



OCTOBER 2017

I-CAN COMMUNIQUE

MONTHLY NEWSLETTER – OCTOBER 2017

Sensex : Down 1.4%	
Nifty : Down 1.3 %	
Best performing sector: Health Care (2.6%)	Worst performing sector: FMCG (-3.9%)
Best performing Global index: DAX (5.7%)	Worst performing Global index: Hang Seng (-1.6%)
Indian Rupee: -2.1%	Gold price: 0.5%

The Indian headline stock indices fell in the month of September. The month began with the stock markets globally reacting adversely to the growing tension between the US and North Korea. After North Korea tested a hydrogen bomb, US President Donald Trump warned that any nation doing business with the regime would have economic sanctions and trade embargoes slapped on it.

In the month of September foreign institutional investors (FIIs) were net sellers to the tune of Rs. 11,392.2 crore in the Indian equity markets. However, they continued to be net buyers and pumped in Rs. 1,348.8 crore in the debt markets. Domestic institutional investors (DIIs) bought a net amount of Rs. 21,025.5 crore in the financial markets. The 10-year Government bond yield increased by 13.8 basis points to end the month at 6.66%.

The macroeconomic data for the June quarter wasn't very good. The GDP came in at 5.7% and the Current Account deficit increased to a 4-year high of \$14.3 billion or 2.4 % of GDP compared to 0.6% in the previous quarter. The slowdown in growth is being attributed to the impact of

measures such as GST rollout and demonetization. OECD expects the Indian economy to grow at 6.7% in FY18. The index of industrial production (IIP) number for July was 1.2%, recovering slightly from -0.1% reported for June. The inflation numbers continued to inch up. The Wholesale Price Index (WPI) inflation was 3.24% in August while the Consumer Price Index (CPI) inflation was 3.36%.

There was a revival seen in the Services sector in September. The Nikkei India Services Purchasing Managers' Index (PMI) rose to 50.7 in September from 47.5 in August – expanding for the first time in 3 months. The Nikkei Manufacturing PMI remained unchanged at 51.2 in September.

In the background of poor economic data and preparing for the next General Elections, the Modi government announced a major Cabinet reshuffle. Nirmala Sitharaman has been given the Defence portfolio. Piyush Goyal replaced Suresh Prabhu as the Railway Minister. Suresh Prabhu took charge as the Commerce and Industry Minister. Narendra Singh Tomar got back the charge of the Mines Ministry.

While the near term outlook on the markets may not be very optimistic, Morgan Stanley reported that Sensex can cross the 1 lakh mark by 2028 as per its bull forecast. The firm also expects India to become the world's third largest economy in the world with a GDP of \$6 trillion, helped by digitisation.

Reforms

- The Reserve Bank of India (RBI) indicated it would raise the foreign investment limits for government bonds by Rs 8,000 crore (\$1.22 billion) to Rs 2.5 trillion for the October-December quarter, after current quotas had been almost fully exhausted.
- Prime Minister Narendra Modi on 25th September, 2017 launched a Rs. 16,320 crore scheme — Pradhan Mantri Sahaj Bijli Har Ghar Yojana ‘Saubhagya’ — to provide electricity connections to over 4 crore families in rural and urban areas by December 2018.
- RBI permitted banks can classify priority loans as standard debt. This move is aimed at ensuring that entities which can be revived are able to raise money.
- The Securities and Exchange Board of India (SEBI) allowed Infrastructure Investment Trusts (InvITs) and Real Estate Investment Trusts (REITs) to raise capital by issuing debt securities.
- India Post Payments Bank is preparing to provide its financial services through all of 1.55 lakh post offices and 3 lakh employees by the end of 2018 - which will create India's second-largest payments bank in terms of reach.
- The government on 12 September increased dearness allowance (DA) and dearness relief by 1% to 5%, benefiting 50 lakh central government employees and 61 lakh pensioners.
- The government on 12 September identified over 100,000 directors of suspected shell companies to bar them from the boards of other firms.
- The New Telecom Policy, expected by March 2018, will focus on providing affordable internet access to 1.3 billion Indians and facilitate domestic manufacturing to reduce dependence on imports.
- SEBI proposed a series of stricter measures for credit rating agencies including 10% cross-shareholding cap, tighter net worth requirement and promoter eligibility norms. The consultation paper was open for public comments till September 29.
- The income-tax (I-T) department has established charges against five persons with unaccounted foreign assets of Rs 5,000 crore in the British Virgin Islands (BVI), a Caribbean tax haven. Investigations are on in more cases.
- Black money worth Rs. 4,900 crore was disclosed by 21,000 people under the Pradhan Mantri Garib Kalyan Yojna (PMGKY), the stash money declaration window announced by the government post demonetization.
- A new list of stressed accounts has been sent to banks for resolution by the RBI.
- SEBI is looking to cut by half the number of active mutual funds in India. The move is expected to make it easier for customers to select mutual funds.



IMPORTANCE OF PREPARING A WILL

Every individual wants to make sure that at any point of time he can look back and feel content that his life has been meaningful and dignified. An individual would also wish that even if he is no more, there is dignity maintained in all post death issues that have to be handled. If he owns property he would be concerned about the state of affairs regarding his property after his demise. It would be an innate desire that his wishes with respect to his assets and property be followed after his death. This is where the significance of a legal document – the Will – comes in.

What is a Will?

A Will is an important legal document which enables any living person to rightfully declare how the person wants to intend the assets and wealth to be divided / distributed after his death.

In a way a person can ensure that his wishes with respect to his assets and property are followed dutifully and peacefully even after his death. Often, difficulties arise when a person dies without a Will. Making a Will is a little effort that goes a long way in avoiding any turmoil for the family after an individual's death. Some people try and execute writings that they have prepared themselves or with the help and advice of well-meaning friends or relatives. However, these often turn out to be futile in law during the time of implementation after the death of the person. The core being that the absence of a will or the invalidity of a will or parts of a will often generates problems for the legal heirs and successors.

After a death of a person the property and the assets can be distributed in two ways:

1. Preparing a Will.
2. According to the Law of Succession, in case a Will is not prepared.

Important Postulates of a Will

1. Legal Declaration: A Will is a legal declaration. The documents purporting to be a will or a testament must be legal, i.e. in conformity of the law and it must be executed by a person legally competent to make it. It must be signed and attested as required by law.
2. Disposition of Property: The declaration should relate to the disposition of the property of the person making the will.

3. Death of the Testator: A Will becomes enforceable only after the death of the testator. It gives absolutely no rights to the legatee (the person who inherits) until the death of the testator. It has no effect during the lifetime of the testator. The testator can change his will, at any time prior to his death, in any manner he/she deems fit.

4. Revocability: The essence of every Will is that it is revocable during the lifetime of the testator.

Important Terms Related to Will

1. Executor of a Will

An executor is the person ordinarily appointed by the testator by his/her will or codicil to administer the testator's property and carry it into effect the provision of the will.

2. Codicil

It is an instrument made in relation to the will explaining, altering or adding to its dispositions. It shall be deemed to form a part of the will. In case the Testator wants to change the names of the Executors by adding some other names, this could be done by making a Codicil in addition to the Will, as long as there are no other changes required to be made in the main text of the Will.

It may be that the Testator wants to change certain bequests by adding to the names of the legatees or subtracting some of them. It may be some Beneficiaries or Executor may be dead and the names are required to be removed. All these can be done by making a Codicil. The Codicil must be reduced to writing. It should be signed by the Testator and attested by two Witnesses.

3. Letter of Administration

The Letter of Administration is a certificate granted by the competent court to an administrator where there exists a Will, authorizing him to administer the estate of the deceased in accordance with the Will, where the WILL does not name any executor. An application can be filed in the court for grant of Letter of Administration for the property in accordance with law where the deceased has died intestate.

4. Probate

Probate implies that the copy of the will is given to the executor together with a certificate granted under the seal of the court and signed, by one of the registrars, certifying that the will has been proved. The application for probate shall be made by petition to the court of competent jurisdiction. A copy of the last will and testament of the deceased should be annexed to the petition. The copy of the will and the copy of the grant of administration of the testator's estate together, form the probate.

It is conclusive evidence of the validity and due execution of the will and of the testamentary capacity of the testator.

A probate is obtained to authenticate the validity of the will. The probate is still the only proper evidence of the executor's appointment. The grant of probate to the executor does not confer upon him any title to the property which the testator himself had no right to dispose of which did belong to the testator and over which he had a disposing power with a grant of administration to the estate of the testator. Probate proceedings cannot be referred to Arbitration. The probate court (whether it is the District Court or High Court) has been granted and conferred with exclusive jurisdiction to grant probate of a Will of the deceased.

5. Succession Certificate

A Succession Certificate can be granted by the court to realize the debts and securities of the deceased and to give valid discharge. A succession certificate is a certificate which, when granted to a person, empowers the person to receive interest or dividends or negotiate the transfer or any of them with respect to the securities of a deceased person. The term Securities denotes any bond, stock, debenture or security. The respective person is required to dispose of the amount so realised in accordance with the rights of the person entitled thereto.

The person requiring the Succession Certificate may file an application in the court, where the properties of the deceased relative are situated or where he / she normally resided. Depending on the value of the estate of the deceased, the matter shall go to the type of court, which can conduct cases for that value. This is known as pecuniary jurisdiction of the court, with the names of all other heirs of the late relative as the respondents in the matter, who may issue a notice to all concerned. A newspaper notice is also issued apart from mandatory notice to the respondents upon the expiry of the time period (normally one and a half months) from the date of publication of the notice after the respondents have given their no objection.

The court passes the orders for issuance of the Succession Certificate to the person making such an application. Judicial Stamp papers of sufficient amount (as per the prescribed court fees structure) are to be submitted in the court, where after the Certificate is typed by the court staff, duly signed and sealed and delivered. The certificate takes about 3-4 months from date of filing to receive the certificate.

6. Will and Nomination

A nomination is not a will. The nominee merely acts as the trustee. In some cases, the nominee and the beneficiary of the will is the same person. At all times, the provisions of the will prevail over the nomination.

It is advisable to have the same person as the nominee and the beneficiary of the will, so as to prevent future disputes. A nomination, in order to be effective, need not be executed as a will but must be in accordance with the formalities required by the particular provision applicable.

7. Attestation of a Will

The testator shall sign or shall affix his mark to the will, or some other person shall sign it in his presence and by his direction. The signature or mark of the Testator or the signature of the person signing shall appear clearly and should be legible. It should appear in the manner that is appropriate and makes the will legal.

The will shall be attested by two or more witnesses, each of whom has seen the testator sign or affix his mark to the will or has seen other person sign the will, in the presence and by the direction of the testator, or has received from the testator. Personal acknowledgement of his signature or mark or of the signature of such other person is needed. Each of the witnesses shall sign the will in the presence of the testator.

Each of the witnesses shall sign the will in the presence of the testator, but it should not be necessary that more than one witness be present at the same time, and no particular form of attestation shall be necessary.

8. Execution of a Will

On the death of the testator, an executor of the will or an heir of the deceased testator can apply for probate. The court will ask the other heirs of the deceased if they have any objections to the will. If there are no objections, the court will grant probate. A probate is a copy of a will, certified by the court. A probate is to be treated as conclusive evidence of the genuineness of a will. In case any objections are raised by any of the heirs, a citation has to be served, calling upon them to consent. This has to be displayed prominently in the court. Thereafter, if no objection is received, the probate will be granted. It is only after this that the will comes into effect.

Registration of a Will

A Will is to be registered with the registrar/sub-registrar with a nominal registration fee. The testator must be personally present at the registrars office along with witnesses. The endorsement (signature) of the register is sufficient to prove the execution of the will; if at all the testators of the will are dead and if the testator affirms the contents of the will and put his thumb impression on the endorsement in the presence of the sub-registrar, the sub-registrar could also be considered to be an attesting witness. A will or codicil is not required to be stamped at all.

Did you know?

It took 200,000 years for the human population to reach 3 billion -- It only took 40 years for it to grow by another 3 billion after that.

Cartoon of the Month



“According to the encyclopedia, bulls eat hay and bears eat berries. My dad says they only eat money.”

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