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NEWSLETTER

July 2024

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SECURITIES AND EXCHANGE BOARD OF INDIA (FOREIGN PORTFOLIO INVESTORS) (AMENDMENT) REGULATIONS, 2024[1]

On May 31, 2024, Securities and Exchange Board of India ("**SEBI**") introduced significant changes to the regulatory framework for Foreign Portfolio Investors ("**FPIs**") through the SEBI (Foreign Portfolio Investors) (Amendment) Regulations, 2024. Key amendments include an extension for securities disposal, allowing FPIs with expired registration certificates as of June 3, 2024, to sell securities or wind-up derivatives within 360 days. The new registration fee structure mandates payment every three years, with late fees of USD 50 per day for Category I and USD 5 per day for Category II FPIs if fees are unpaid within 30 days of the period's start. Despite extended timelines, FPIs remain subject to SEBI's enforcement actions for non-compliance, ensuring accountability. Additionally, FPIs with expired registrations who fail to act within the stipulated period will have their securities deemed written off, underscoring the importance of timely compliance. These amendments aim to balance flexibility for FPIs with market stability and regulatory accountability.

These amendments came into force from June 03, 2024.

ENHANCEMENT OF OPERATIONAL EFFICIENCY AND RISK REDUCTION – PAY-OUT OF SECURITIES DIRECTLY TO CLIENT DEMAT ACCOUNT[2]

Vide circular dated June 05, 2024, SEBI issued a circular to improve the transparency and efficiency requiring securities to be paid into client's demat account. The proposed mechanism for securities pay-out shall be credited directly to the respective client's demat account by the Clearing Corporations ("**CCs**"). This means that instead of securities being pooled by the broker and then credited, it will be directly credited to the clients demat account. The process of securities payout directly to the client account shall now be mandatory. Trading Member ("**TM**")/Clearing Members ("**CM**") shall have a mechanism to identify unpaid securities and funded stocks under the margin trading facility. These processes shall not be applicable to clients having arrangements with custodians registered with SEBI for clearing and settlement of trades. If there is any shortage arising due to inter se netting of positions between clients, TM/CM shall handle such shortages through the process of auction as specified by CCs, and no additional charges shall be levied on the client by the broker.

The provisions of this circular shall come into force with effect from October 14, 2024, and the implementation standards shall be formulated by the Broker's industry standards forum (on a pilot basis) under the aegis of the stock exchanges and in consultation with SEBI by August 05, 2024.

DISCLOSURES OF MATERIAL CHANGES AND OTHER OBLIGATIONS FOR FOREIGN PORTFOLIO INVESTORS[3]

SEBI, *vide* circular dated June 05, 2024, has specified the timelines for disclosure of certain material changes/events. The amendment regulations, inter-alia relaxed the timelines for FPIs to inform their respective Designated Depository Participant ("**DDP**") and SEBI of any material change in information, detailing the timelines for intimation of the material changes and submission of supporting documents for different types of material changes for FPIs. The FPI Regulations and Master Circular broadly define 'material change' to cover structural, ownership, control, and regulatory status changes, as well as mergers, demergers, and more. This has prompted FPIs to adopt a cautious approach, informing DDPs of any changes. To resolve the issues faced by the FPIs and eliminate the ambiguities in the

[1] SEBI/LAD-NRO/GN/2024/183
[2] SEBI/HO/MIRSD/MIRSD-PoD1/P/CIR/2024/75
[3] SEBI/HO/AFD/AFD-POD-2/P/CIR/2024/76

meaning of "material change" the circular has introduced the division of material changes in two types (i.e. Type I and Type II material changes). Type 1 material change includes critical impacts like making the FPI ineligible for registration or affecting its ability to purchase securities or exemptions. Type II changes involve removing sub-fund/share classes or similar structures investing in India. In case of any delay in intimation of material change by the FPIs to DDP, the FPIs should inform the reason of delay in intimation to the DDP. The amendment to the Master Circular removes certain inconsistencies between the FPI Regulations and the Master Circular with respect to the intimation timelines.

FRAMEWORK FOR PROVIDING FLEXIBILITY TO FOREIGN PORTFOLIO INVESTORS ("FPI") IN DEALING WITH THEIR SECURITIES POST EXPIRY OF THEIR REGISTRATION[4]

SEBI, *vide* circular dated June 5, 2024, provides a comprehensive framework for FPIs to manage their securities after registration expiry. This circular provides a framework for FPIs to continue their registration or reclassify if necessary and dispose of securities within specified time limit. The circular also introduces financial disincentives for delayed disposal and ensures compliance with Know Your Customer ("**KYC**") and Anti Money Laundering / Countering the financing of terrorism requirements. FPIs must pay the registration fee to their Designated Depository Participants ("**DDPs"**) and report any changes to extend their registration for another 3-year block. If FPIs fail to meet eligibility requirements, they must notify their DDP and may be reclassified, requiring additional KYC documents and potentially facing purchase restrictions. After registration expiry, FPIs have 180 days to sell securities, incurring a 5% financial disincentive for unsold securities, which will then be written off and transferred to an escrow account, with proceeds going to the Investor Protection and Education Fund.

These amendments came into force from June 05, 2024 except para 3.5 which shall come into effect after 60 days from the date of this circular.

FRAMEWORK OF "FINANCIAL DISINCENTIVES FOR SURVEILLANCE RELATED LAPSES" AT MARKET INFRASTRUCTURE INSTITUTIONS ("MII")[5]

SEBI *vide* circular dated June 06, 2024, this circular aims to set up financial disincentives for MIIs that fail to conduct proper surveillance, aiming to ensure effective monitoring and maintain investor trust. SEBI, as the regulatory authority, has the power to take action against MIIs for any violations of laws, regulations or circulars.

MIIs such as stock exchanges, clearing corporation and depositories play a crucial role in ensuring the safety and integrity of the securities market through surveillance activities. Under this framework, financial disincentives will be imposed based on the MII's total annual revenue and the number of instances of surveillance lapses during the financial year. The framework will not apply to matters with market-wide impact, causing significant losses to investors, or affecting market integrity and these matters proceedings under relevant acts. If "financial disincentives" are imposed under the framework of financial disincentives for Surveillance Related Lapses ("**FDSRL**"), the MII must pay them to the SEBI–Investor Protection and Education Fund ("**SEBI–IPEF**") within 15 working days and confirm the payment to SEBI.

This circular will be effective from July 01, 2024 and the MIIs are expected to comply with the framework.

UPLOADING OF KNOW YOUR CLIENT INFORMATION BY KYC REGISTRATION AGENCIES ("KRA") TO CENTRAL KYC RECORDS REGISTRY ("CKYCRR")[6]

SEBI, *vide* circular dated June 06, 2024, introduced new provisions and timelines to streamline the KYC process. Registered intermediaries must now continue uploading, downloading, and modifying KYC information with proper authentication on KYC Registration Agencies systems, as mandated by SEBI KRA Regulations, 2011. KRAs are required to upload verified KYC information to the CKYCRR within 7 days of receipt, ensuring faster processing and data integrity. System integration and KYC record uploads to CKYCRR shall begin on August 1, 2024. Additionally, KRAs must upload existing KYC records of legal entities and individual clients to CKYCRR within 6 months from August 01, 2024, ensuring a comprehensive and up-to-date KYC repository.

CHOICE OF NOMINATION[7]

SEBI, *vide* circular dated June 10, 2024, simplified the process for investors and provide convenience in managing their investments. In this circular, SEBI has extended the deadline for submitting 'choice of nomination' for demat accounts and mutual fund folios to June 30, 2024. Failure to submit nomination details will no longer freeze accounts, but investors are encouraged to provide these details to ensure smooth asset transmission and avoid unclaimed assets. Notwithstanding that, all new investors/unitholders shall continue to be required to mandatorily provide the 'Choice of Nomination' for demat accounts/ MF Folios (except for jointly held Demat Accounts and Mutual Fund Folios). Only the nominee's name, their share in assets, and relationship with the applicant are mandatory. Investors holding physical

[4] SEBI/HO/AFD/AFD-PoD-2/P/CIR/2024/77
[5] SEBI/HO/ISD/ISD-PoD-1/P/CIR/2024/73
[6] SEBI/HO/MIRSD/SECFATF/CIR/2024/79
[7] SEBI/HO/MIRSD/POD-1/P/CIR/2024/81

securities will still receive payments and services without submission. Depository Participants, AMCs, and RTAs will remind investors through communications and app notifications. All related entities must implement these provisions and update SEBI on compliance.

The provisions of this circular came into effect from June 10, 2024. Further, Clause 7 of this circular shall come into effect from October 01, 2024.

MODIFICATION IN FRAMEWORK FOR OFFER FOR SALE ("OFS") OF SHARES TO EMPLOYEES THROUGH STOCK EXCHANGE MECHANISM[8]

SEBI, *vide* circular dated June 14, 2024, has modified the procedure of offering shares to employees in OFS through stock exchanges. Employees will now place bids on T+1 day at the cut-off price of T Day. The allotment price will be based on the cut-off of the T Day, subject to discount. All other provisions of the circulars remain unchanged.

This circular will come in effect from the 30th day of issuance of this circular, i.e. July 13, 2024.

INTRODUCTION OF A SPECIAL CALL AUCTION MECHANISM FOR PRICE DISCOVERY OF SCRIPS OF LISTED INVESTMENT COMPANIES (ICS) AND LISTED INVESTMENT HOLDING COMPANIES (IHCS)

On June 20, 2024,[9] SEBI introduced a place a framework for "special call auction with no price bands" for effective price discovery of scrips of such Investment Companies ("**ICs**") and listed Investment Holding Companies ("**IHCs**"). The circular provides a new criteria for identification of ICs or IHCs eligible for special call-auction and procedure for Special Call Auction Mechanism and the same shall be as follows:

(i) The ICs or IHCs shall be identified based on the uniform industry classifications provided by stock exchanges;
(ii) The scrip of ICs or IHCs should have been listed and available for trading for a period of at least 1 year and the said scrips are not suspended for trading;
(iii) Total assets of the company invested in scrips of other listed companies shall be at least 50%;
(iv) The 6-month Volume Weighted Average Price ("**VWAP**") of the scrip shall be less than 50% of the book value per share of such company based on present value of their investments in shares of other listed companies. In case the scrips of such ICs or IHCs are not traded during the previous 6-months, the 6-months VWAP of the scrip shall be taken as zero.

The circular contains elaborate provisions on the procedure to initiate the call auction notice as well and he first special auction will be conducted in October 2024 by stock exchanges based on the latest available audited financial statements of such companies. Subsequent auctions will be done when annual audited financial statements are published by the companies.

MODIFICATION IN DURATION FOR CALL AUCTION IN PRE-OPEN SESSION FOR INITIAL PUBLIC OFFER (IPO) AND RELISTED SCRIPS

On June 20, 2024,[10] SEBI modified the duration for call auction in pre-open session for Initial Public Offer (IPO) and relisted scrips, which was introduced under SEBI Master Circular 'Stock Exchanges and Clearing Corporations'[11].

In order to ensure fair pricing and transparency modifications have been made to the duration of session to 60 minutes i.e. from 9:00 a.m. to 10:00 a.m. Out of the total 60 minutes, 45 minutes shall be allowed for order entry, order modification and order cancellation, 10 minutes for order matching and trade confirmation and the remaining 5 minutes shall be the buffer period to facilitate the transition from pre-open session to the normal trading session. The session shall close randomly and automatically during last ten minutes of order entry i.e. anytime between 35th and 45th minute.

The circular also provides for additional surveillance mechanisms by mandating Stock exchanges to have adequate surveillance mechanisms to avoid any kind of manipulation in addition to generating alerts based on the value/quantity of the cancelled quantity of a particular client or modification of prices significantly away from previously placed order(s). Stock exchanges should subsequently provide a report to SEBI by End of Day based on such alerts.

The circular will become effective three months from its date of issuance – June 20, 2024.

STATUTORY COMMITTEES AT MARKET INFRASTRUCTURE INSTITUTIONS (MIIS)

Vide the Circular dated June 25, 2024,[12] In order to ensure effective oversight of the functioning of Stock Exchanges, Clearing Corporations and Depositories [hereinafter collectively referred as Market Infrastructure Institutions ("**MIIs**")], SEBI prescribed the guidelines with regard to the functions and composition of various statutory committees of MIIs:

[8] SEBI/HO/MRD/MRD-PoD-3/P/CIR/2024/82
[9] SEBI/HO/MRD/MRD-PoD-3/P/CIR/2024/86
[10] SEBI/HO/MRD/MRD-PoD-3/P/CIR/2024/85
[11] SEBI/HO/MRD2/POD 2/CIR/P/2023/171
[12] SEBI/HO/MRD/MRD-PoD-3/2024/088

(i) Function Committee which shall include – Member Committee and Nomination and Remuneration Committee;
(ii) Oversight Committees which shall include – Standing Committee on Technology, Regulatory Oversight Committee and Risk Management Committee; and
(iii) Investment Committee

This circular also gives a framework for the functions and composition of various statutory committees.

The Circular shall come into force from the 30th day of its issuance.

THE SECURITIES AND EXCHANGE BOARD OF INDIA (PROHIBITION OF INSIDER TRADING) SECOND AMENDMENT REGULATIONS, 2024[13]

SEBI amended the SEBI (Prohibition of Insider Trading) Regulations, 2015 ("**PIT Regulations**") by bringing in certain key amendments in the Regulation 5 (Trading Plans). They are as follows

(i) Reducing the time frame for an insider to commence trading, from 6 months to 120 days from the date of public disclosure of the trading plan (i.e. a plan that sets out the manner in which an insider would conduct trade in future).
(ii) Removing the requirement of a trading plan covering for a period of least 12 months.
(iii) Specifying the exact parameters that an insider trading plan must mention such as: (a) value of the trade or the number of securities to be traded; (b) nature of trade; (c) price limit; (b) trade date.
(iv) If an insider sets a price limit for a trade, permitting execution of the trade only if the security's price falls within the specified limit.
(v) Allowing the insider to deviate from the trade plan in cases of insolvency and bankruptcy and specifying procedures when the insider is unable to implement the trading plan because of the price of the security being outside the set limit or the scrip having inadequate liquidity.

PARTICIPATION BY NON-RESIDENT INDIANS (NRIS), OVERSEAS CITIZENS OF INDIA (OCIS) AND RESIDENT INDIAN (RI) INDIVIDUALS IN SEBI REGISTERED FPIS BASED IN INTERNATIONAL FINANCIAL SERVICES CENTRES IN INDIA

Vide gazette notification dated June 26, 2024[14], SEBI amended the FPI Regulations allowing NRIs, OCIs, and RIs to contribute up to 100% towards corpus funds of SEBI-registered FPIs based in International Financial Services Centres ("**IFSCs**").

In line of the abovementioned amendment, SEBI introduced amendments to the Master Circular for Foreign Portfolio Investors, Designated Depository Participants and Eligible Foreign Investors[15] *vide* circular dated June 27, 2024,[16].

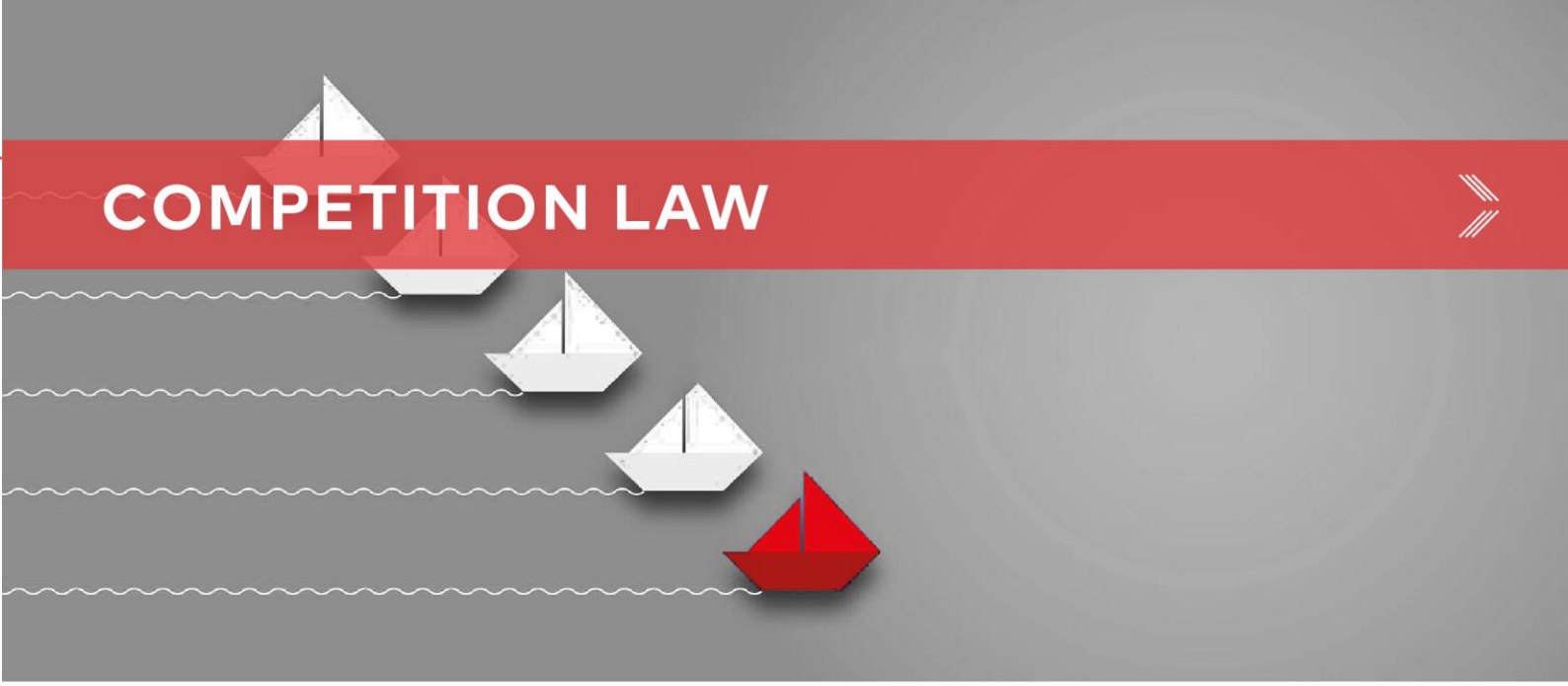
The circular introduces provisions such as requiring the FPIs to declare their intent for aggregate contribution of NRIs, OCIs and RIs (if the intent is to contribute 50% or more towards the corpus) and providing their necessary documentation like PAN cards, passport copies, etc.

The circular further states that the FPIs that are set up as funds and regulated by International Financial Services Centres Authority shall be exempted from providing the necessary documentation on the compliance of the following conditions:

(i) Pooling contributions into one investment vehicle;
(ii) All investors in the fund have pari-passu and pro-rata rights;
(iii) Fund having a minimum of 20 investor with each investor not contributing more than 25% to the corpus fund;
(iv) No Investor having a say in the investment decisions of the FPI and the same being taken by an investment manager or fund manager; and
(v) Investing a maximum of 20% of corpus in equity shares

The provisions of this circular shall come into force with immediate effect.

[13] SEBI/LAD-NRO/GN/2024/184
[14] SEBI/LAD-NRO/GN/2024/185
[15] SEBI/HO/AFD/AFD-PoD-2/P/CIR/P/2024/70
[16] SEBI/HO/AFD/AFD-POD-2/P/CIR/2024/89



The following are the main highlights in the Competition Law space for the month of June 2024:

MADRAS HC QUASHES CCI'S INVESTIGATION OF MRF LIMITED

The High Court of Madras (**Madras HC)** in its judgement dated April 30, 2024 allowed writ petitions filed by MRF Limited challenging their inclusion in the investigation of alleged cartelization of tyre manufacturers as opposite parties without intimation.

The Competition Commission of India (**CCI**) via its order dated November 01, 2019, passed the *prima facie* order directing the DG to conduct an investigation into the matter of alleged cartelization and bid rigging by the top five tyre manufacturers in India. Post which, the DG issued notices to tyre companies, including MRF, even when the case was primarily filed against CEAT.

The matter was brough to court by MRF, since without intimating it, its position in the matter was upgraded to being a named Opposite Party on the request of the DG *vide* an order of the CCI dated 28 August 2020, as opposed to the DG treating them as third parties since April 2020.

The Madras High Court ruled that there is a clear distinction between a 'party' and a 'third-party'. According to the Court, a third-party has a significantly lower threshold than those directly involved in the proceedings. An entity has the right to be informed of its status in the proceedings. The Court opined that MRF Limited should have been given notice before being added as a party by the CCI, and the reasons for this inclusion should be clearly explained in a formal order, and not be passed *ex parte*.

CCI DISMISSES ANTICOMPETITIVE ALLEGATIONS FILED AGAINST KARNATAKA FILM CHAMBER OF COMMERCE AND OTHERS

The CCI, in an order dated June 11, 2024, dismissed an information filed by the Kannada Film Chamber of Commerce (**Informant**) against the Karnataka Film Chamber of Commerce and other bodies associated with regional films (**Opposite Parties)**. The information alleged that certain individuals incited members of the Opposite Parties to boycott the Informant and ban the release and broadcast of any dubbed content.

The information averred that these practices were violative of Section 3(1), 3(3), 4(1) and 4(2) of the Competition Act, 2002 (**Act**) as well as the cease-and-desist order passed by the CCI dated July 27, 2015, against the Opposite Parties.

The Informant requested that the Opposite Parties be restrained from circulating messages and/or audio clips that incite the members of the Karnataka Film Chamber of Commerce. However, the Informant did not respond to the CCI's order seeking additional information and did not provide any further evidence. Consequently, the CCI dismissed the matter due to insufficient and non-credible information regarding the conduct of the Opposite Parties.

CCI DISMISSES SRAI COMPLAINT ALLEGING ABUSE OF DOMINANT POSITION AND CONTROL OF PRICING BY INDIVIDUALS

The CCI addressed a complaint filed by one Mr. Uday B. Bhatt (**Informant**) on behalf of Ship Recycling Industries Association (**SRIA**), which represents micro, small and medium enterprises engaged in ship recycling activities primarily based in Gujarat.

The Informant stated that certain individuals (**Opposite Parties**) were acting as illegal intermediaries and attempting

to manipulate the pricing system by spreading false rumors about changes in the prices of Alang-based scrap iron through WhatsApp groups. The Informant further asserted that, in the long run, the Opposite Parties would gain complete control of prices, leading to an abuse of dominant position.

The CCI in its order dated June 6, 2024, dismissed the complaint on the grounds that it is a settled position that the provisions of the Act do not provide for inquiry into the cases of joint/collective dominance and hence no contravention of Section 4 can be meted out. Furthermore, the CCI in its *prima facie* view held that there is also no evidence of cartelization causing the spread of alleged false rumours/ misinformation and hence, the CCI dismissed the said complaint.

CCI APPROVES THE PROPOSED COMBINATION BETWEEN INDOEDGE AND MG MOTORS

On February 23, 2024, CCI received a notice from IndoEdge India Fund – LVF Scheme (**Acquirer**) followed by a Share Subscription and Shareholders Rights Agreement executed on February 16, 2024, with MG Motor India Private Limited (**Target**).

The Acquirer intended to purchase eight percent of the equity share capital of the Target on a fully diluted basis. Additionally, the proposed combination included acquiring certain rights in the Target, such as the right to appoint a director to the Board of Directors, certain reserved matter rights, and specific information rights.

CCI found no horizontal or vertical overlaps between the business segments of the Acquirer and the Target. While approving the proposed combination, the CCI did not delineate a relevant market and decided to leave its delineation open, observing that the proposed combination was unlikely to adversely affect competition irrespective of any relevant market in India. Based on the material provided and the assessment under Section 20(4) of the Act, the CCI concluded that the acquisition would not impact competition. Consequently, the CCI approved the combination under Section 31(1) of the Act via its order dated April 2, 2024.

CCI APPROVES PROPOSED COMBINATION BETWEEN PIRAMAL ALTERNATIVESTRUST AND ANNAPURNA FINANCE PRIVATE LIMITED

On January 31, 2024, CCI received a Notice under Section 6(2) of the Act from Piramal Alternatives Trust (**Acquirer**), followed by a Share Purchase Agreement, amended and restated Shareholders' Agreement, Debenture Trust Deed and Debenture Trustee Agreement that were executed with Annapurna Finance Private Limited (**Target**).

The Acquirer intended to acquire 1,25,00,000 shares, amounting to 10.39% of the equity share capital of the Target, from certain shareholders on a fully diluted basis. Additionally, the Acquirer planned to subscribe to certain debentures of the Target and acquire the right to nominate one director to the Board of the Target, subject to the prescribed minimum shareholding requirement. The Acquirer would also be entitled to nominate one individual as an observer at all meetings of the Board of Directors of the Target and certain committees.

The CCI found that there exist certain horizontal overlaps as well as a vertical interface between the Acquirer and the Target. However, the CCI found that the presence of the Acquirer and the Target are not significant enough to raise competition concerns. Based on the material provided and the assessment under Section 20(4) of the Act, the CCI concluded that the acquisition would not impact competition. Consequently, the CCI approved the combination under Section 31(1) of the Act via its order dated April 2, 2024.

CCI PROPOSES AMENDMENTS TO THE COMPETITION COMMISSION OF INDIA (GENERAL) REGULATIONS, 2009

On June 6, 2024, CCI published its proposed amendments to the CCI (General) Regulations (**General Regulations**) with the aim of aligning the same with the Competition (Amendment) Act, 2023. The draft amendments are open for public consultation till July 8, 2024.

Key features of the proposed draft amendment are detailed below:

- The definition of expert has been expanded to include any party who is able to provide an opinion in relation to the matter. The definition of interlocutory applications and miscellaneous applications has been expanded as well.
- A translated document into English would be accepted as true translation if certified by the counsels, translated by an official translator of any Court, or is done by an official translator of any authority/body of the Central or State Government.
- Any information filed with the CCI will also be required to contain the chronology of facts, a date of the cause of action, details on whether the facts of the matter being brought before the CCI are similar to any previous matter decided by CCI, and an affidavit duly verifying the contents of the information.
- The list of people who may sign an information has been expanded to include any employee, depending upon the enterprise.
- Where the CCI has formulated a *prima facie* opinion, the Secretary would be required to communicate the

same to the parties within 7 days of passing of such order with a copy of the same.

- For any investigation conducted by the Director General (**DG**), the report is required to be submitted to the CCI along with all evidence or documents or statements or analyses.
- After consideration of the DG report by the CCI, the same may be forwarded by the Secretary to Central Government or the State Government for objections or suggestions. In furtherance to this, the CCI may also ask the parties to file their financial information with the CCI.
- For any inquiry to be initiated under Section 26 of the Act, after receipt of the DG Report, the Secretary will be required to place the same for consideration of the CCI within a period of 4 weeks. The same timeline has been proposed for a supplementary report.
- The timeline for the submission of the DG report is proposed to be extended to 90 days from 60 days.
- It has been proposed to reduce the time provided for filing comments to a notice to 04 days from 07 days.
- CCI proposes to appoint monitoring agencies to oversee the implementation of CCI orders.

PENDING SCHEME UNDER SECTION 230 OF COMPANIES ACT, 2013 CANNOT HALT PROCEEDINGS FOR ADMISSION OF CIRP

In the case of ***Grand Developers Pvt. Ltd. vs. Nitin Batra & Ors***.[17], the Hon'ble National Company Law Appellate Tribunal, New Delhi ("**NCLAT**"), examined the scope of Scheme filed by the Corporate Debtor under Section 230 of the Companies Act, 2013, in an ongoing Corporate Insolvency Resolution Process ("**CIRP**").

On 12.10.2021, vide C.P (IB) 682 of 2021, 215 homebuyers of the Festival City Project ("**Project**") filed a Section 7 Application ("**Application**") before the Hon'ble National Company Law Tribunal, New Delhi, ("**NCLT**") under the Insolvency and Bankruptcy Code, 2016 ("**Code**"), against M/s. Anand Infoedge Pvt. Ltd., M/s. Mist Avenue Pvt. Ltd., and M/s. Mist Direct Sales Pvt. Ltd (collectively referred as "**Corporate Debtors**"), alleging a default in the completion of the Project and delivering possession during the stipulated period. Pursuant to filing of the Application, the Corporate Debtors raised several objections regarding the maintainability of the Application before Hon'ble NCLT. In accordance to the pleading, the said objections were outrightly rejected vide Order dated 21.10.2022. Appeals thereto were also dismissed by Hon'ble NCLAT on 17.11.2023, and Hon'ble Supreme Court on 11.12.2023.

Despite the dismissal of the Appeal and objections, the Corporate Debtor and various applicants continued to file petitions attempting for dismissal of the main Company Petition. For such another attempt, an Intervention Petition No. 12 of 2024 ("**Intervention Application**"), was filed by Grand Developers Pvt. Ltd ("**Appellant**") claiming to own 102 units in the Project and sought intervention in the present Company Petition. Subsequently the Intervention Application was rejected by Hon'ble NCLT vide Order dated 27.02.2024. Therefore, the present Appeal was filed by the Appellant.

The Appellant before the Hon'ble NCLAT pleaded that the Corporate Debtors have filed a Scheme under Section 230 of the Companies Act, 2013, i.e., still pending for consideration and Approval. Henceforth the remaining construction of the Project shall be abided by the Corporate Debtor as per the Scheme approved by the Hon'ble Tribunal. Whereas, Respondents 1 to 3, pointed out the delaying tactics of the Appellant from the inception to derail the CIRP of the Corporate Debtor. The Respondent further enumerated several objections and defects in the Scheme presented by the Appellant under Section 230 of the Companies Act, 2013.

While considering the assertion and contention of the parties, the Hon'ble NCLAT vide Judgement dated 15.05.2024, noted that the continuous filing of petitions by the Corporate Debtors and other applicants appeared to be attempts to delay the CIRP proceedings. Hon'ble NCLT ascertained that the applications were obstructing the timely resolution of the CIRP, one of the prime objectives of the Code. The Hon'ble NCLAT further affirmed the Hon'ble NCLT findings in the rejection of Intervention Application, and noted that the Scheme under Section 230 of the Companies Act, 2013, proposed by M/s. Mist Direct Sales Pvt. Ltd. was not a valid reason to halt the ongoing CIRP, since the Petition under Section 230 of the Companies Act, 2013 is an independent proceeding and hence cannot be a ground to halt or reject CIRP proceedings.

NCLAT UPHOLDS INSOLVENCY PROCEEDINGS AGAINST PERSONAL GUARANTOR INITIATED BY RESOLUTION PROFESSIONAL ON BEHALF OF THE CREDITORS

The Hon'ble **NCLAT** in ***Shrenik Ashokbhai Morakhia vs. Reliance Asset Reconstruction Company Ltd.***[18] upheld the

[17] Company Appeal (AT) (INS) No. 899 of 2024 & I.A. No. 3250 of 2024.

[18] Company Appeal (AT) (Insolvency) No. 719 of 2024.

filing of Section 95(1) Petition under the **Code** through the Resolution Professional.

The Appeal concerned a financial transaction between Dena Bank and M/s Morakhia Metals and Alloy Pvt. Ltd ("**Corporate Debtor**") wherein Dena Bank had issued a Sanction letter provisioning a credit facility of Rs. 32.15 Crores to the Corporate Debtor ("**Credit Facility**") on 18.06.2012. The said Credit Facility was secured by a joint Deed of Guarantee signed by Mr. Shrenik Ashokbhai Morakhia ("**Appellant**") and Mr. Pankaj Kumar Morakhia. Due to non-fulfilment of the terms of the Credit Facility, Corporate Debtor's account was classified NPA on 31.05.2015. Resultantly, Dena Bank invoked the Personal Guarantee on 04.03.2016. On 29.01.2018 the Credit Facility was assigned to Reliance Asset Reconstruction Company Limited ("**Respondent No. 1**") by Dena Bank. Subsequently, due to non-payment of the outstanding amount, a Petition under Section 7 of the Code was also filed by Respondent No. 1. Consequently, CIRP was initiated against the Corporate Debtor and the Resolution Plan was approved by the Hon'ble **NCLT**. Pursuant to the same, on 10.08.2021 proceeding under Section 95 of the Code ("**Application**") was initiated by Respondent No. 1 against the Appellant, being the personal guarantor to the Credit Facility. The Hon'ble NCLT on 20.03.2024 after taking into consideration the pleadings and arguments on record, passed an admission order under Section 100 of the Code. Hence, an Appeal was filed before the Hon'ble NCLAT.

Appellant in its Appeal before the Hon'ble NCLAT opposed the Section 95 Application and Order dated 20.03.2024 on the preliminary basis of limitation. Appellant further, questioned the legitimacy of Dena Bank's assignment agreement with Respondent No. 1. Furthermore, Appellant criticized the procedural defects in the Application, emphasising the use of a resolution professional's signature instead of an authorized official of the Financial Creditor.

The Hon'ble NCLAT dismissed the Appeal upholding the maintainability of creditor's ability to initiate insolvency proceedings against a Personal guarantor through a Resolution Professional under Section 95(1) of the Code. Hon'ble NCLAT upheld the legitimacy of the Resolution Professional's authorization and emphasised the Appellant's acknowledgement of debt in year 2018 as extending the limitation period. The benefit of extension of limitation as held by Hon'ble Supreme Court in Suo Motu Writ Petition (Civil) No. 03 of 2020, excluding the period from 15.03.2020 to 28.02.2022 was also acknowledged.

COURT IS EMPOWERED UNDER SECTION 29A TO EXTEND THE MANDATE OF THE ARBITRATOR POST ITS EXPIRATION

The Hon'ble High Court of Delhi, in the case of ***Glowsun Powergen Private Limited vs. Hammond Power Solutions Private Limited*** [19], dealt with a petition filed under Section 29A of the Arbitration and Conciliation Act, 1996 seeking to extend the mandate of the Arbitral Tribunal, one year after the it expired. The said extension was opposed by Hammond Power Solutions Private Limited ("**Respondent**") on the grounds that the mandate cannot be extended by the Court post its expiration.

Relying on a decision by a coordinate bench of the High Court of Delhi in *KMP Expressways Limited vs. IDBI Bank Limited* [(MISC) (COMM) 553/2023], the Hon'ble Delhi High Court held that Section 29A (4) of the Arbitration and Conciliation Act, 1996, allows for the arbitrator's mandate to be extended either before or after its expiry. The Court noted that Section 29A does not prescribe any explicit outer limits and permits extensions in appropriate cases. Considering this reasoning, along with the observation that both parties and the arbitrator had invested significant time and effort, the Court extended the mandate of the Arbitral Tribunal.

This decision is significant as it clarifies the flexibility provided under Section 29A of the Arbitration and Conciliation Act, 1996, ensuring that procedural technicalities do not hinder the arbitration process. By allowing extensions of the arbitrator's mandate, the Hon'ble Court ensured that the invested efforts of both, the parties and arbitrator are not rendered futile, hence promoting efficient resolution of disputes, and upholding the integrity of the arbitration process.

COURT MUST GIVE REASONS WHILE RELEASING THE AMOUNT UNDER SECTION 19 OF THE MICRO, SMALL AND MEDIUM ENTERPRISES DEVELOPMENT ACT, 2006

The Hon'ble High Court of Telangana in the case of ***National Small Industries Corporation Limited vs. Brahma Teja Paper Products*** [20], dealt with a petition filed under Article 227 of the Constitution, in which National Small Industries Corporation Limited ("**NSICL**"), the Petitioner therein challenged the validity of an order issued by the Commercial Court, Ranga Reddy District, Hyderabad. The said order permitted Brahma Teja Paper Products, the Respondent No. 1, to withdraw INR 50,85,490/- deposited by NSICL in accordance with Section 19 of the Micro, Small and Medium Enterprises Development Act, 2006 **("MSME Act")**.

The Division Bench of the Hon'ble High Court of Telangana opined that while dealing with a request to release an amount under Section 19 of the MSME Act, the court must provide reasons for releasing such percentage of amounts as

[19] O.M.P (MISC) (COMM) No. 120/2024

[20] 2024 SCC OnLine TS 1346

it deems reasonable. Further, the Hon'ble High Court observed that while the court is empowered to permit the release of a reasonable percentage of the deposited amount to the supplier, it is imperative that reasons must be assigned for releasing the particular percentage of the amount. It was noted that the Commercial Court had not provided any reasoning for release of the entire amount in favour of Respondent No. 1.

The Hon'ble High Court further noted that since a petition seeking stay of the award was also pending along with the application seeking withdrawal of the amount, the Commercial Court should have addressed both applications together. Therefore, the Hon'ble High Court set aside the Commercial Court's order and directed the Commercial Court to decide the application seeking withdrawal along with the petition seeking stay of the award after hearing the parties.

This case underscores the importance of providing reasons under Section 19 of the MSME Act, which is crucial as it ensures transparency and accountability in judicial decision-making. It allows both parties to understand the basis of court's decision, thereby promoting fairness and trust in the judicial process. Moreover, it helps in preventing arbitrary decisions, ensuring that the release of the amount is justifiable and appropriate to the circumstances of the case. This requirement acts as a safeguard to ensure that judicial discretion is exercised prudently and in a manner that upholds the principles of natural justice.

EMPLOYMENT LAW

EMPLOYEES PROVIDENT FUND ORGANISATION GRANTS EXTENSION FOR MANDATORY SEEDING OF AADHAAR WITH UAN FOR FILING OF ELECTRONIC RETURN CUM CHALLAN

The Employees Provident Fund Organisation ("**EPFO**"), *vide* notification dated June 5, 2024, has granted an extension for mandatory seeding of AADHAAR for filing of Electronic Return cum Challan (ECR) till June 30, 2024. This extension for filing of ECR is only granted for certain classes of establishments, i.e., beedi making, building and construction and plantation industries (Tea, Coffee, Cardamon, Pepper, Jute, Rubber, Cinchona, Cashewnuts etc.).

The aforementioned notification provides the relaxation as a final measure for the pendency of seeding of AADHAAR with UAN in the Northeastern region of India comprising of States of Assam, Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland and Tripura.

MAHARASHTRA LABOUR WELFARE BOARD REVISES HALF YEARLY CONTRIBUTION RATES FOR EMPLOYERS AND EMPLOYEES UNDER THE MAHARASHTRA WELFARE FUND ACT, 1953

The Labour Welfare Board, Maharashtra, *vide* notification dated, June 6, 2024, has revised the applicable rates of contribution for employees and employers under Maharashtra Labour Welfare Fund Act, 1953. The revised rate of contribution for an employee is INR 25 (Rupees Twenty Five) and for an employer INR 75 (Rupees Seventy Five). The aforementioned rates are payable from June 2024 onwards.

GOVERNMENT OF KARNATAKA PROVIDES EXTENDS EXEMPTION FROM THE APPLICABILITY OF INDUSTRIAL EMPLOYMENT (STANDING ORDERS) ACT, 1946

The Labour Department, Government of Karnataka, *vide* notification dated June 10, 2024, has extended the exemption of establishments in the IT/ITES/Start-ups/Animation/Gamin/Computer Graphics/Telecom/BPO/KPO and other knowledge based industries from the applicability of Industrial Employment (Standing Orders) Act, 1946 for a further period of 5 (Five) years from the date of the publication of the notification i.e. June 10, 2024.

The aforementioned exemptions are subject to the following conditions:

(i) their compliance with the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and the rules framed thereunder;
(ii) constitution of a grievance redressal committee consisting of an equal number of employers and employees to address grievances of employees;
(iii) intimating information regarding cases of disciplinary actions to the labour commissioner, Karnataka; and
(iv) providing any information sought by the Jurisdictional Deputy Labour Commissioner and Commissioner of Labour in Karnataka regarding the service conditions of the employees.

The aforementioned notification would cease to apply when the Industrial Relations Code, 2020 is implemented.

GOVERNMENT OF RAJASTHAN NOTIFIES REVISED VARIABLE DEARNESS ALLOWANCE PAYABLE AS PER THE ENGINEERING WAGE BOARD RECOMMENDATIONS

The Government of Rajasthan, *vide* notification dated, June 11, 2024, has notified the Variable Dearness Allowance ("**VDA**") based on the new series of Consumer Price Index ("**CPI**") number for industrial workers.

The revision for VDA comes in light of the recommendations of the engineering wage board. There is a net increase of 155

(One Hundred Fifty Five) points in average indices for the review period, from October 2023 to March 2024 and subsequent VDA is required to be calculated in light of the increased CPI.

EPFO NOTIFIES DISCONTINUATION OF COVID-19 ADVANCES UNDER THE EMPLOYEES PROVIDENT FUND SCHEME, 1952

The EPFO, *vide* notification dated June 12, 2024, has notified discontinuation of advances for medical claims relating to COVID-19 under paragraph 68L(3) of the Employees Provident Fund Scheme, 1952.

During the first and second wave of the outbreak of COVID-19, the members of the provident fund were allowed to seek a non-refundable advance under paragraph 68L which allows for grant of advances under abnormal conditions. The aforementioned notification notes that since COVID-19 is no longer a pandemic, the advance extended to the members has been discontinued. Further, as per the aforementioned notification, the discontinuation of advance is also applicable to trusts.

EMPLOYEE STATE INSURANCE CORPORATION NOTIFIES PROVISIONS TO FACILITATE AADHAAR SEEDING

Employee State Insurance Corporation ("**ESIC**"), *vide* notification dated June 13, 2024, has notified provisions of IP Portal, Employer Portal, ESIC Staff, and AAA+ mobile application in the interest of smooth facilitation of AADHAAR seeding.

The aforementioned notification aims to facilitate a seamless process of AADHAAR seeding for insured persons, ESIC employees and pensioners.

MINISTRY OF LABOUR AND EMPLOYMENT NOTIFIES AMENDMENTS TO THE EMPLOYEES' PENSION SCHEME 1995

Ministry of Labour and Employment *vide* notifications dated June 14, 2024, has amended Table B, Table D and section 7(1) of the Employees' Pension Scheme, 1995 ("**Pension Scheme**").

Table B is provided as an addendum to paragraph 12 in the Pension Scheme and lists the relevant factor to compute the pensionable salary of a member of the Pension Scheme in accordance with the number of years of service completed by such member. The aforementioned notification adds more entries to Table B of the Pension Scheme and provides relevant factors for computation of pension for members whose years of service fall between the less than 34 (Thirty Four) and less than 42 (Forty Two) years range.

Table D is provided as an addendum to paragraph 14 in the Pension Scheme and lists the relevant return of contribution applicable in the event of an employee's exit from the employment before being eligible for monthly members pension as per the Pension Scheme. The aforementioned notification replaces Table D of the Pension Scheme and provides for the corresponding proportion of wages applicable for employees completing service from 1 (One) till 113 (One Hundred Thirteen) months.

Vide the aforementioned notification, paragraph 5(1) of the Pension Scheme has been substituted, and it amends the recovery rates from per annum basis to a per month basis at the arrear of contribution at 1 % (One Percent).

MINISTRY OF LABOUR AND EMPLOYMENT NOTIFIES AMENDMENT TO THE EMPLOYEES DEPOSIT LINKED INSURANCE SCHEME, 1976

Ministry of Labour and Employment *vide* notification dated June 14, 2024, has amended sub-paragraph (1) of paragraph 8A of the Employees Deposit Linked Insurance Scheme, 1976 to revise the rate of penalty in the event of default for contribution by the employer.

Paragraph 8A(1) provides for the recovery of damages from the employer in the event the employer fails to make payments under the abovementioned scheme. The penalty and damages as per the said pension scheme were recoverable at a given rate per annum for the relevant period of default. The aforementioned notification amends the recovery rates of per annum to a per month basis at the arrear of contribution at 1% (One Percent).

MINISTRY OF LABOUR AND EMPLOYMENT NOTIFIES AMENDMENT TO THE EMPLOYEES' PROVIDENT FUNDS SCHEME, 1952

The Ministry of Labour and Employment has notified the Employees' Provident Funds (Amendment) Scheme, 2014 *vide* notification dated June 14, 2024. The said notification has amended sub-paragraph (1) of paragraph 32A of the Employees' Provident Funds Scheme, 1952 in the event of default for contribution by the employer.

Paragraph 32A(1) provides for the recovery of damages from the employer in the event the employer fails to make payments under the aforementioned scheme. The penalty and damages as per the pension scheme were recoverable at a given rate per annum for the relevant period of default. The aforementioned notification amends the recovery rates of per annum to a per month basis at the arrear of contribution at 1 % (One Percent).

ESIC EXTENDS APPLICATION OF REGULATION 95-A OF THE EMPLOYEES' STATE INSURANCE (GENERAL) REGULATIONS 1950 TO ALL AREAS OF NOTIFIED DISTRICTS IN UTTARAKHAND

ESIC, *vide* notification dated June 18, 2024, has extended the application of regulation 95-A of the Employees' State Insurance (General) Regulations 1950 to all areas of notified districts in Uttarakhand. The aforementioned notification states that the medical benefit under the specified regulation shall be extended to the families of insured persons in the districts of Amora, Bageshwar, Chamoli, Champawat, Pithoragarh, Rudraprayag and Uttarkashi in the state of Uttarakhand.

THE GOVERNMENT OF GOA REVISES THE VDA FOR VARIOUS SCHEDULED EMPLOYMENT

The Office of Commissioner, Labour and Employment Department for the state of Goa, *vide* notification dated June 18, 2024, has revised VDA for various scheduled employments. The revision is based on the calculation of the average CPI in Goa for the period of July 2023 to December 2023, which has increased by 21 (Twenty One) points from 379 (Three Hundred Seventy Nine) to 400 (Four Hundred) points. In accordance with the CPI, the aforementioned notification revises the VDA to INR 125 (Rupees One Hundred Twenty Five) for employees employed in any of the 20 (Twenty) categories of scheduled employment notified.

GOVERNMENT OF PUNJAB EXTENDS THE PROVISION OF EMPLOYEES' STATE INSURANCE ACT, 1948 TO MUNICIPAL BODIES RUN BY STATE GOVERNMENT

The Department of Health and Family Welfare, Government of Punjab, *vide* notification dated, June 21, 2024, has extended the application of Employees' State Insurance Act, 1948, to municipal bodies including municipal corporation (Nagar Nigam), municipal councils, nagar palika & other urban local bodies run by state government, where in 10 (Ten) or more persons are employed, or were employed in the last 12 (Twelve) months, on casual or contractual basis.

EPFO NOTIFIES INSTRUCTIONS TO PUBLIC RELATION OFFICERS FOR ASSISTING MEMBERS IN FILING PENSION CLAIMS

The EPFO, *vide* letter dated June 21, 2024, has issued instructions to Public Relation Officers (PRO) of the EPFO regional and zonal offices regarding enhancing efficiency in filing of employee provident fund claims.

PROs are appointed in the information and facilitation centres and are entrusted with managing grievances of members on a daily basis. *Vide* the aforementioned letter, the EPFO has stated incomplete or erroneous applications being filed by members can be avoided if proper assistance and guidance is provided by the PROs. The said letter emphasises the importance of filing claims online and issues specific instructions regarding assistance to be provided by the PROs to the members filing claims, including assistance to members/beneficiaries, conveying the deficiencies to members etc.

GOVERNMENT OF TELANGANA ISSUES INSTRUCTIONS TO DEVELOP AND IMPLEMENT DASHBOARDS IN COMPLIANCE WITH EASE OF DOING BUSINESS IMPLEMENTATION REFORMS

The Government of Telangana, *vide* order dated June 21, 2024, has issued instructions to the director of factories and director of boilers to develop and implement dashboards on their respective websites in compliance with the 'Ease of Doing Business' implementation reforms.

The said order states that the dashboard must clearly publish the data on number of applications received and granted, and the time taken and fee incurred to grant approvals/certificate. Further, the dashboard should be updated on real time or regularly (daily/weekly/fortnightly/monthly) where the date and time of modification must be mentioned. Further, as per the said order, various listed acts including the Contracts Labour (Regulation and Abolition) Act, 1970, Shops and Establishments Act, Principal employer's establishment under provision of the Contracts Labour (Regulation and Abolition) Act, 1970, etc., must be covered on the dashboard.

ESIC ISSUES CIRCULAR TO REITERATE THE REQUIREMENT OF COMPLIANCE WITH PROCESSING OF TIME-BARRED CLAIMS

The ESIC *vide* letter dated June 24, 2024, has issued a circular to reiterate the requirement of compliance with processing of time-barred claims.

It had been noted by the ESIC that delayed medical claims that had a bar on timeline for submission were submitted by the beneficiaries citing non-awareness of rules regarding the time limit for submission. Through a previous notification dated, March 03, 2014, the ESIC had issued a circular directing the need for creating awareness and not accepting citation of non-awareness as a valid reason for delay of filling applications beyond March 31, 2014. *Vide* the aforesaid letter, the ESIC has issued a reminder to the respective offices to not accept claims that cite non-awareness as a reason for delay.

THE CHANDIGARH ADMINISTRATION EXEMPTS ALL SHOPS AND ESTABLISHMENTS FROM CERTAIN PROVISIONS OF THE PUNJAB SHOPS AND COMMERCIAL ESTABLISHMENTS ACT, 1958

The Labour Department, Chandigarh, *vide* notification dated June 25, 2024 has exempted all shops and commercial establishments registered under the Punjab Shops and Commercial Establishments Act, 1958 in the union territory of Chandigarh from the operation of provisions of Section 9, Section 10(1) and Section 30 of the said act subject to certain conditions. These conditions *inter alia* include:

(i) Every employee working in the said shops and establishments shall be given 1 (One) day rest in a week without making any deduction from his/her wages on account thereof.
(ii) Every employee shall be given a rest period of at least half an hour after 5 (Five) hours of continuous work.
(iii) No employee shall be required to work for more than 9 (Nine) hours in day or 48 (Forty Eight) hours in a week.
(iv) Female employees shall be provided separate locker, security and rest rooms at the workplace.

The aforementioned notification shall into force from the date of its publication in the official gazette i.e., June 25, 2024.

RBI RELEASED STATEMENT ON DEVELOPMENTAL AND REGULATORY POLICIES FOR THE MONTH OF JUNE, 2024

The Reserve Bank of India ("**RBI**") on June 07, 2024 released Statement on Developmental and Regulatory Policies. The key initiatives in relation to 'Payment Systems and FinTech' are mentioned as below:

(a) Setting up a Digital Payments Intelligence Platform

RBI has proposed to set up a 'Digital Payments Intelligence Platform' to harness advanced technologies to mitigate payment fraud risks. For this, a committee has been constituted by RBI to examine various aspects of setting up a digital public infrastructure for Digital Payments Intelligence Platform.

(b) Inclusion of Recurring Payments for FASTag, National Common Mobility Card (NCMC), etc. with Auto-replenishment Facility under the E-mandate Framework

RBI's current e-Mandate framework for recurring transactions is set to be expanded to include payments like FASTag and NCMC balance replenishments, which recur without any fixed periodicity. These payments will be automatically replenished when the balance falls below a customer-set threshold. Additionally, the requirement for a pre-debit notification 24 (Twenty Four) hours before the actual debit is proposed to be waived for these types of payments.

The RBI is working on the guidelines in respect of the above proposals and will issue the same in due time.

Source

CONDITIONAL PERMIT TO BINANCE FOR RESUMING OPERATIONS IN INDIA

Binance, which is considered to be one of the largest crypto currency exchange in the world, was suspended from operating in India in December, 2023 for violating anti-money laundering laws of India. It operated as a Virtual Digital Asset Service Provider (VDA SP), which means that it *inter alia* deals in virtual digital assets of others by operating as an exchange. India's Financial Intelligence Unit (FIU-IND) has identified it as a 'Reporting Entity' under the Prevention of Money Laundering Act, 2002 ("**PMLA**"). Despite its status, Binance has been providing services to Indian clients and operating within India without registering as a 'Reporting Entity" and without adhering to the statutory obligations applicable to it under the PMLA.

A notice was issued to Binance on December 28, 2023, under Section 13 of the PMLA, compelling it to demonstrate why appropriate action should not be taken against it for its dereliction of duties under the PMLA. After considering Binance's submissions, the Director of FIU-IND found the charges against Binance substantiated. Consequently, a total penalty of Rs. 18,82,00,000 (Rupees Eighteen Crore and Eighty Two Lakh Only) was imposed on Binance on June 19, 2024, for the following violations:

(a) Contravention of Section 12(1), PMLA read with Rules 7(1), PML (Maintenance of Records) Rules, 2005 ("**PML Rules**"). (*REs are supposed to maintain and communicate to FIU-IND the names, designations and addresses of their Designated Directors and the Principal Officers*);

(b) Contravention of Section 12(1), PMLA read with Rules 3(1)(D) and 7(3), PML Rules (*REs are supposed to maintain the record of all suspicious transactions as described in Rule 3(1)(D) of the PML rules. An internal mechanism should be set up by the REs for detecting*

such suspicious transactions as provided in Rule 7(3) of the PML Rules); and

(c) Contravention of Section 12(1), PMLA read with Rule 8(2) PML Rules (*The information regarding the transactions that are marked as suspicious under Rule 3(1)(D) of the PML Rules shall be communicated to FIU-IND in the manner as prescribed under Rule 8(2) of the PML Rules*).

Binance as an RE, was found in violation of the above provisions. It has been cleared to resume its operations in India after payment of the penalty; however, specific directions have been issued to Binance to ensure diligent compliance with the obligations outlined in Chapter IV of the PMLA (*which highlights the obligations of a Reporting Entity in consonance with the objective of PMLA, and the powers of FIU-IND in this regard*), in conjunction with the PML Rules for prevention of money laundering activities and combating the financing of terrorism (AML/CFT).

DSK View:. *The stringent action taken against Binance by the FIU-IND signifies the Indian government's efforts to regulate the advancing cryptocurrency market and ensure compliance with anti-money laundering laws. This decision serves as a crucial precedent for other Virtual Digital Asset Service Providers operating in India, highlighting the importance of adhering to statutory obligations and maintaining transparency in their operations.*

The imposition of a substantial penalty on Binance underscores the criticality of compliance with the PMLA and the associated rules. This action aims to reinforce the regulatory framework and prevent any misuse of digital assets for illicit activities, thereby fostering a more secure and transparent financial ecosystem.

Source

RBI RELEASED REGULATORY SANDBOX ON FOURTH COHORT ON PREVENTION AND MITIGATION OF FINANCIAL FRAUDS

The RBI has announced the successful exit of 3 (Three) entities from the Fourth Cohort of the Regulatory Sandbox ("**RS**") focused on 'Prevention and Mitigation of Financial Frauds'. Initially, 6 (Six) entities were selected to test their innovative solutions. The following 3 (Three) products have been deemed viable and are now available for adoption by 'Regulated Entities' in the Fintech industry:

Sl. No	Sandbox Entity	Product
1	Bahwan Cybertek Private Limited (Partner: IDBI Bank)	"rt360 Real Time Monitoring System" for real-time transaction monitoring and fraud alert generation.
2	napID Cybersec Private Limited (Partner: City Union Bank)	"napID Fraud Filler Layer" which secures login and payment forms and makes compromised credentials/card data useless to fraudsters.
3	Trusting Social Private Limited (Partners: Protium Finance Limited, Finnovation Tech Solutions Private Limited)	"Trusting Social Credit Insight (CI)" which uses mobile data to assess loan default risk and performs instant credit checks for new borrowers.

The above products were put in the test phase by the RBI and were eventually evaluated. They successfully met the RS criteria and are available for use by entities under compliance and regulatory measures put in by RBI in this regard.

Source

NEW BIS STANDARDS IMPOSED ON ELECTRIC VEHICLES: A LEGAL OVERVIEW

In the recent period, there has been a surge in the demand for Electric Vehicles ('EV') globally and India is no exception to the same. The rise in demand in India can be attributed to overall rise environment concerns as well as the low running cost of an EV even though there are significant gaps in the EV infrastructure in India. It is expected that the total EV market in India may reach revenues of USD 100 billion by 2030[21] is some key challenges are addressed.

Given the significant potential in this sector, lot of companies are venturing in this area with new products being launched on a regular basis. However, with the increase in EV's across the spectrum, there are also concerns with respect to vehicle and passenger safety amongst other issues. This is especially on account of the fact that there have been instances of EV fire incidents which has raised significant concerns across the board. As this is a new industry, it is important to address these concerns at the earliest so that the growth of the industry is not impeded.

In many cases, it was found that the battery packs, faulty designs, or incompetent thermal management systems of the Ev's were responsible for these fire incidents. To ensure that these concerns doesn't hinders the growth, the Bureau of Indian Standards (BIS) has introduced several standards for EV manufacturing with the most recent being standard being introduced in June 2024 to enhance the safety and performance of an EV. The new standards, IS 18590:2024 and IS 18606:2024, aims to enhance the safety of electric vehicles in L, M, and N categories. The key provisions of the new standard are shared below:

1. **Specific Standards for Vehicle Categories**
The new regulations cover various categories of vehicles, including two-wheelers, three-wheelers, and four-wheelers. IS 18590:2024 applies to L category vehicles, which include two- and three-wheelers. IS 18606:2024 applies to M and N category vehicles, including passenger and goods vehicles. These standards specify safety requirements for the electric powertrain and the rechargeable electrical energy storage system (REESS) in these vehicles.[22]

2. **Enhanced Battery Safety and Performance**
Emphasizing safety and performance of EV batteries is the primary focus of new BIS standards. The standards mandate rigorous testing protocols for battery packs, cells, and battery management systems (BMS). This includes requirements for battery durability, thermal management, protection against over-charging or over-discharging, and resistance to mechanical shock and vibration. The objective is to minimize the risk of battery failures that could lead to fires or explosions, ensuring that EVs are safe for consumers.[23]

3. **High-Grade Charging Infrastructure**
The new standards also address the necessity of robust charging infrastructure for the widespread adoption of EVs. This includes specifications for charging instructions, several types of chargers, such as slow chargers (AC) and fast chargers (DC). These standards also provide guidelines for connector types, charging while testing, communication protocols between the vehicle and charger, and safety features to prevent electrical hazards. These standards also intend to ensure compatibility and interoperability among

[21] https://economictimes.indiatimes.com/industry/renewables/indias-ev-market-can-touch-100-bn-revenue-by-2030-if-key-issues-addressed-report/articleshow/105817585.cms?from=mdr#

[22] https://www.financialexpress.com/auto/electric-vehicles/bis-announces-new-safety-quality-standards-for-evs-check-out-whats-new/3533419/#:~:text=BIS%20new%20EV%20standards,and%20goods%20trucks%20(N).

[23] https://www.constructionworld.in/policy-updates-and-economic-news/bis-sets-new-safety-standards-for-evs/57765

various EV models and charging stations, facilitating a seamless charging experience for users.[24]

4. **Improved Vehicle Performance and Durability**

The BIS standards set benchmarks to ensure the overall performance and durability of EVs. The standards require manufacturers to conduct extensive testing under various environmental conditions to ensure that EVs can withstand the diverse climate and terrain across the length and breadth of India. Along with testing, the standards impose the need for more layers of insulation and mechanical robust protection over the electric power train. By setting these benchmarks, the BIS aims to ensure that EVs are dependable and can meet the expectations of Indian consumers.[25]

Legal Implications for Manufacturers

The introduction of these standards has significant legal implications for EV manufacturers operating in India. Compliance with the BIS standards are mandatory for all EVs sold in the country. Manufacturers must obtain the BIS certification for their products, which involves rigorous testing and documentation. Non-compliance can result in severe penalties, including fines, product recalls, and suspension of business operations.

Manufacturers must also stay updated with any revisions to the standards, as the BIS is likely to update them periodically to keep pace with technological advancements and emerging safety concerns. This requires a proactive approach to quality assurance and regulatory compliance.

DSK View: *With the introduction of these two standards, there currently exists a total of 30 (thirty) standards dedicated to electric vehicles and their accessories, including charging systems. By introducing these standards, the Indian Government showed the resilience in stepping forward in the journey towards sustainable and safe electric mobility. By setting comprehensive guidelines for battery safety, charging infrastructure, vehicle performance, and recycling, BIS aims to build a robust regulatory framework that supports the growth of the EV market while protecting consumer's safety and interests.*

For manufacturers, these standards present both challenges and opportunities. Compliance demands significant investment in testing and quality assurance, as well as navigating the complexity of procedures such as QC and documentation. Coupled with heavy investment and competition, these factors can discourage manufacturers as they require substantial time, effort, and cost. While the government is working to strengthen the mechanism for producing quality EVs and their ancillary products, it should also ensure that the processes are not overly complex for manufacturers.

On the other hand, adhering to these standards can enhance brand reputation and global market competitiveness. Conversely, failing to stay ahead of compliance requirements can result in penalties and potential disruptions in business operations.

[24] https://www.india-briefing.com/news/india-regulator-bis-introduces-two-new-ev-safety-standards-33421.html/#:~:text=New%20safety%20regulations%20have%20been,%2C%20M%2C%20and%20N%20categories.

[25] https://indianstartupnews.com/news/bureau-of-indian-standards-introduces-two-new-standards-to-enhance-safety-and-quality-of-evs-in-india-4776974

MEDIA & ENTERTAINMENT

NATIONAL

GUJARAT HC LIFTS STAY ON RELEASE OF 'MAHARAJ'

In the petition filed by the Vishva Hindu Parishad ("**Petitioners**") against the release of the film "Maharaj" on the OTT platform Netflix, alleging that the film could hurt religious sentiments, the Gujarat High Court ("**Gujarat HC**") on June 21, 2024 lifted its temporary stay on the release of the film stating that the film which is based on the 1862, "Maharaj Libel Case", does not target or hurt the sentiments of any community, including the Vaishnavite community. The film, which is based on a 2013 book by Gujarati author Saurabh Shah, which chronicles the Maharaj Libel Case of 1862 involving a Vaishnavite figure, Jadunathji, and social reformer Karsandan Mulji, was originally scheduled for release on June 14, but was put on hold after the Gujarat HC barred Netflix from streaming it. After reviewing the film, the Gujarat HC however allowed Netflix to stream the film on its platform and noted that the right to freedom of expression guaranteed under the Constitution cannot be curtailed based on mere presumptions before the film's release. The Gujarat HC also observed that the film's core message focuses on the fight against social evil by the social reformer Karsandas Mulji, who was himself from the Vaishnavite community.

SUPREME COURT DIRECTIVE: ASCI MANDATES ADVERTISER COMPLIANCE EFFECTIVE JUNE 18, 2024

The Advertising Standards Council of India (ASCI) has announced a crucial Supreme Court mandate that will have an impact on marketers and agencies across the country. According to the regulation, effective June 18th, 2024, a Self-Declaration Certificate must be presented before publishing or broadcasting any advertisement.

According to the directive, before airing or publishing any advertisement on television, print, or digital media, every advertiser must submit a self-declaration certificate signed by an authorised representative of the advertiser or company.

The self-declaration certificate should attest that the advertisement makes no deceptive statements and follows all applicable regulatory rules. Any advertisement found to be aired or published without the required self-declaration certificate may be in breach of the Supreme Court direction, and appropriate action will be taken in accordance with the other applicable statutes.

BOMBAY HIGH COURT RESTRAINS RELEASE OF FILM "HAMARE BAARAH" ON ACCOUNT OF IT BEING ALLEGEDLY DEROGATORY TO ISLAMIC FAITH

The Bombay High Court ("**Bombay HC**") recently ordered the makers of the film 'Hamare Barah' ("**Film**") to refrain from exhibiting, circulating, or making the Film available for public viewing on any public forum/platform until June 14, 2024 as they believed there was a necessity for more hearings and viewings of the film in regards with the petitioner's contention that the public exhibition of the Film would hurt the sentiments of Muslims and potentially create hatred in society.

Bombay HC then approved the distribution of the Film on June 21, 2024, after the producers agreed to make certain adjustments to the movie. The filmmakers decided to silence certain sentences and a Quranic passage, as well as include two 12-second disclaimers in the Film.

The Central Board of Film Certification ("**CBFC**") agreed to recertify the Film based on the revisions by 12 Noon on June 20, 2024. After getting certification, the filmmakers will be able to show the Film on any platform of their choice.

INTERNATIONAL

THE FEDERAL COURT OF CANADA HOLDS THAT SHARING NEWS WEBSITE SUBSCRIPTION PASSWORD DOES NOT CONSTITUTE AS COPYRIGHT INFRINGEMENT

In one of the many cases filed by an Ottawa-based internet publication known as "Blacklock's Reporter" ("**Plaintiff**") alleging various federal departments and Crown corporations in Canada ("**Defendants**") of committing copyright infringement by sharing subscription passwords to view its content, the Federal Court of Canada ("**Court**") in the case *Ontario Ltd. (Blacklock's Reporter) v. Canada (Attorney General)* has ruled that sharing login credentials, without reproducing or redistributing the copyrighted content itself, does not infringe on the copyright holder's exclusive rights. In each of the cases, the Defendants have claimed to be protected by the fair-dealing provision under section 29 of the Copyright Act (R.S.C, 1985, c. C-42) ("**Act**") which states that, "*Fair dealing for the purpose of research, private study, education, parody or satire does not infringe copyright*". However, the Plaintiff argued that the password sharing to access its online articles is a circumvention of its technological protection measures (TPM), contrary to section 41.1(1)(a) of the Act. After hearing the contentions of both the parties, the Court concluded that the defendant in this case did not infringe Blacklock's copyright. There was "clear evidence" that the department used the subscription "exclusively for a purpose consonant with the fair dealing provision of the Act", which is 'research'. The Court took reference of the Supreme Court of Canada's decision in the case *CCH Canadian Ltd v. Law Society of Upper Canada*, which is the leading authority on what constitutes 'fair dealing' and states that the word 'research' in relation to fair dealing must receive "a large and liberal interpretation" to ensure users' rights are not "unduly constrained". The result reinforces the court's interpretation that sharing a password for accessing a media subscription service did not breach the laws designed to prevent the circumvention of technological barriers put in place to protect intellectual content.

NETFLIX SUED IN $170 MILLION DEFAMATION LAWSUIT FOR ITS SERIES "BABY REINDEER"

Fiona Harvey, a Scottish woman ("**Plaintiff**"), has filed a $170 million defamation lawsuit against Netflix and the creator of the web-series "Baby Reindeer," Richard Gadd ("**Defendants**"), in the U.S. District Court for the Central District of California ("**Court**"). The lawsuit alleges that the show's portrayal of the Plaintiff as the inspiration for the character 'Martha' is false and defamatory, as it falsely suggests that the Plaintiff is two times convicted stalker sentenced to five years in prison. However, the Plaintiff denies ever stalking the creator of the series, Richard Gadd or being convicted or imprisoned, as depicted in the series. The lawsuit claims that the series' portrayal has led many to believe the Plaintiff is the "real" Martha, causing significant distress and damage to her reputation. The lawsuit seeks at least $50 million each for actual damages, compensatory damages (including mental anguish and profits), and at least $20 million in punitive damages. Netflix has stated its intention to "defend this matter vigorously and to stand by Richard Gadd's right to tell his story." This lawsuit follows Netflix's recent settlement of a defamation suit by former prosecutor Linda Fairstein regarding her portrayal in "When They See Us," where Netflix agreed to move a disclaimer about characters being altered for dramatic purposes to the start of episodes and to donate $1 million to a nonprofit organisation aiding the wrongfully convicted.

MINISTRY OF CORPORATE AFFAIRS ("MCA")

LAUNCH OF THIRD SET OF COMPANY FORMS BY MCA

The MCA, on June 28, 2024, has *via* its 'important updates' section (accessible here), informed the stakeholders that MCA is launching the third set of company e-forms on the MCA V3 portal, being: *(a)* MSME, *(b)* BEN-2, *(c)* MGT-6, *(d)* IEPF-1, *(e)* IEPF-1A, *(f)* IEPF-2, *(g)* IEPF-4, *(h)* IEPF-5, and *(i)* IEPF-5 e-verification report, on July 15, 2024 at 12:00AM IST.

The stakeholders have been advised to note the following points in respect of the aforesaid launch:

(i) Company e-filings on V2 portal will be disabled from July 4, 2024 at 12:00AM IST;

(ii) Stakeholders are to ensure that there are no service request numbers (SRNs) in pending payment/pending for investor details upload/re-submission status;

(iii) Offline payments for the aforesaid forms in the V2 portal, using the 'Pay Later' option, will be stopped from July 1, 2024 at 12:00AM IST. The stakeholders are to make such payments through online mode (credit/debit card and net banking);

(iv) In light of the upcoming launch of the third set of company e-forms, V3 portal will not be available starting from 12:00AM IST on July 13, 2024 until 11:59PM IST on July 14, 2024; and

(v) The V2 portal will remain available for company filing for all the V2 forms excluding the aforesaid forms and the other forms which have already been migrated to MCA V3 portal.

GAUHATI HIGH COURT HOLDS ARBITRATION CAN BE INVOKED BY PARTIES, DESPITE AVAILABILITY OF ALTERNATIVE REMEDY UNDER THE REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016

The Hon'ble High Court of Gauhati ("Court") in case titled ***Pallab Ghosh and Anr. v. Simplex Infrastructures Limited and Anr*** (Arb.P./21/2023) held that arbitration can be invoked despite the existence of an alternative legal remedy under the Real Estate (Regulation and Development) Act, 2016 ("RERA Act").

An agreement for sale of an apartment was executed between the parties in 2017, and as per the terms and conditions of the agreement, the respondent company was to handover possession of the apartment in the year 2020. The petitioners had paid 95% of the total consideration amount of the apartment and the remaining 5% was to be paid at the time of hand over of possession of the said apartment. Since possession of the apartment was not delivered, the petitioners sought interest under Section 18 of the RERA Act, which provides for return of amount and compensation and clause 11.3 of the agreement for sale.

The petitioners appointed an arbitrator, however, despite the receipt of the arbitration notice from the petitioners by the respondents to appoint the arbitrator, the respondents did not appoint their arbitrator.

The Court referred to the case titled ***Priyanka Taksh Sood v. Sunworld Residency Private Limited*** (ARB.P. 868/2021), wherein the Hon'ble High Court of Delhi, held that the adjudication of a dispute in terms of an arbitration clause between the parties was not barred, because of the existence of a concurrent remedy under the RERA Act. The Court also relied on ***Bihar Home Developers and Builders v. Narendra Prasad Gupta*** (AIR 2021 PATNA 142), wherein upon analysis of Sections 88 and 89 of the RERA Act which provide for application of other laws barred and the RERA Act to have overriding effect respectively, it was held that the RERA Act was not inconsistent with the provisions of the Arbitration and Conciliation Act, 1996.

The Court also referred to the judgment of the Hon'ble Supreme Court of India in case titled ***National Seeds Corporation Limited v. M. Madhusudhan Reddy*** (AIR 2012 SUPREME COURT 1160), wherein, the Supreme Court had allowed the party to choose between the public or private fora.

The Court held that in the present case, petitioners opted for arbitration, as per the arbitration clause, for settling the dispute between them and opined that the arbitration clause which had been agreed to by the parties for resolution of their disputes could be chosen by petitioners for deciding the present dispute, instead of taking recourse to the RERA Act.

KARNATAKA HIGH COURT HOLDS THAT THE ASSISTANT COMMISSIONER CANNOT ANNUL A GIFT DEED IF THE GIFT DEED DOES NOT CONTAIN ANY CONDITIONS OF MAINTAINENANCE

The High Court of Karnataka, in case titled ***Sri Vivek Jain v. The Deputy Commissioner, Ramanagara District & Ors.*** *(Writ Petition No. 14704 of 2021*) has held that that the Assistant Commissioner under the provisions of Maintenance and Welfare of Parents and Senior Citizens Act, 2007 ("Senior Citizens Act"), cannot annul a gift deed, if the said deed does not contain any conditions of maintenance of donor.

The person A gifted a property by the way of gift deed in favor of wife, however, wife pre-deceased A. Thereafter, A gifted this property to his son, and property was mutated in the name of son in all the revenue records. Thereafter, the son transferred this property in favor of third party. A approached the Assistant Commissioner under the provisions of Section 23 of Senior Citizens Act, which provides for transfer of property to be void in certain cases.

Section 23(1) of the Senior Citizens Act provides that when a senior citizen has gifted a property to the transferee with the condition that the transferee shall provide for the basic amenities and basic physical needs, and such transferee refuses to provide the same to the senior citizen, such transfer shall be deemed to be made by fraud, coercion or undue influence and shall at the option of senior citizen or transferor may be declared as void by the Tribunal.

The Assistant Commissioner set aside the gift deed in favor of son and sale deed in favor of the third party and hence this petition was filed. The Court allowed the petition and held that the gift deed in favor of son and the sale deed thereafter shall not be void as the condition for the maintenance of such senior citizen was not laid down in the gift deed.

KERALA HIGH COURT HOLDS THAT DONOR'S ACKNOWLEDGEMENT IN GIFT DEED OF IMMOVABLE PROPERTY'S DELIVERY TO DONEE IS SUFFICIENT PROOF OF GIFT'S ACCEPTANCE

The Hon'ble High Court of Kerala ("Court") in case titled ***Kakkoth Radha and Others v. Bathakkathalakkal Batlak Musthaffa and Another*** *(RSA No. 421/ 2003)* held that when a registered gift deed of immovable property mentions that such property was delivered to the donee, it is sufficient proof to establish acceptance.

In the present case, Late Kunhimatha gifted 17 cents of land and a dwelling house to her daughter, i.e., the first defendant in the original proceedings. Kunhimatha reserved the right to live in the house and use the land for her lifetime. The petitioners in the original case claimed that the first defendant did not accept the gift. Kunhimatha cancelled the gift and granted the same properties to her grandson, the second petitioner. He later assigned the property to a stranger, the first petitioner.

The Court held that it is an accepted view that Section 123 of The Transfer of Property Act ("TPA") supersedes any rule of Hindu Law if any, which requires the delivery of possession as an essential condition for completion of a gift. Section 123 of TPA states that a gift of immovable property is affected by a registered instrument signed by or on behalf of the donor and attested by at least two witnesses.

The Court examining Section 123 of TPA, observed that since delivery of possession is not mentioned in case of immovable property, it is not an essential requisite in such gifts. Further, the Court emphasised that the provisions of TPA does not mention any one mode of acceptance, and upheld that since the first gift is valid, the subsequent unilateral cancellation of the gift, even if there was any, does not have any legal validity.

MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY HOLDS THAT DISPUTE ARISING OUT OF DEVELOPMENT AGREEMENT IS NOT MAINTAINABLE

The Maharashtra Real Estate Regulatory Authority ("MahaRERA"), in case titled ***Pulin Co-Operative Housing Society Limited v. Tirupati Developers*** *(Complaint No. CC006000000209962)* held that dispute arising out of a development agreement is not maintainable.

The complainant leased the project land from City and Industrial Development Corporation of Maharashtra ("CIDCO"). Subsequently, the complainant signed a development agreement on May 12, 2004, granting all the development rights over the project land to J.P Builders & Developers ("J.P. Builders"). J.P. Builders thereafter assigned the development rights to the respondent *vide* an agreement dated October 30, 2005.

CIDCO had approved plans for a residential cum commercial structure with one ground floor and four upper stories, comprising of 17 flats and 10 shops. However, the complainant contended that, J.P. Builders illegally constructed three more floors, without obtaining an approval from CIDCO, resulting in 29 flats and 10 shops.

Further, the complainant alleged that the respondent and J.P. Builders neglected to obtain an occupation certificate and that they improperly registered the unapproved project with MahaRERA. The complainant subsequently terminated the development agreement on July 10, 2021, during a general body meeting, citing these irregularities. The complainant then filed a complaint to the authority, requesting that the project registration be revoked and that further appropriate measures be taken to rectify the violations.

The builder contended that since the complaint arises out of the development agreements and is of a civil nature it is not maintainable before MahaRERA.

MahaRERA noted that there is no explicit provision under the Real Estate (Regulation and Development) Act, 2016 ("Rera Act") empowering it to handle disputes arising out of development agreements, and such disputes fall within the jurisdiction of the Civil Court.

MahaRERA further observed that under Section 7 of the Rera Act, MahaRERA registration can be cancelled if the promoter fails to meet requirements under the Rera Act, breaches approval terms, or engages in specified unfair practices. However, in the present case, the complainant did not provide convincing evidence that the builder violated any Section 7 terms.

Consequently, MahaRERA dismissed the complaint of the Housing society, holding it not maintainable.

SPORTS AND GAMING

SPORTS

MANCHESTER CITY CHALLENGES PREMIER LEAGUE'S SPONSORSHIP RULES

Manchester City has reportedly taken legal action against the English Premier League over the League's Associated Party Transaction (APT) rules, which the club considers unlawful and inconsistent with UK competition law. These rules limit an owner's ability to arrange significant sponsorship deals between the club and companies they own or are associated with. The APT rules aim to prevent associated parties from agreeing to sponsorship deals that exceed fair market value. Independent auditors review these deals to ensure they are fairly priced, preventing clubs from gaining an unfair advantage through inflated sponsorships.

The Premier League's financial rules are intended to protect clubs from financial failure, ensure sustainable operations, and promote fairness by limiting clubs to spending what they earn. However, Manchester City argues that the rules are "restrictive and anti-competitive" and were agreed upon by other clubs to hinder their success, describing this as a "tyranny of the majority." Additionally, City claims that these regulations discriminate against Gulf ownership. The club, owned by Mansour bin Zayed Al Nahyan of the United Arab Emirates, is sponsored by several UAE organizations, including Etihad Airways. The APT rules were tightened following the Saudi Arabian sovereign wealth fund PIF's takeover of Newcastle United.

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U.S. SOCCER, MLS BRACE FOR ANTITRUST TRIAL IN NASL LAWSUIT

This September, a jury trial will be held in the long-running antitrust case involving the highest level of football in the United States. The dispute puts the North American Soccer League (NASL), a men's league that existed from 2011 to 2017, against U.S. Soccer and Major League Soccer (MLS). NASL claims U.S. Soccer and MLS improperly conspired to prevent NASL from competing with MLS.

NASL was formed in 2009 after teams in the USL, a minor league affiliated with MLS, broke away in hopes of creating a league that could compete against MLS. U.S. Soccer recognized NASL as a D2 league, but when it sought D1 status, U.S. Soccer rejected the application. U.S. Soccer also denied NASL's recognition as a D2 league for 2018 when it granted that status to USL. NASL then suspended operations. Contrastingly, U.S. Soccer granted MLS waivers to keep its D1 status even when MLS was out of compliance.

If the NASL wins and prevails in appeals, U.S. Soccer may be compelled to rethink how professional soccer is regulated. In principle, a victory may spawn new leagues. However, the opposite of a win might occur, with MLS, which analytics show is gaining popularity and value, being hurt in ways that upset fans and players.

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PREMIER LEAGUE TO ENHANCE VAR, INTRODUCE SEMI-AUTOMATED OFFSIDE TECHNOLOGY

Premier League clubs have decided to continue using video assistant referees (VAR) and have committed to enhancing the technology for the betterment of the game and its fans. A proposal by Wolverhampton Wanderers F.C. to abandon VAR was overwhelmingly rejected, with a 19-1 vote in favour of retaining it. Instead, the league has proposed several adjustments to the system.

One of the key changes is the introduction of semi-automated offside technology in October 2023, which aims to reduce the delays in decision-making that have been disrupting matches. Additionally, the league has promised to launch a new communication campaign to help fans and stakeholders better understand the purpose and use of VAR. They have identified six areas for improvement to enhance VAR performance, following a season where the average decision-making delay increased by over 50%.

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IOA BEGINS PUSH TO GET YOGA INCLUDED IN ASIAN GAMES

Following rumours that India is considering adding yoga as a potential new sport for the 2036 Olympic Games if it wins hosting rights, the Indian Olympic Association (IOA) has taken steps to integrate the discipline in the Asian Games. According to an IOA press release, IOA president PT Usha has addressed a letter to the President of the Olympic Council of Asia, Raja Randhir Singh, urging the Asian sports community to embrace the ancient Indian discipline that promotes physical and mental health in their programmes. She also mentioned that the Louvre Museum in Paris will offer tourists the opportunity to participate in yoga sessions with experts ahead of the Olympics in July 2024.

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TRANSGENDER SWIMMER LIA THOMAS LOSES CHALLENGE, BARRING HER FROM ELITE WOMEN'S RACES

Lia Thomas, a transgender swimmer who made headlines in 2022 after winning an NCAA individual title, will be barred from competing in elite women's races, including the 2024 Olympics, after the Court of Arbitration for Sport ruled that she lacks standing to challenge the world governing body's swimming rules. Thomas filed a lawsuit against World Aquatics, the governing organisation of swimming based in Switzerland, for its policy prohibiting transgender athletes from participation in the majority of elite women's aquatic contests. The policy dictates male-to-female transgender athletes would only be eligible to compete in the women's categories if they transition before the age of 12 or before they reach stage 2 of the puberty Tanner Stages.

The three-member Court of Arbitration for Sport panel said Thomas was unable "for the time being" to compete in World Aquatics competitions and was only eligible for USA Swimming events that did not qualify as elite events. It further stated that national federations do not have the right to change the application of a world governing body's rules.

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NFL ORDERED TO PAY $4.7 BILLION IN CLASS-ACTION SUIT OVER "SUNDAY TICKET" PRICING

A California federal jury has held that the National Football League (NFL) must pay more than $4.7 billion in class-action damages for overcharging subscribers of its "Sunday Ticket" telecasts. The jurors sided with the plaintiffs, agreeing that the NFL colluded with member teams to artificially raise the price of "Sunday Ticket" for millions of residential and commercial subscribers.

The class action suit is on behalf of more than 2.4 million residential subscribers and more than 48,000 restaurants, bars and other commercial establishments that purchased Sunday Ticket. Unlike teams in other major professional leagues, NFL teams provide local fans the chance to watch games on TV for free. However, out-of-town fans need to buy the Sunday Ticket. If NFL teams compete with one another in broadcasting deals, some teams might strike deals to broadcast games in out-of-town markets and perhaps make those games available to watch for free or at least for less than the cost of the Sunday Ticket.

The NFL can appeal to U.S. District Judge Philip Gutierrez that the damages awards are excessive and unreasonable; the league can also appeal to the U.S. Court of Appeals for the Ninth Circuit and later the U.S. Supreme Court.

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UCI TO PAY WHISTLEBLOWERS FOR MOTOR DOPING TIP-OFFS AT TOUR DE FRANCE

David Lappartient, president of the Union Cycliste Internationale (UCI), the world cycling's governing body, announced that the UCI will offer financial incentives to whistleblowers who provide evidence of hidden motors being used in the Tour de France and other major races. Hidden motors and electromagnetic wheels, costing around £200,000, are suspected to have been used in professional cycling for several years.

The UCI stated that a commissaire will inspect all bikes at the start of each Tour stage using magnetic tablets. Post-race checks will include X-ray inspections and other tools on bikes used by the stage winner, classification leaders, randomly selected riders, and any rider who raises suspicion. If necessary, bikes will be dismantled.

The first high-profile motor doping case occurred in 2016 at the world cyclo-cross championships, when Femke Van den Driessche's hidden motor was detected using a magnetic tablet screening process. Additionally, more amateur race organizers are now discovering riders using concealed motors.

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GAMING

TAMIL NADU LAW TO PLACE TIME, USER CURBS ON ALL ONLINE GAMES

The Tamil Nadu administration is preparing legislation to enforce time and usage limits on online and real money games, aligning with the Centre's efforts to regulate the gaming industry. Led by the Tamil Nadu Online Gaming Authority (TNOGA), established in August 2023, the initiative aims to oversee all forms of online gaming in the state. Recently, TNOGA conducted meetings with government officials and industry representatives, focusing on regulating gaming time to combat addiction.

This initiative could set a precedent for other states addressing gaming addiction and depression, while acknowledging the central government's role in setting guidelines. TNOGA aims to enforce stricter rules within its jurisdiction, particularly targeting domestic companies.

TNOGA is gathering industry data and resources, contacting companies for details on game types, limits, and restrictions. The authority is also collaborating with other federations to gain comprehensive insights into the industry.

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BOMBAY HC REFUSES TO QUASH FIR ON ONLINE POKER WEBSITE NATURAL8 INDIA, SAYS ALLEGATIONS OF BOTS, MANIPULATION SHOULD BE INVESTIGATED

In a significant ruling, the Bombay High Court has declined to dismiss an FIR lodged against online poker platform Natural8 India, directing a detailed investigation into allegations of bots and manipulation on the site. The case reached the High Court after Natural8 India petitioned for the FIR filed by Mumbai Police's Economic Offences Wing (EOW) to be quashed, arguing the allegations were unfounded and damaging to their reputation in the gaming industry. The Bombay High Court rejected the petition, deeming the accusations of bots and manipulation on the poker platform serious and warranting thorough scrutiny. The court emphasized the potential impact on the integrity of online gaming in India, underscoring the need for a comprehensive investigation. This decision by the court follows growing concerns over unfair practices, including the use of bots, in online gaming platforms. The outcome of this case involving Natural8 India could establish a precedent for future handling of such allegations, reinforcing the imperative to safeguard the integrity of online gaming. The allegations have sparked widespread discussion within India's gaming community, with many supporting the court's stance on rooting out unfair practices. As investigations progress, stakeholders across the industry await further developments, mindful of the potential implications for online gaming in India. The court's decision not to quash the FIR sets the stage for a rigorous examination, highlighting the ongoing efforts to uphold transparency and fairness in the sector.

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GST COUNCIL PROPOSES AMENDMENTS TO ENABLE GOVT WAIVE RETROSPECTIVE TAX DUES

The GST Council convened on June 22 and proposed an amendment to the CGST Act, 2017. This amendment, if passed, would authorize the government, upon the GST Council's recommendation, to address instances where GST was inadvertently underpaid or not properly levied due to common trade practices.

While the proposal is not industry-specific, it stands to significantly benefit the online money gaming sector. Currently, this sector faces challenges stemming from retrospective tax notices. Historically, taxes have been calculated based on Gross Gaming Revenue, but recent tax demands are based on the full face value of wagers. This issue is pending before the Supreme Court, scheduled for a final hearing in July 2024, following the court's vacation.

Upon approval by parliament and state legislatures, the amendment is anticipated to provide relief to India's burgeoning money gaming sector by enabling the government to waive outstanding tax obligations.

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INTERNATIONAL OLYMPIC BOARD EXECUTIVE PROPOSES CREATION OF 'OLYMPIC ESPORTS GAMES'

The International Olympic Board's (IOC) Executive Board is proposing "Olympic Esports Games" at the upcoming 142nd IOC Session during the Paris 2024 Olympic Games. Discussions are advanced with a potential host, and an announcement is imminent pending final details.

IOC President Thomas Bach highlighted the initiative's alignment with the digital era and strong support from the esports community within the IOC's Esports Commission, showcasing the appeal of the Olympic values.

The IOC Executive Board emphasized establishing a dedicated structure separate from traditional Olympic Games, involving IFs and National Olympic Committees active in esports.

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KARNATAKA HIGH COURT STAYS THE DECISION WHICH TEMPORARILY ALLOWED HORSE RACING, BETTING AT BANGALORE TURF CLUB

The High Court of Karnataka's Division Bench has temporarily banned horse racing and all associated betting activities at the Bangalore Turf Club (BTC) until the pending petitions are finally decided by a single judge. This interim order overturns a previous interim order issued by a single judge on June 18, which had allowed racing and betting activities.

The Karnataka State government had appealed against the single judge's interim order, which had suspended the government's June 6 decision to deny permission for horse races and betting at BTC. The Division Bench noted that the government's rejection of BTC's license application was prima facie reasonable and based on relevant considerations. It criticized the single judge's interim measure, stating it effectively granted final relief, contrary to Supreme Court precedent.

The Bench highlighted concerns over criminal prosecutions involving top BTC officials accused of illegal activities with bookmakers on club premises. It emphasized that the current situation, with filed chargesheets and ongoing criminal cases, differs significantly from when licenses were initially granted. The Bench affirmed the government's authority to reject the license based on concerns about promoting illegal activities like cash transactions and unlicensed betting.

In its critique, the Bench concluded that the single judge's decision to allow racing and betting as an interim measure was flawed, given the pending criminal cases against BTC officials and their alleged involvement in illegal activities. It emphasized that the management cannot disclaim responsibility for activities conducted by bookies, and that the single judge had erred in his reasoning and discretion in favor of the petitioners.

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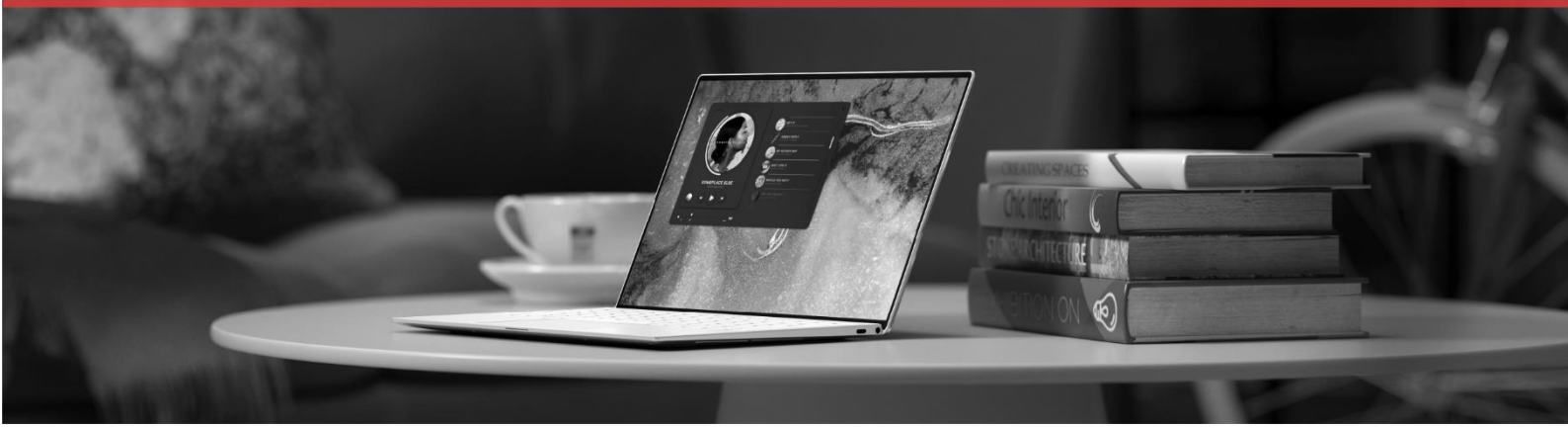

DEPARTMENT OF TELECOMMUNICATIONS PARTIALLY NOTIFIES THE TELECOMMUNICATIONS ACT, 2023

As per the Department of Telecommunications ("**DoT**") gazette notification dated June 21, 2024, and the press release dated June 22, 2024 (*accessible here*), various provisions of the Telecommunications Act, 2023 ("**Telecom Act**") (*accessible here*), specifically Sections 1, 2, 10 to 30, 42 to 44, 46, 47, 50 to 58, 61 and 62, became effective from June 26, 2024. While the Telecom Act is set to have a significant impact on the telecom sector, with its key features spanning from the potential application of the Telecom Act on over-the-top (OTT) service providers, to the new regime on spectrum allocation, according to the enforced Sections 61 and 62 of the Telecom Act, the existing framework under the Telegraph Act, 1885, and the Wireless Telegraphy Act, 1933, shall continue to be applicable until it is superseded by rules made under the Telecom Act. The enforced sections include provisions regarding, *inter alia*, right of way framework, setting up of regulatory sandboxes, standard setting and conformity assessments. On the other hand, provisions with respect to, *inter alia*, identification of users by 'verifiable biometric based identification' and spectrum allocation are yet to come into force.

SEBI APPROVES ITS PROPOSAL ON GOVERNING THE ASSOCIATION OF REGULATED ENTITIES WITH 'FINFLUENCERS'

According to a press release issued by the Securities and Exchange Board of India ("**SEBI**") dated June 27, 2024 (*accessible here*), SEBI approved its proposal to prohibit the association of persons regulated by SEBI and their agents ("**Regulated Entities**") with such other persons who '*directly or indirectly, provide advice or recommendation or make any implicit or explicit claim of return or performance, in respect of or related to security or securities*' unless permitted by the SEBI board ("**Board**") to provide such advice. This is in furtherance of SEBI's consultation paper on 'Association of SEBI Registered Intermediaries/Regulated Entities with Unregistered Entities (including Finfluencers)' dated August 25, 2023 (*accessible here*). The approved restrictions shall not apply in relation to such association of Regulated Entities: (a) with persons exclusively engaged in investor education who do not, directly or indirectly, provide advice or claim of return or performance; and (b) through specified digital platform, which has a mechanism in place to take preventive as well as curative action to ensure that no person can provide such advice or claim through the platform, unless permitted by the Board.

RBI INVITES APPLICATIONS FOR SRO UNDER THE SRO FRAMEWORK

The RBI, in its press release dated June 19, 2024 (*accessible here*), has invited applications for recognition of Self-Regulatory Organisations in the NBFC sector ("**NBFC-SRO**") under the 'Omnibus Framework for Recognition of Self-Regulatory Organisations for Regulated Entities of the Reserve Bank' dated March 21, 2024 (*accessible here*) which set forth broad parameters for such SROs. The invitation for applications sets forth specific instructions in relation to the same, *inter alia*, the membership criteria for the NBFC-SRO, minimum net worth requirement, and setting up different divisions within the NBFC-SRO to cater to various categories of NBFCs. As per the press release, the RBI shall recognise a maximum of two NBFC-SROs. Interested applicants may submit their applications by September 30, 2024, in the prescribed form (*accessible here*) through email or to the Chief General Manager–in–Charge, Department of Regulation, RBI.

MINISTRY OF CONSUMER AFFAIRS ISSUES DRAFT GUIDELINES ON PREVENTION AND REGULATION OF UNSOLICITED AND UNWARRANTED BUSINESS COMMUNICATION

The Department of Consumer Affairs, Ministry of Consumer Affairs, Food and Public Distribution published the Draft Guidelines for the Prevention and Regulation of Unsolicited and Unwarranted Business Communication, 2024 ("**Draft Guidelines**") (*accessible here*) to curb the violation of consumer rights through unsolicited and unwarranted business communication. The Draft Guidelines define '*business communication*' as any communication related to goods or services, including any transaction or service communication, where such communication is made through voice calls, SMS or through social media platforms and '*unsolicited and unwarranted business communication*' as such business communication that is neither as per the consent nor as per the registered preference(s) of the recipient. Business communications where the conditions set forth in Annexure I of the Draft Guidelines are met, *inter alia*, business communications made through an SMS header not registered with telecom service providers ("**TSPs**") or made in contravention of customer preference recorded by registering in the Do Not Disturb registry maintained by TSPs, etc., shall be considered unsolicited and unwarranted business communication. The Draft Guidelines, if notified, shall not be in derogation of any law and the Telecom Commercial Communications Customer Preference Regulations, 2018, which has a similar scope, shall continue to apply. Comments on the Draft Guidelines are invited from the public by July 21, 2024.

SC DIRECTS ADVERTISERS TO SUBMIT MANDATORY SELF-DECLARATION BEFORE PUBLISHING ADVERTISEMENTS

The Supreme Court, in its order dated May 7, 2024 (*accessible here*) in the case of Indian Medical Association & Anr. v. Union of India & Ors., Writ Petition (C) No. 645/2022, mandated the establishment of a self-declaration mechanism for advertisements in order to combat misleading advertisements and ensure that advertisements comply with all applicable laws. Accordingly, the Ministry of Information and Broadcasting ("**MIB**"), in its notification dated June 3, 2024 ("**Notification**"), set forth the mechanism for submission of such self-declarations by advertisers/ advertising agencies before broadcasting/ publishing any advertisement on TV channels/print or digital media for all such advertisements published after June 18, 2024. As per the Notification, the self-declaration for: (a) advertisements telecasted on TV channels shall be submitted through the Broadcast Seva Portal of the MIB (*accessible here*); and (b) for advertisements made through print/ digital media shall be submitted through the Press Council of India (PCI) portal (*accessible here*). The next date of hearing in this matter is listed as July 9, 2024.

RBI PUBLISHES ITS STATEMENT ON DEVELOPMENTAL AND REGULATORY POLICIES

In its 'Statement on Developmental and Regulatory Policies' dated June 07, 2024 (*accessible here*), the Reserve Bank of India (RBI) proposed, *inter alia*, the following policy measures relating to payments and fintech: (a) setting up a 'Digital Payments Intelligence Platform' in order to mitigate risk of payment fraud by adopting network-level intelligence and real-time data sharing across payment systems; (b) issuing guidelines under RBI's 'Framework for Processing of e-Mandates for Recurring Online Transactions' ("**e-Mandate Framework**") in order to bring payments that are recurring in nature but without any fixed periodicity within its scope; and (c) issuing guidelines for introducing auto-replenishment facility for UPI Lite, to bring UPI Lite within the scope of the e-Mandate Framework.

TRAI RELEASES CONSULTATION PAPER ON REVISION OF NATIONAL NUMBERING PLAN

The Telecom Regulatory Authority of India ("**TRAI**"), *vide* its consultation paper dated June 06, 2024 (*accessible here*) on addressing the existing constraints in telecom identifier ("**TI**") resource allocation, assessed various aspects regarding the allocation and utilization of TI resources and has invited comments on issues regarding the same. Further, the consultation paper explores potential modifications to the current approach under the National Numbering Plan (NNP) in order to enhance the allocation policies and utilisation procedures in relation to TI resources. Comments on the issues are invited from the stakeholders by July 04, 2024, and counter comments by July 18, 2024.

TRAI RELEASES CONSULTATION PAPER ON ISSUES RELATED TO CRITICAL SERVICES IN THE M2M SECTOR, AND TRANSFER OF OWNERSHIP OF M2M SIMS

TRAI, *vide* its consultation paper dated June 24, 2024 (*accessible here*), assessed the issues set out by DoT in its reference letter dated January 01, 2024 ("**DoT Reference**"). The DoT Reference sought reconsidered recommendations from TRAI in furtherance of TRAI's recommendations on 'Spectrum, Roaming and QoS related requirements in Machine-to-Machine (M2M) Communications' dated September 05, 2017 ("**2017 Recommendations**"). As per the 2017 Recommendations, critical services in the machine-to-machine ("**M2M**") sector, which are such M2M applications that would require robust, reliable and secure network (e.g. M2M applications in healthcare, like remote surgery), were recommended to be identified by the Government and mandated to be provided only by connectivity providers using licensed spectrum, which led to dissatisfaction among stakeholders. Further, in relation to SIMs used for machine-to-machine communication ("**M2M SIMs**"), the applicable extant regulatory framework in relation to M2M SIMs does not provide for change of name of owner of the M2M SIM.

Accordingly, basis stakeholder inputs on the above issues and the DoT Reference, TRAI has framed issues for consultation and sought comments from stakeholders on the same by July 22, 2024, and counter comments by August 05, 2024.

NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES ACT

BAIL RESTRICTIONS UNDER THE NDPS ACT ARE NOT APPLICABLE TO CONSTITUTIONAL COURTS

Relying upon the Supreme Court's judgment in *Ramji Singh v. Enforcement Directorate*, *2023 SCC OnLine 831* which was in the context of the Prevention of Money Laundering Act, 2002 (**PMLA**)**,** the ***Allahabad High Court*** ruled that the twin conditions for bail under Section 37(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (**NDPS Act**) are not applicable to Constitutional Courts i.e., High Courts and the Supreme Court. However, Section 36-A (3) provides that nothing in that section will impact the power of the High Courts under Section 439 of CrPC, which essentially saves the special power of the High Court to grant bail. It was held that Sections 36-A and 37 must be interpreted harmoniously so that Section 36-A(3) is not redundant. Thus, the limitations on granting bail under Section 37 are confined to the Special Courts under NDPS Act. These provisions regarding bail under NDPS Act were found to be *pari materia* to the provisions of bail contained in Sections 44 and 45 of the PMLA and the court relied upon the judgment in the case of *Ramji Singh v. Enforcement Directorate***,** *2023 SCC OnLine 831* in reaching the above conclusion.

Case **-** *Vimal Rajput v. State Of U.P. Thru. Addl. Chief Secretary (Home)*

PROLONGED INCARCERATION RESULTING FROM FAILURE TO CONCLUDE INVESTIGATION IN TIME, VIOLATES ARTICLE 21

The ***Supreme Court***, in a matter pertaining to the NDPS Act, held that failure to conclude the trial within a reasonable time resulting in prolonged incarceration militates against the fundamental right guaranteed under Article 21 of the Constitution of India, and that conditional liberty may be considered in such circumstances overriding the statutory embargo created under Section 37(1)(b) of the NDPS Act (which imposes stringent conditions on bail). This is a reiteration of the principle laid down by the Supreme Court in previous cases including *Rabi Prakash v. State of Odisha 2023 SCC OnLine SC 1109*.

Case *- Ankur Chaudhary v. State of Madhya Pradesh*

NEGOTIABLE INSTRUMENTS ACT

PROCEEDINGS UNDER IBC – NO BAR TO LIABILITY UNDER NI ACT

The High Court of Madhya Pradesh, relying on the decision of the Supreme Court in *Ajay Kumar Radheyshyam Goenka v. Tourism Finance Corporation of India Limited, (2023) 10 SCC 545*, held that merely because of initiation of proceedings under the Insolvency and Bankruptcy Code, 2016 (**IBC**), the signatory of a cheque cannot escape from his liability, as the moratorium under IBC does not apply to criminal proceedings. In this case, the Applicant was a personal guarantor to a corporate debtor. The corporate debtor initiated corporate insolvency resolution process against the personal guarantor under section 96 of the IBC, whereunder a moratorium was imposed. Separate proceedings under Section 138 of the Negotiable

Instruments Act, 1881 were initiated against the guarantor by another person, whereunder the trial court passed an order directing deposit of proceeds against him. Therefore, the guarantor/ Applicant filed an application under section 482 to quash this condition, on the ground that the order could not have been passed in view of the interim moratorium imposed under IBC. However, the court dismissed the same holding that commencement of proceedings under IBC does not absolve an accused from liability imposed under section 138 of NI Act .

Case - *Anurodh Mittal v. Rehat Trading Company & Anr.*

JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT

DETENTION IN OBSERVATION HOME UNDER THE JUVENILE JUSTICE ACT IS ONLY WHEN CHILD NOT RELEASED ON BAIL AND WRIT OF HABEAS CORPUS LIES WHEN REMAND IS ILLEGAL OR PASSED IN A MECHANICAL MANNER

In the recent controversial case involving the death of two adults due to the rash driving of an intoxicated child in conflict with law (**CCL**), the CCL was released on bail by the Children's Court but subsequently detained in custody of an observation home pursuant to an order passed under Section 104 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (**J J Act**) (which gives powers to the Juvenile Board to amend its orders as to the institution where the child is to be sent). However, the Bombay High Court issued a Writ of Habeas Corpus directing release of the CCL from the observation home. The Court held that detention in an observation home under Section 12(2) of the J J Act is permissible only when the child is not released on bail. The Juvenile Board has no power to detain the child in observation home after releasing the child on bail. Further, the power to amend orders under Section 104 of the J J Act is restricted to varying the institution or person under whose care the child is placed which necessarily does not involve deprivation of liberty if child is on bail.

Relying upon *Gautam Navlakha v. NIA (2022) 13 SCC 542,* the Court held that a Habeas Corpus writ would lie where the remand is absolutely illegal or afflicted with lack of jurisdiction, or if the remand is passed in an absolutely mechanical manner; and the order of remand by the Board squarely falls within the said scope. The Court further held that the J J Act does not have any provision for remand and the procedure for extending remand as contemplated under Section 167(2) of the Code of Criminal Procedure, 1973 (**CrPC**) is not applicable to a child who is released on bail.

Case - *XYZ v. State of Maharashtra*

JUVENILE NOT ENTITLED TO BAIL BY DEFAULT IN CASES OF HEINOUS CRIMES

Section 12 of the J J Act ordinarily provides that the Juvenile Justice Board is under an obligation to release the juvenile on bail with or without surety. However, the ***Madhya Pradesh High Court*** recently held that juveniles do not automatically qualify for bail regardless of the offence. Section 12 of the J J Act lists the circumstances when a juvenile shall not be released: (i) the release is likely to bring him into association with any known criminal; (ii) the release is likely to expose him to moral, physical or psychological danger and (iii) the release would defeat the ends of justice. This decision stemmed from a case where a juvenile kidnapped and murdered a 16-year-old due to non-payment of ransom. The Court emphasized that the Juvenile Justice Act should not be misinterpreted to favour bail in heinous crimes, as such acts reflect a depraved and calculated mentality. The Court highlighted the need to balance the juvenile's welfare with societal concerns and acknowledged the impact on the victim's family.

Case - *Child Under Conflict With Law v. The State Of Madhya Pradesh*

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