

NAI DISHA

(e-Newsletter of Vigilance)

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Message from Director (Personnel), STC



It gives me immense pleasure to know that vigilance Department of STC is bringing out Third issue of quarterly e-Newsletter – 'NAI DISHA'.

The current business environment calls for speedy decision making amid a welter of factors and changes induced by globalization, liberalization, technology and continuously increasing competition.

There is a need to reinvent ourselves in terms of business processes and to be more aggressive in the market place. All Divisions / Branches must ensure that agreement with Associates are implemented in letter and spirit.

Every crisis has lessons and these lessons if learnt, can lead to a better state of affairs. This environment would once again call on you for your support, your commitment and your dedication to achieve success in these temporary difficult times.

I congratulate Vigilance Department for bringing out 'Nai Disha' which facilitates better corporate governance in the Corporation.



(S.K.Sharma)

Date: 06.04.2017

Dr. Y.V. Reddy, Former Governor, RBI Interacted with Vigilance Officials

Dr. Y.V. Reddy, Former Governor, Reserve Bank of India delivered a talk on "**State and Market in India**" on 22nd March 2017 at Central Vigilance Commission. This was 17th lecture of the "Lecture Series" organized by the Central Vigilance Commission for the officials of the Commission and Vigilance community to expose them to the views of eminent persons on different subjects.

Speaking on the occasion, Dr. Reddy emphasized that reforms both internal and external are important so as to have dynamic role of state and the market in the Indian economy. He mentioned that there has to be mixed idea of state and market for dynamism. Global scenario is much more market oriented and the role of the governance in the state and market is very critical.

While sharing his experience, Dr. Reddy stressed that more the regulation more will be problem. He highlighted that state should have capabilities in taking step for making situation as market friendly or business friendly. State has to provide format for ease and doing business. He opined that crime cannot be eliminated in total but social cost of crime is to be analyzed. The role of executive representing the state for understanding the governance factor is very important. And there is need to have role based system for more objectivity and governance.

**The whole world steps aside for the man
who knows where he is going.**

CVC Inaugurates International HR Summit 2017

Shri K. V. Chowdary, Central Vigilance Commissioner inaugurated two-day International HR Summit 2017 organized by SCOPE at New Delhi on 20th February, 2017. While addressing the august gathering, CVC observed that HR today is facing a big challenge of managing the diverse workforce having diverse expectations and high ambitions. He underlined that HR needs to identify areas of training that their employees need and advised HR executives to build a bond between employees and the organization.



CVC addressing the participants at International HR Summit 2017

CVO visits STC Hyderabad Branch

CVO, STC, Arvind Kumar Kadyan visited STC's Hyderabad Branch on the 27th January, 2017 and reviewed the functioning of the Branch. Branch Manager, N. Sarat Babu, JGM briefed the CVO about the business activities of the Branch and efforts being made by the Branch for getting more business.

The CVO met all the employees of the Branch and discussed about the scenario of the business. CVO suggested that the branch should also consider exploring the possibilities of supplying the requirements of Central & State Government agencies like DRDO, NTPC, and BHEL etc. He stressed that Branch should see how to minimize the overhead expenditure particularly on medical expenses.

CVO also added that the vigilance is a management function and vigilance is there to help you in discharging your role in more efficient way.

NPA Organised Training for CVOs

A two weeks Induction Training Programme for CVOs of CPSUs, Central Departments and Autonomous Organizations of Government of India was conducted by Sardar Vallabhbhai Patel National Police Academy from Jan 16-27, 2017 at Hyderabad. The objective was to acquire an all India perspective, to equip with knowledge and skills required for effective vigilance and enable to develop an understanding of modern management principles.

The course was designed to sensitize the participants towards issues of various disadvantaged groups and orient them to function in a democratic & people centric system and equip them with Competencies required for discharge of duties effectively in the changing environment. Shri Umesh Sharraf, IPS, Joint Director (Administration & Senior Courses) delivered the Valedictory address.



Training Programme in progress at SVBPNPA, Hyderabad

CVO, STC, Arvind Kadyan and CVO, Hindustan Copper Ltd, Rakesh Kumar were invited to interact with the participants to share their experience with the newly appointed CVOs.

You cannot change your Future.

But, you can change your habits.

And surely your habits will change your Future

-Dr. Abdul Kalam

Vigilance Study Circle, Delhi & NCR Meeting

The General Body Meeting was held at STC's Office at Jawahar Vyapar Bhawan, New Delhi on 30th January, 2017. During the meeting a presentation about UNCAC was made by Shri Keshav Rao, CVO, Pawan Hans. The CVO's of more than thirty PSU's/Central Govt. Departments attended the meeting.

While interacting with the CVOs, CMD, STC appreciated the activities being undertaken by the VSC. He observed that it is a good platform for CVOs to share their experience particularly, about the preventive measure being taken in different PSUs to improve governance in the respective PSUs.



SK Meena, JGM (Vig) facilitating VSC President

Training Program on Guidelines for Vigilance Clearance

A training programme regarding '**Guidelines on Vigilance Clearance**' was organised by Corporate Vigilance Division on 27th March, 2017 at Knowledge Centre , STC. The executives from Personnel, Finance, MSD, Marketing, GAD and Vigilance Divisions attended the programme. CVO, STC delivered the lecture and cleared the doubts of the participants.



Vigilance Division

Difference Between Agreement & Contract

“All contracts are an agreement, but all agreements are not contracts” this is an old statement but why it is so? Why is an agreement not equal to a contract?

Without recognizing it, we daily enter into the hundreds of agreement which do not bound us legally. But, those agreements which have a legal binding is a contract. Therefore, the Indian Contract Act, 1872 came into force. The act gives a base to all the agreements and contracts.

Now let's understand the basic and special differences between Agreement and Contract concerning the Indian Contract Act, 1872.

BASIS FOR COMPARISON	AGREEMENT	CONTRACT
Meaning	When a proposal is accepted by the person to whom it is made, with requisite consideration, it is an agreement.	When an agreement is enforceable by law, it becomes a contract.
Elements	Offer and Acceptance	Agreement and Enforceability
Defined in	Section 2 (e)	Section 2(h)
In writing	Not necessarily	Normally written and registered
Legal obligation	Does not creates legal obligation	Creates legal obligation
One in other	Every agreement need not be a contract.	All contracts are agreement
Scope	Wide	Narrow

Definition of Agreement

When a person (promisor) offers something to someone else (promisee), and the concerned person accepts the proposal with equivalent consideration, this commitment is

known as the agreement. When two or more than two persons agree upon the same thing in the same sense (i.e. Consensus *ad idem*), this identity of minds is agreement. The following are the types of agreement are as under:

- *Wagering Agreement*
- *Void Agreement*
- *Voidable Agreement*
- *Implied Agreement*
- *Express Agreement*
- *Conditional Agreement*
- *Illegal Agreement.*

It can also be defined as **the contract which lacks enforceability by law is known as the agreement.**

Definition of Contract

To be precise, a legally enforceable agreement for doing or not doing an act is known as a contract. A contract must contain these elements: Offer and Acceptance, Adequate and Unconditional Consideration, Free Consent, Capacity, Lawful object, Certainty, Intention of creating legal obligations, and the Agreement should not be declared void.

The contract may be oral or written. The major types of contract are as under:

- ❖ *Void Contract*
- ❖ *Voidable Contract*
- ❖ *Valid Contract*
- ❖ *Unilateral Contract*
- ❖ *Bilateral Contract*
- ❖ *Express Contract*
- ❖ *Tacit Contract*
- ❖ *Contingent Contract*
- ❖ *Implied Contract*
- ❖ *Executed Contract*
- ❖ *Executory Contract*
- ❖ *Quasi Contract etc.*

Vigilance as a Management Function

Vigilance is not a stand-alone activity but has to be seen as part of the overall risk management strategy of an organization wherein the structures, systems and processes are built in such a manner so as to prevent leakages which adversely affect productivity and profitability. It will be in the organizational interest that when they are reorganizing business processes they should identify the likely risks like fraud, corruption, other malpractices and build in the required risk management tools in the new processes.

The Central Vigilance Commission has been wrestling with the idea of identifying areas where generic solutions to the problems of vigilance administration can be applied across wide spectrum of government organizations. A number of areas have been identified where use of information technology can bring efficiency, economy as well as transparency thus curbing corruption. Some of these ideas are as follows:-

E-Procurement

Implementing an e-Procurement system benefits all levels of an Organisation. E-Procurement systems offer improved spend visibility and control and help finance officers match purchases with purchase orders, receipts and can bring in economy and efficiency in the procurement of goods, works and services. Apart from these benefits, the process also brings in greater transparency, thus reducing opportunities for corruption. The Central Vigilance Commission has issued a directive that all Govt. organizations over which the Commission has jurisdiction should publish their tenders and complete bid documents along with the application forms on the website. This results in curbing mal-practices prevailing in various Govt. organizations where competition is sought to be restricted.

DO YOU KNOW**Rule 3(a) of CCS (Conduct) Rule
Promptness and Courtesy**

No Government servant shall -

- (a) in the performance of his official duties, act in a discourteous manner**
- (b) in his official dealings with the public or otherwise adopt dilatory tactics or willfully cause delays in disposal of the work assigned to him.**

E-Payment

Another directive of the Central Vigilance Commission pertains to introducing e-payment.

E-payment system is a way of making transactions or paying for goods and services through an electronic medium without the use of check or cash. It's also called an electronic payment system or online payment system. Here again, the intention is to bring economy and efficiency, while at the same time, reducing corruption. The banking industry in the last one decade has made rapid technological advances in India. This system will help in significantly reducing transaction costs involved in making payments by way of cheques and sending the payment through couriers thus curbing corruption.

Apart from the above mentioned two specific directives which the Central Vigilance Commission has already issued there are very many other areas where technology can be leveraged simultaneously for efficiency, economy and corruption control. The key idea being that risk management tools are made integral part of the main business processes.

***If one longs for happiness let him
cast off all desires,
He who has cast off all desires
will find the most perfect happiness***

-Buddha

CASE STUDY AND LEARNING POINTS**Export of Drugs & Pharmaceuticals**

One of STC's Branch undertook third country exports (merchandising trade) of Drugs & Pharmaceuticals (D&P) through local Associate (M/s X) for supply to M/s A and M/s B based at Malaysia and Singapore respectively.

The export operation was carried out on back-to-back basis by means of **Bills of Exchange (B/E)** drawn on STC by the Associate (M/s X) on 180 days DA (usance period) basis.

The Bills of Exchange were accepted by STC on back-to-back basis upon receipt of overseas **buyers' pre-acceptance of STC's Bills of Exchange** (150 days DA) directly received by STC through fax.

The Agreement with the Associate stipulated only acceptance of B/Es submitted by the Associate. However, STC Branch **accepted a large number of invoices submitted by the Associate** contrary to the provision of the Agreement.

As per agreement with the Associate, STC was to receive the export proceeds under the foreign B/E within 150 days from the date of acceptance. In turn the export proceeds were to be released to M/s X within 180 days from the date of acceptance of B/E raised by the Associate on STC after deducting STC's service charges and other incidentals etc.

M/s X got these bills discounted from 11 banks/financial institutions and received 95% payment from them even before receipt of corresponding export proceeds by STC from the foreign buyers against the foreign B/Es.

STC, Branch had accepted various B/Es raised by M/s X without mentioning the conditions of acceptance in accordance with the agreement and confirmed the authenticity and authority of signatories of B/Es to the banks/financial intuitions without elaborating the terminology of back-to-back basis.

Legally, the acceptance of B.Es is unconditional and Bank discounting the same can claim payment from the party who provide accepted B.E.

The banks/financial institutions on the basis of acceptance of B/Es by STC released the amount to M/s. X, which the banks/financial institutions are claiming from STC as co-acceptor of B/Es even though STC has not received the payment from foreign buyers.

The acceptance of local B/Es / Invoices and handing over the same to the Associates, STC has been exposed to a huge financial liability of Rs.460 crore approx. towards 11 banks/financial institutions, who had initiated recovery proceeding against STC before Debt Recovery Tribunals (DRT).

Irregularities:

- Branch accepted various B/Es/Invoices raised by the Associate without mentioning the conditions of acceptance in accordance with the agreement and confirmed the authenticity and authority of signatories of B/Es to the banks/financial intuitions without elaborating the terminology of back-to-back basis.
- Neither Division at Corporate office nor Branch formed a drill to carry out the financial risk free transactions after conceptualization of the operation.
- Branch waived the requirement of taking ECGC cover and rather decided to bring STC's exposure within the limit of Credit Insurance Linked Scheme (CLIS) introduced by the branch with justification that business turnover would be curtailed on account of insurance restriction and thereby would lose the business.
- Branch did not cover the business risk by ensuring adequate insurance cover to the extent of total turnover of export of D&P. The maximum loss liability (MLL) covered under these policies was limited to export turnover of Rs.218.50 crore (including exports of other

items under CLIS), whereas the total export turnover relating to export of D&P by M/s X to M/s A and B had exceeded the Insurance Cover Limit.

- Neither Division at Corporate office nor Branch did due diligence with respect to the associate, foreign buyers/suppliers in order to ascertain their credentials, market creditworthiness, and standing/rating etc., before entering into business with them, violating the trade norms of the Corporation.
- RBI Circulars/FEMA meant for third country/merchanting trade while undertaking the above transactions were not strictly adhered to by the Division at Corporate office while considering proposal submitted by the Branch.
- Branch officials handled only part of the financial aspects of the trade. They never physically handled the movement of goods or monitored the quality or quantity being shipped, responsibility for which was assigned to the Associate.
- The requirement of Branch engaging any surveyor or inspection agency for this purpose in Malaysia was not examined. No chemical analysis report of the drugs being sourced from Malaysia was obtained. Neither was there any insistence of customs documentation from Malaysia to Singapore for the consignments being shipped. Outward remittances by the Associate for purchases of materials were not reconciled at any stage. Neither, the Branch while submitting BAC note nor the Division at Corporate Office while examining the proposal of the Associate looked into these aspects.

Lessons learnt

- The Branch and Division should conduct proper diligence to appraise the credentials, creditworthiness, soundness, market reputation etc. of the associate, foreign buyer/supplier by examining their Accounts for the last three years, export/import performance, market reputation, etc. from local / international

parties / Chambers / Missions before entering into high value transactions.

- Whenever any new/novel concept of transactions is considered, the Division at Corporate office shall ensure that a drill for all aspects of operations shall be issued with due approvals to minimize the risk and monitor its implementation in letter and spirit.
- The Branch should insist for ECGC Cover for safety of its funds rather than take more risk for turnover purposes.
- The Branch should take appropriate insurance policies without any restrictions of maximum loss clause or should restrict business as per insurance policy restrictions for maximum loss liability.
- When transactions are on back to back basis, acceptance of STC for Usance Bills of Exchange raised on it by associate should be given only after receipt of accepted bills of exchange from overseas party through banking channel and not merely on fax acceptance.
- The Division at Corporate office shall ensure compliance to the provisions of RBI/FEMA and other statutory guidelines prescribed for such transactions.
- The Branch shall scrupulously monitor the quality/quantity of goods, shipment of goods, appropriate documents/Certificates, goods receipt at buyers' end, inspection, etc.
- In case default by the Associate/ Supplier in payment, immediate steps shall be taken to minimize further exposure and a proposal shall be sent to Corporate office for action against the Associate as per agreement terms. The Corporate office shall respond in time and give specific advice instead of leaving the matter to Branch for decision.

Important Circulars

I – Guidelines regarding Maintenance and Movement of Files/Records

(Circular No.5/2017 dated 15.03.2017)

The file management system has a direct bearing on efficiency and effectiveness of any organization. Recently some serious deficiencies were noticed regarding file maintenance/ movement procedure being followed by Divisions in Corporate Office i.e.

- No File Registers being maintained in some Divisions;
- No proper File No., Subject and date of opening in many files;
- No page numbering in most of the files;
- Noting and correspondence side of file not being maintained properly.

In order to improve File Maintenance and Movement Procedure, it is advised that all Divisions and Branches shall take following action:

File Numbering System

A proper file numbering system is essential for easy identification, sorting, storage and retrieval of papers. Registered files may be given a unique number/identifier when they are captured into the record keeping system.

Every file in each Division may be assigned a file number which could consist of:

- STC as the standard head;
- Abbreviated name/symbol identifying the division;
- Abbreviated name/symbol of the sub-division;
- Five digit Serial number of the file;
- Year of opening the file (all four digits e.g. 2017, 2018 etc.); and

Example-

File No.: STC/Div./Sub-Div./01000/2017

**The a b c d of achievements:
Ability to Reinvent Yourself;
Balance between Success and Failure;
Confidence to deal with every situation;
and Determination to work hard**

Instances where files need not to be opened –

Normally, no new files shall be opened for dealing with receipts of a purely routine nature documents/information i.e. requests for supply of unclassified factual information, notices of holidays etc., which are unlikely to generate further correspondence. All such matters may be dealt in a miscellaneous file. Further, separate file/folder for circulars/instructions may be maintained according to subject.

When a file become too heavy (say more than 200-300 pages) then new Volume may be opened but entry about the same shall be made in File Control Register.

File Control Register

A record of files opened during a calendar year will be kept in a file register in each Division. The File Register may be maintained by an official authorized by the HoD of Division. Each Division/Branch should maintain control register of all the files kept with them in chronological order. Any new file opened must be entered therein and any file deleted/destroyed or handed over to other Division (on permanent basis) should have clear mention to that effect against them. Electronic file register may also be prepared and maintained in the computerized environment.

File Movement / Dak Register

1. Each Division/section shall maintain Dak Register.
2. When recorded/old files are put up with a current file, the movement of the recorded files will be marked in the space allotted in the file movement register for the file, invariably.
3. Movement of files received from other departments/sections and other receipts which have not been brought on to a file in the receiving section will be noted in the 'remarks' column of the section diary.

4. When the files are handed over personally by the dealing official to other officers, it will be ensured that the movement of such files is marked in the file movement register.
5. The personal staff of officers of Divisional Head and above will maintain the movement of papers received by their officers in the respective personal section diary. Movement of any file handed over personally to a higher officer will similarly be noted by the personal staff. Papers/Files marked by them to other departments, however, will be routed through the section concerned, for noting their movement in the file movement register or section diary, as appropriate.
6. The official/personal staff receiving the file shall sign the Dak Register.
7. In case any officer/personal staff receiving the file/document does not sign the Dak Register, his name shall be recorded in the Register, which shall be countersigned by the officer/personal staff, who sent the file/document.

[Note: Refusal to sign the movement/ Dak Register will amount to misconduct under CDA Rules]

Role and Responsibility :

- i) Corporate HR may notify Five Digit serial number to be used by the Divisions in Corporate office;
- ii) HoD of Division may nominate an officer who will maintain and allot file number and record in File Control Register;
- iii) HoD to ensure that all existing files are entered in File Control Register;
- iv) The dealing officer/desk officer will open a file after obtaining file number from the authorised person and ensure that file contains file no., subject of file, page numbering and each file has separate noting and correspondence side;
- v) ***HoD of Branch will be responsible for taking action as mentioned above.***

II–Tendering Process-Negotiations with L1 (CVC Circular No.01/01/10 dated 20.01.2010)

“Attention is invited to the Commissions circular No.4/3/07 dated 3.3.07 on the issue of “Tendering Process – Negotiations with L1”.

In the said circular it has, among other things, been stated “As post tender negotiations could often be a source of corruption, it is directed that there should be no post tender negotiations with L1, except in certain exceptional situations”. It has come to Commission’s notice that this has been interpreted to mean that there is a ban on post tender negotiations with L-1 only and there could be post tender negotiations with other than L1, ie. L2, L3, etc. This is not correct.

It is clarified to all concerned that – there should normally be no post tender negotiations. If at all negotiations are warranted under exceptional circumstances, then it can be with L1 (Lowest tendered) only if the tender pertains to the award of work/supply orders etc., where the Government or the Government company has to make payment. However, if the tender is for sale of material by the government or the govt. company, the post tender negotiations are not be held except with H1 (i.e. Highest tenderer) if required.

III – Adoption of Integrity Pact – Revised Standard Operating Procedure (CVC Circular No.02.01.2017 dated 13.01.2017)

The Commission has reviewed the Standard Operating Procedure for adoption of Integrity Pact issued vide Circular No.10/5/09 dated 18.05.2009 and has formulated a revised Standard Operating Procedure (SOP) for adoption of Integrity Pact in Government Departments/Organisations.

Q & A

Q. What should be done by the Branch if Associate is defaulting in payment?

Ans. In such a situation following steps shall be initiated by the Branch :

- 1. Give one opportunity to the Associate (in writing) to make payment;*
- 2. In case no positive response is received, submit a proposal for invocation of securities or risk sale to Corporate Office proposing action to recover the amount for approval;*

NOTE: Division at Corporate Office shall issue clear cut direction with the approval of Director concerned in a weeks’ time. Laxity on this account shall be viewed seriously by the Management.

Q. If an employee submits a false medical certificate, what action can be taken against the employee?

Ans. It is a case of failure to maintain integrity and un-becoming conduct; therefore, Major penalty proceedings shall be initiated in such case under STC CD&A Rules.

Q. Whether CVC has issued any direction about appointment of consultant? If yes, where I can get the same.

Ans. The circulars issued by Chief Technical Examiner, CVC regarding appointment of consultants are available on CVC website: cvc.nic.in. under CTE’s Corner in “Compendium of circulars issued by CTE, CVC”.

Reader's Feedback

The last issue of Nai Disha was a perfect mix of useful information, brevity and clarity of thought. The case study section was very informative and I am sure that I, along with other readers, have learnt many nitty-gritties and insights from the Pulses Case Study featured in the last issue.

In my view, the newsletter may also include the following for better readership and employee engagement :

Upcoming events calendar for any seminar/workshops/trainings being held by Ministry (or any other department) that may be helpful for the various internal Divisions.

Featured Commodity or Division: this may be included for other employees to understand and learn more about the concerned commodity/division.

Health tips and employee wellness: To reduce the number of sick days taken by employees, as well as to promote the well-being STC's work force.

*Sweta Chauhan,
Assistant Manager, C.O*

Reader's Feedback

The employees of Bangalore Branch have expressed happiness about introducing e-newsletter.....'an articles which explains in details as to what are the forms to be filled up and submitted for Vigilance clearance or approval before availing Loans like CPF Non-refundable for purchase of site or House or Flat or applying for HBA. A list of documents which are supposed to be enclosed with the application seeking vigilance approval.....'

*- K.V.Manjunath, V.O.,
STC Bangalore*

Spend eighty percent of your time focusing on the opportunities of tomorrow rather than the problems of yesterday.

-Brian Tracy

Any suggestion(s) /query/ article(s) may be mailed to :- cvo@stclimited.co.in