

**Vinod Kothari &  
Company**

**Vinod Kothari  
Consultants P Ltd**

**Academy of Financial  
Services P Ltd**

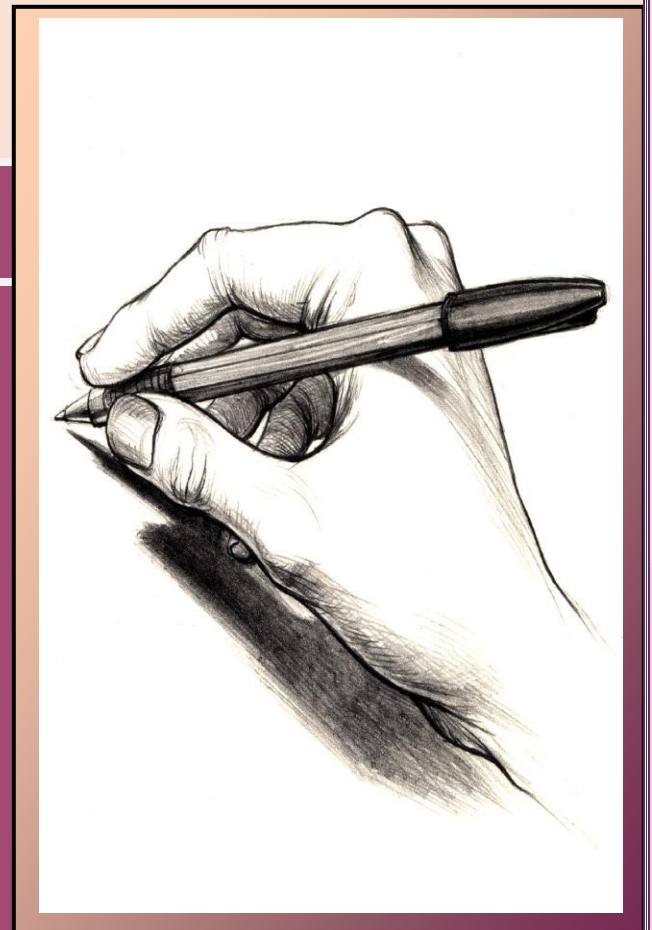
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# SPARSH.....

## *Touches*

*April, 2014*



### **In this Issue:**

-  **Editorial**
-  **Our Articles Published**
-  **What's happening at  
VKC and VK & Co.**
-  **Our Corner**
-  **Contact Us**



## Editorial

# Together We Can



“Talent wins games, but teamwork and intelligence wins championships.”

–Michael Jordan

Alone we can do so little but with Team Work & Co-operation we can win the Championship. We at VKCPL & VK & Co, work together not only for individual growth but to become catalyst in each other's growth. Each one of the associates are motivated to attain the expertise in their areas of interests.

With the above idea of togetherness for achieving long term goal, we come again with “Sparsh”

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

**Editor:**

- Jyoti Kedia

[editor@vinodkothari.com](mailto:editor@vinodkothari.com)

## ✿ **Articles Published**

- *An Article on “MCA in new ‘Avatar’ – Rule maker assumes new avatar of Law maker” by Mr. Vinod Kothari and Ms. Aditi Jhunhunwala was published in Taxmann’s Corporate Professionals Today, April 1 to 15, 2014 issue.*
- *An Article on “MCA takes Lawmaking into its own Hands” by Mr. Vinod Kothari was published on India Corplaw on 4<sup>th</sup> April, 2014.*

For More Articles, Click [here](#).



## ***Our Forthcoming Events***

- ***Half-Day Workshop on “Recent SEBI Circulars on Clauses 35 B & 49 of Listing Agreement” on Friday, the 9<sup>th</sup> May, 2014 at Hotel Niharika, organised by ICSI-EIRC.***
- ***Session on “The Companies Act, 2013” on Saturday, the 10<sup>th</sup> May, 2014 at Kolkata, organized by Central Kolkata Study Circle.***
- ***Session on “Perceived Benefit – Challenges & Way forward with the Companies Act,2013” at Hotel Lalit Great Eastern, Dalhousie Square on 24th May,2014.***
- ***Session on “Section 185/186/188 of the new Act : Critical Analysis & way for Compliance” at Hotel Lalit Great Eastern, Dalhousie Square on 24th May,2014.***

*For More Details, click the link given below:*

<http://vinodkothari.com/secwork/>

<http://vinodkothari.com/lectures/>

## ☀ **What's happening at VKC and VK &Co.**

### ➤ **Seminar & Sessions taken by Mr. Vinod Kothari**

- *Four sessions on "The Companies Act, 2013" organised by Dr.Reddy , Zee Essel Group, Association of Corporate Adviser & Executive and by EIRC, ICAI.*
- *Seminar on " Companies Act-Opportunities, Challenges and Way Forward" at Park Hotel organised by Views Exchange CA Study Circle ,EIRC on 26<sup>th</sup> April, 2014*
- *Discussion on " Directors& CEO Conclave - Know your duties and liabilities under the Companies Act, 2013" at Oberoi Grand ,organised by EIRC, ICAI on 25<sup>th</sup> April, 2014.*
- *Session on "The Companies Act, 2013 - Its impact and challenge" at Hotel Hindustan International, organised by Bharat Chamber to Commerce on 24<sup>th</sup> April , 2014.*

### ➤ **Seminar & Sessions taken by Ms. Nidhi Bothra**

- *Session on "The Companies Act , 2013" at Kolkata organised by Pheonix on 7<sup>th</sup> April, 2014.*
- *Session on "Securitisatation" at ICAI Bhawan organised by EIRC, ICAI on 12<sup>th</sup> April, 2014.*



- Seminar on “Companies Act, 2013 - Deposits, Loans to Directors ,Loans and Investments and Related Party Transactions “ at Durgapur, organised by ICAI on 27<sup>th</sup> April,2014.

➤ **Session taken by Ms. Nivedita Shankar**

- Session on “ The Companies Act, 2013” at Kolkata, organized by Phoenix on 7<sup>th</sup> April, 2014

➤ **Session taken by Ms. Shampita Das**

- Session on “Companies Act, 2013 - Deposits, Loans to directors, Loans and Investments and Related Party Transactions “ at Durgapur ,organized by ICAI on 27<sup>th</sup> April,2014

☀ **Hall of Fame**

Mr. Vinod Kothari was quoted on The Economic Times in the article **“If an entity raises funds with promise to refund after a short period, it will be treated as deposit . ”**

☀ **Our Corner**

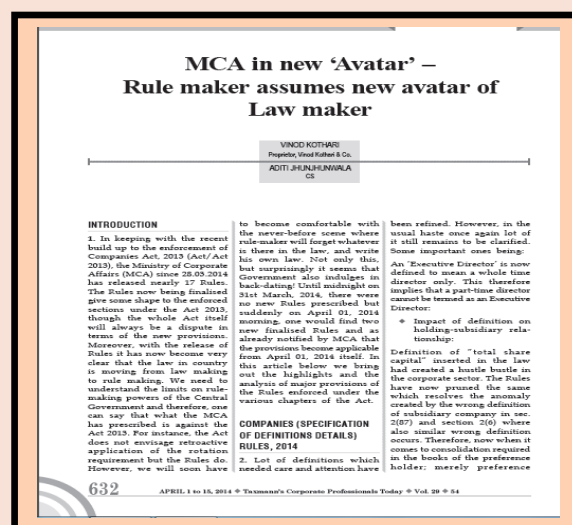
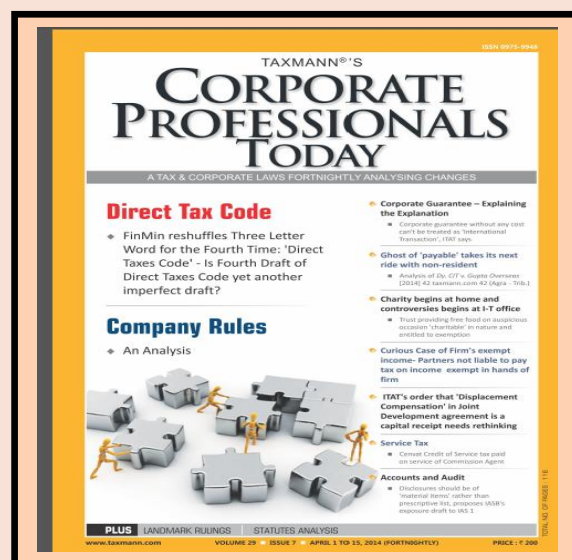
📺 Happy Birthday Shampita !!

# ***"MCA in new 'Avatar' – Rule maker assumes new avatar of Law maker"*** by Mr. Vinod Kothari and Ms. Aditi Jhunhunwala was published in ***Taxmann's Corporate Professionals Today***

If the Ministry of Corporate Affairs' (MCA) recent rules, that came a bit too many over a day too less, to replace the nearly 60-year old Companies Act 1956 by the Companies Act, 2013, ultimately survive challenge on constitutional grounds, then we may permanently forget age-old principles of limitations of subordinate law and excessive delegation. For not only do the rules over-write, side-step, gap-fill or extend the law, at several places they actually create a completely new law all by themselves, without any enabling provision in the statute. Not content with laying new substantive law, the rule-makers even went ahead to extend the penal provisions of the Act to a section which did not have a penal provision, and to create a new penal provision in the Rules itself. The 700+ page bunch of Rules leave a new watermark in the rule-maker's adventurism.

Or, it may just be a case of ad-hocism. As there were too many gaps in the text of the law as was passed by the Parliament, the rule-maker was just making a stop-gap, ad-hoc law, thinking of moving in amendments once the Parliament gets reconstituted.

This Article was published in ***Taxmann's Corporate Professionals Today*** in April 1 to 15 edition (Page No. 632 Onwards)



## ***“MCA takes Lawmaking into its own Hands”***

*by Mr. Vinod Kothari*  
was published on [India Corplaw](#)

If the Ministry of Corporate Affairs’ (MCA) recent rules, that came a bit too many over a day too less, to replace the nearly 60-year old Companies Act 1956 by the Companies Act, 2013, ultimately survive challenge on constitutional grounds, then we may permanently forget age-old principles of limitations of subordinate law and excessive delegation. For not only do the rules over-write, side-step, gap-fill or extend the law, at several places they actually create a completely new law all by themselves, without any enabling provision in the statute. Not content with laying new substantive law, the rule-makers even went ahead to extend the penal provisions of the Act to a section which did not have a penal provision, and to create a new penal provision in the Rules itself. The 700+ page bunch of Rules leave a new watermark in the rule-maker’s adventurism.

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One may also take a completely different tone and laud the MCA for trying to be helpful, by trying to iron out the creases and fill in the crevices of the law. After all, the MCA has only tried to be benevolent.

This Article was published in [Indian Corplaw Blog](#), on 4<sup>th</sup> April, 2014.





## **Upcoming Events**

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# What's happening at VKC and VK &C

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# Hall of Fame

Mr. Vinod Kothari was quoted on The Economic Times in the article **"If an entity raises funds with promise to refund after a short period, it will be treated as deposit"**



- **Financial Consultant Vinod Kothari**, however, said no non-banking financial entity would attempt to raise public funds under this new set of rules as they would have to follow stringent norms.
- "The MCA rules regarding public deposits add a definition of "deemed deposit", whereby any scheme, by which return are given to investors, whether in cash or kind, will be deemed to be a deposit. This is a very important provision filling a huge gap in earlier regulator structure," **Kothari said**. He said, gold jewelry purchase schemes will too become illegal as jewelers offer gold or ornaments of higher value than what customers pay in 11 instalments. The jewellery sector is however, unfazed by the new set of MCA Rules.



## **Our Corner!!**

**We at VKCPL, we not only endeavour to satisfy our Clients by providing good services but also try to make the precious moments of our colleague lives memorable.....**



**Wishing a very happy birthday to Shampita.....**







Happy B'day  
Shampita.....



# Contact Us



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