored only due to have achieved such a prestigious degree.

How has VKC helped you in grooming your personality both professionally and personally?

I remember the days when Sir used to point us out for missing a single comma or a full stop while preparing Audit Reports. A single clip not put properly or a file not in its place used to attract scolding. A section not understood used to attract angry stares. The true meanings of words like punctuality, discipline, dedication towards work, respect for seniors, perfection etc. have been learnt in this prestigious institution. Today, I can very proudly submit that whatever I am today personally and professionally is only due to the blessings of Vinod Sir and Manoj Sir. THANKS A LOT SIR.

Finally what is your message to us? Any feedback or suggestions for the team?

I can only say that you guys are working in a premier temple of knowledge. Just being around such a stalwart is a matter of great pride. Each moment is a learning opportunity here. Wish you all success today and always. Best of Luck!!

Wish you all a very Happy and Prosperous New Year!!!

What are your future career endeavors?

I wish to pursue a Master's in Business Administration – Executive course from a premier institute so as to sharpen my managerial skills.



Contact us



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