

# NEWSLETTER

March 2024

# TABLE OF CONTENTS

Capital Market	03
05	Competition Law
Dispute Resolution	07
10	Employment Law
Energy & Infrastructure	14
18	Fintech
International Trade/WTO	21
24	Media and Entertainment
Ministry of Corporate Affairs (MCA)	27
29	RBI and FEMA
RERA	32
34	Technology Law
White-Collar Crime	36



## **GUIDELINES FOR RETURNING OF DRAFT OFFER DOCUMENT AND ITS RESUBMISSION<sup>1</sup>**

The Securities and Exchange Board of India ('SEBI') issued a [circular](#) on February 06, 2024, introducing certain guidelines for the return and resubmission of draft offer documents and draft letters of offer filed for public issuances and rights issues. The protocol for returning and resubmitting draft offer documents specifies that these documents may be returned if the disclosures fail to meet certain requirements.

Entities are advised to employ clear and straightforward language, accompanied by visual representations for enhanced comprehension. This entails utilizing concise sentences, active voice, and tabular formats as necessary, while avoiding the use of multiple negatives.

Issuers are instructed to use unambiguous language, refrain from employing legal and technical terminology excessively, and elucidate any technical or complex terms used to describe the issuer's business. Complex presentations that hinder the understanding of disclosures and unnecessary repetition in different sections are discouraged.

Additionally, if any regulatory authority or enforcement agency expresses significant concerns regarding the draft offer document, the issuer must address these concerns with the relevant regulator before resubmission. The guidelines emphasize that resubmitted documents should rectify the shortcomings leading to the initial return and comply with the ICDR Regulations and other applicable laws.

This circular came into effect on February 06, 2024.

<sup>1</sup> SEBI/HO/CFD/PoD-1/P/CIR/2024/009

## **SECURITIES AND EXCHANGE BOARD OF INDIA (EMPLOYEES' SERVICE) (AMENDMENT) REGULATIONS, 2024<sup>2</sup>**

On February 07, 2024, [Securities and Exchange Board of India \("SEBI"\)](#) released [SEBI \(Employees' Service\) \(Amendment\) Regulations, 2024](#) to amend the SEBI (Employees' Service) Regulations, 2001.

The amendments are directed at improving transparency and efficiency in recruitment and promotion processes. A notable revision involves the restructuring of the selection committee responsible for appointing Executive Directors. The competent authority now forms a search-cum-selection committee, incorporating both internal members and external experts. This alteration aims to ensure a thorough evaluation of candidates and introduce diverse perspectives in the selection process.

Additionally, the regulations define the composition of the selection committee for promotions and deputation/contract appointments. For promotions, the committee comprises Board members and external experts nominated by the Chairman. Similarly, for deputation/contract appointments, the search-cum-selection committee includes Board members and external experts. These committees play a vital role in assessing candidates for key positions within SEBI, ensuring competence and alignment with organizational objectives.

The amendments emphasize the Board's role in approving appointments to the position of Executive Director. Prior to issuing appointment offers, the competent authority must seek approval from the Board, thereby reinforcing accountability and oversight in senior-level appointments.

This amendment regulation came into effect on February 07, 2024.

<sup>2</sup> No. SEBI/LAD-NRO/GN/2024/165

### REVISED PRICING METHODOLOGY FOR INSTITUTIONAL PLACEMENTS OF PRIVATELY PLACED INFRASTRUCTURE INVESTMENT TRUST (INVIT)<sup>3</sup>

SEBI issued a [circular](#) dated February 08, 2024, on revised pricing methodology for Institutional Placements of Privately Placed Infrastructure Investment Trust (“**InvIT**”). According to Regulation 14(4) of the SEBI (Infrastructure Investment Trusts) Regulations, 2014 (“**InvIT Regulations**”), subsequent unit issuances after the initial public offer can occur through institutional placement, among other mechanisms outlined in the regulations.

Paragraph 7.9 of the SEBI Master Circular for InvITs dated July 06, 2023, provides pricing guidelines for institutional placement of InvITs. It mandates that the pricing for InvIT institutional placements should not fall below the average of the weekly high and low closing prices of units of the same class on the stock exchange during the two weeks preceding the relevant date.

In response to industry requests regarding pricing for institutional placement by privately placed InvITs, recommendations from the Hybrid Securities Advisory Committee (“**HySAC**”), and with the aim to facilitate Ease of Doing Business, the pricing guidelines for institutional placements of InvITs have been reevaluated. As a result of this review, it has been determined that the floor price for institutional placement for privately placed InvITs should be the Net Asset Value (“**NAV**”) per unit of such InvIT. Consequently, the pricing for listed InvITs has been adjusted to allow privately placed InvITs to undertake institutional placements based on the NAV of the InvIT's assets.

Modifications to Paragraph 7.9.1 of the SEBI Master Circular for InvITs dated July 06, 2023, are as follows: Institutional placements by public InvITs should adhere to pricing not lower than the average of the weekly high and low closing prices of units of the same class on the stock exchange during the two weeks preceding the relevant date. Public InvITs may offer a discount of up to five percent on this price, subject to approval by unitholders through a resolution as specified in para 7.2.1. The “relevant date” for clauses related to institutional placement is defined as the date when the board of directors of the investment manager decides to open the issue.

Addition of Paragraph 7.9.2 to the SEBI Master Circular for InvITs dated July 06, 2023: Institutional placements by privately placed InvITs should maintain pricing not less than the NAV per unit, based on the full valuation of all existing InvIT assets conducted in accordance with InvIT Regulations.

This circular came into effect on February 08, 2024.

### CENTRALIZATION OF CERTIFICATIONS UNDER FOREIGN ACCOUNT TAX COMPLIANCE ACT (FATCA) AND COMMON REPORTING STANDARD (CRS) AT KYC REGISTRATION AGENCIES (KRAS)<sup>4</sup>

SEBI issued a [circular](#) dated February 20, 2024, on Centralization of certifications under Foreign Account Tax Compliance Act (“**FATCA**”) and Common Reporting Standard (“**CRS**”) at KYC Registration Agencies (“**KRAS**”).

In accordance with the regulations, SEBI has mandated intermediaries reporting to financial institutions (“**RFI**”) to upload FATCA and CRS certifications obtained from clients onto the KRAs system starting from July 01, 2024.

Additionally, intermediaries are required to upload existing certifications obtained prior to July 01, 2024, onto KRAs systems within 90 days of this circular's implementation. Intermediaries are responsible for obtaining and reporting FATCA and CRS certifications, and related compliances.

Intermediaries must verify the reasonableness of certifications based on information obtained during account opening, including documentation complying with the Prevention of Money Laundering (Maintenance of Records) Rules, 2005. They should update self-certifications promptly in case of any client-reported changes.

Furthermore, KRAs are instructed to coordinate and establish uniform internal guidelines/standards in consultation with SEBI for the development of their systems and mechanisms.

This circular came into effect on February 20, 2024.

<sup>3</sup> SEBI/HO/DDHS/DDHS-PoD/P/CIR/2024/10

<sup>4</sup> SEBI/HO/MIRSD/SECFATF/P/CIR/2024/12



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

## CCI DISMISSES ALLEGATIONS UNDER SECTION 4 OF THE COMPETITION ACT AGAINST OKHLA INDUSTRIAL DEVELOPMENT AUTHORITY

The CCI, vide its [order](#) dated February 8, 2024, dismissed the information filed by Mr. Vivek Gupta (**Informant**) alleging the contravention of provisions of Section 4 of the Competition Act, 2002, (**Act**) by the New Okhla Industrial Development Authority (**Opposite Party/ OP**).

It was alleged that the OP is the sole authority entrusted with the responsibility of allotment and maintenance of land in Noida, and has a monopoly in Noida to acquire, develop, auction, allot, lease, and sell land. The aggrieved party was allotted residential plots in Noida by the OP which subsequently were discovered to be encroached by third parties. It was alleged that the OP had deliberately and intentionally allotted the Informant the disputed property and had used its monopoly/ dominant position thereby contravening the provisions of the Act.

The *prima facie* consideration for the CCI was whether the OP's conduct in allotting the disputed plot violated Section 4 of the Act, as alleged.

The CCI observed that the nature of the allegations in the instant matter appeared to be a contractual dispute rather than an abuse of a dominant position. Consequently, no further analysis of relevant markets or dominant position was deemed necessary, and the CCI opined that no contravention under Section 4 of the Act existed. Consequently, the matter was dismissed under Section 26(2) of the Act.

## MCA NOTIFIES THE COMPETITION COMMISSION OF INDIA (LESSER PENALTY) REGULATIONS, 2024

The Ministry of Corporate Affairs [notified](#) the Competition Commission of India (Lesser Penalty) Regulations, 2024, (**LPR 2024**) on February 20, 2024. The LPR 2024 repeals and replaces the extant "The Competition Commission of India (Lesser Penalty) Regulations, 2009".

LPR 2024 aims to regulate the process and criteria for granting lesser penalties to entities involved in cartel activities under the Act. The regulations outline a systematic procedure for granting reduced penalties, taking into account factors like the time of making such disclosure and the relevance of the disclosure regarding the ongoing cartel. They lay emphasis on the existing 'marker system' where the applicant making a full, true, and vital disclosure *may* receive a penalty reduction of up to 100%, while subsequent applicants may receive lesser reductions depending on the significance of their disclosures.

Maintaining confidentiality is of utmost importance throughout the entire process. Stringent provisions are in place to safeguard the identity of the applicant and the information provided. However, there are instances where disclosure may be mandated, such as legal obligations or with the consent of the applicant.

LPR 2024 also introduces '*leniency plus*' regime that allows an applicant in one cartel to disclose the existence of another separate cartel (which it is also a member of or is aware of) and avail an additional reduction in penalty for the (first) cartel already being investigated. In such a case, the applicant may receive up to a 100% reduction in penalty for the newly disclosed cartel and an additional reduction of penalty up to 30% for a cartel already under investigation. The CCI will grant leniency plus benefit to only one applicant. Additionally, the applicant whistleblowing the separate cartel must provide information before the CCI can establish

its *prima facie* order, and such information must be of aid to the CCI in establishing prima facie contravention.

#### **CCI DISMISSES CASE OF ALLEGED ABUSE OF DOMINANCE AGAINST TALK CHARGE TECHNOLOGIES**

The CCI, in an [order](#) dated February 23, 2024, dismissed Ayudha Foundation's (**Informant**) allegations of abuse of dominant position against Talk Charge Technologies Pvt. Ltd. (**Opposite Party/ OP**).

The OP is an internet-based platform offering various services, primarily focusing on online recharges, Direct-To-Home services, and bill payments. The OP also provides cashback offers.

The Informant alleged that since September 2023, the OP had imposed additional charges (such as server cost, processing fee, gateway cost, and other convenience charges) on using deposited amount in the digital wallets, which allegedly amounted to abuse of dominance. The Informant also argued that OP had imposed arbitrary restrictions on wallet usage.

The CCI found no evidence of OP's dominance in the relevant market for *the market for digital payment platforms in India*.

Consequently, no case of contravention under Section 4 of the Act was established, and the matter was closed under Section 26(2) of the Act.

#### **CCI APPROVES INDIA-JAPAN FUND'S PROPOSED ACQUISITION OF MAHINDRA LAST MILE MOBILITY LIMITED**

The CCI, vide its [order](#) dated February 26, 2024, granted its approval to the proposed acquisition by the India-Japan Fund (**IJF / Acquirer**) in Mahindra Last Mile Mobility Limited (**MLMML/ Target**).

The proposed transaction falls under Section 5(a) of the Act and involves IJF acquiring 6.06% to 8.25% shareholding of MLMML's total paid-up share capital on a fully diluted basis. The proposed transaction is in line with the objective of the Acquirer of focusing on India's environmental preservation sector, including renewable energy, e-mobility businesses, and circular economy segments such as waste management, and water. MLMML, a Mahindra & Mahindra subsidiary, specializes in last-mile electric mobility through offerings such as electric 3-wheelers.

The CCI approved the proposed transaction as the same is not likely to cause any appreciable adverse effect on competition in any market so delineated.



HEINZER M. KNEIP C.  
SUI + GER  
ET  
13 0:11 11



## POLICE DOESN'T HAVE POWER TO RECOVER MONEY OR ACT AS CIVIL COURT FOR MONEY RECOVERY

The Hon'ble Supreme Court of India in *Lalit Chaturvedi & Ors. v. State of Uttar Pradesh & Ors.*<sup>5</sup> has held that the police doesn't have the power to recover money or act as a civil court for money recovery. In the said case, an FIR was registered under Sections 405 and 506 of the Indian Penal Code 1860 ("IPC") against the Appellant. The grievance of the Respondent was that the Appellant had failed to pay the outstanding amount despite repeated reminders from the Respondent. Pursuant to the registration of the said FIR, the police also filed the charge sheet under Section 173 of the Code of Criminal Procedure 1973 ("CrPC"), stating that offences are made out under Sections 406 and 420 of the IPC. Aggrieved with the registration of the said FIR and charge sheet, the Appellant moved a petition under Section 482 of the CrPC, however, the Allahabad High Court dismissed the same on the ground of delay/laches and also the fact that charge sheet has been filed.

The Hon'ble Supreme Court while setting aside the judgment of the Allahabad High Court, quashed the FIR and charge sheet and observed that the High Court should not hesitate to exercise its jurisdiction under Section 482 of the CrPC, as it serves a salutary purpose viz. a person should not undergo harassment of litigation for a number of years when no criminal offence is made out. The Hon'ble Supreme Court further observed initiation of the criminal process for oblique purposes, is bad in law and amounts to abuse of process of law and that the appropriate and proper remedy would have been to initiate a civil suit.

## AMENDMENT OF PLAINT SHOULDN'T BE ALLOWED IF IT ALTERS NATURE OF SUIT

The Hon'ble Supreme Court of India in *Basavaraj v. Indira & Ors.*<sup>6</sup> has held that the amendment of plaint shouldn't be allowed if it alters the very nature of the suit. In the present case, Respondents No. 1 and 2/Plaintiffs filed a suit for partition of the ancestral property belonging to their grandfather pleading that no actual partition of the property has ever taken place. When the suit was at the fag end, an application was filed by Respondents No. 1 and 2 seeking amendment of the plaint. The amendment sought was to add prayer in the suit for a declaration that an earlier compromise decree dated 14.10.2004 passed under Order 23 Rule 3 of CPC was null and void. The ground on which the amendment was sought was that due to oversight and mistake, Respondents No. 1 and 2/Plaintiffs were unable to seek the relief of declaration. The Trial Court dismissed the application. However, when the order was challenged before the High Court, the same was set aside and the amendment prayed for by the Plaintiffs was allowed.

The Hon'ble Supreme Court while setting aside the order of the High Court observed that by way of amendment, relief of declaration of the compromise decree being null and void was also sought. The same would certainly change the nature of the suit, which may be impermissible. It further observed that if the amendment is allowed in the case at hand, certainly prejudice will be caused to the Appellant and the same is an important factor to be seen at the time of consideration of any application for amendment of pleadings. The Supreme Court further also observed that an application seeking amendment of plaint has to be filed before the commencement of trial and not at the fag end of the trial and for the aforesaid reasons, set aside the order of the High Court.

<sup>5</sup> SLP (Crl.) No. 13485 of 2023

<sup>6</sup> Civil Appeal No. 2886 of 2012

**CLAIM SUBMITTED WITH PROOF CAN NOT BE OVERLOOKED MERELY BECAUSE IT WAS SUBMITTED IN WRONG FORM**

The Hon'ble Supreme Court of India, in the case of *Greater Noida Industrial Development Authority v. Prabhjit Singh Soni & Anr.*<sup>7</sup> held claim submitted with proof cannot be overlooked merely because it was submitted in the wrong form.

In the given case, the appellant, Greater Noida Industrial Development Authority ("**GNIDA**" / "**Appellant**") had leased a plot of land to M/s. JNC Construction ("**Corporate Debtor**") for a residential project. However, the Corporate Debtor defaulted on the payment of instalments for the lease. Accordingly, a Company Petition was filed, which resulted in the initiation of the Corporate Insolvency Resolution Process ("**CIRP**") against the Corporate Debtor. Subsequently, GNIDA submitted a claim as a secured financial creditor for the unpaid lease instalments. However, the Resolution Professional ("**RP**"), opined that GNIDA should be categorized as an operational creditor and accordingly in January 2020, requested GNIDA to submit its claim under Form B, which is meant for operational creditor, in place of Form C, which is meant for a financial creditor. Thereafter, GNIDA, by way of an email, objected to being treated as an operational creditor and contended that it should be recognized as a secured financial creditor, however, GNIDA did not submit its claim afresh as an operational creditor. In October 2020, the Committee of Creditors ("**COC**") approved a resolution plan, which was subsequently approved by the Ld. National Company Law Tribunal ("**NCLT**").

Aggrieved by the aforesaid, GNIDA filed an application *inter alia* seeking recall of Ld. NCLT's order approving the Resolution Plan and an I.A. challenging the RP's decision to treat GNIDA as an operational creditor. The Ld. NCLT dismissed both I.As observing that GNIDA didn't take an action against the decision of RP during the pendency of the CIRP. Subsequently, GNIDA appealed the aforesaid decision before the Hon'ble National Company Law Appellate Tribunal ("**NCLAT**"), which upheld the Ld. NCLT's decision. Shortly thereafter, an appeal was filed before the Hon'ble Supreme Court.

While deciding the present case, the Hon'ble Supreme Court emphasized that the words used under the Insolvency and Bankruptcy Code, 2016 ("**Code**") are "a person claiming to be an operational creditor" in the opening part of Regulation 7, and the words "a person claiming to be a financial creditor" in Regulation 8, therefore, it indicates that claim is submitted is based on the own understanding of the claimant. Thus, there could be a situation where the claimant, in good faith, may place itself in a category to

which it does not belong. However, what is important is, that the claim so submitted must be with proof. It was further noted that the entire proceedings, up to the stage of approval of the resolution plan, were *ex parte* the appellant. Further, it noted that the appellant had submitted its claim, and was a secured creditor by operation of law, yet the resolution plan projected the appellant as one who did not submit its claim. Further, the Hon'ble Supreme Court noted that the resolution plan did not meet all the parameters laid down in Section 30(2) of the Code. In view thereof, the Hon'ble Supreme Court allowed the Appeal.

**PAYMENT BY THIRD PARTY FOR CORPORATE DEBTOR FOR RAW MATERIAL OR WORKING CAPITAL IS "FINANCIAL DEBT"**

The Hon'ble National Company Law Appellate Tribunal ("**NCLAT**") in the case of *Mr. Rajeev Kumar Jain v. Uno Minda Ltd. and Anr.*<sup>8</sup> held that the payment of raw material made by a third party on the instructions of the Corporate Debtor, or the financial assistance towards working capital, constitutes "Financial Debt" under the Insolvency and Bankruptcy Code, 2016 ("**Code**").

In the present case, Business Support Agreement ("**Agreement**") was entered into between the Corporate Debtor and its Promoters, including Mr. Rajeev Kumar Jain ("**Appellant**"), and Respondent No. 1 i.e., Uno Minda Ltd., for the purpose of facilitating the sale of a 100% stake in the Corporate Debtor and provide raw material funding and critical working capital requirements. Under the Agreement, the money lent to the Corporate Debtor was to be treated as unsecured debts, however, payable by the Promoters. However, the debt was not paid back. Therefore, Respondent No. 1 filed a Company Petition which resulted in initiation of CIRP against the Corporate Debtor. Aggrieved by the aforesaid, the Appellant filed an appeal before the Hon'ble NCLAT.

Before the Hon'ble NCLAT, the Appellant contended that all transactions took place between Respondent No. 1 and the Promoters, with no involvement of the Corporate Debtor and no financial assistance was availed by the Corporate Debtor from Respondent No. 1. The Appellant further contended that the outstanding amounts were being repaid by the Promoters. Respondent No. 1 denied the Appellant's contentions. Respondent No. 1 cited this Hon'ble NCLAT's judgement in the matter of *Sach Marketing Pvt. Ltd.*<sup>9</sup>, wherein it was held that to constitute the financial debt in terms of Section 5(8) of the Code, the principle element is disbursement of money and commercial effect of borrowing, which according to Respondent No. 1 was fully evident in the present case.

<sup>7</sup> CIVIL APPEAL NOS.7590-7591 OF 2023

<sup>8</sup> Company Appeal (AT) (Insolvency) No. 947 of 2022

<sup>9</sup> Company Appeal (AT) (Insolvency) No. 180/2021

Upon taking note of aforesaid submissions, Hon'ble NCLAT observed that the term "Financial Debt" refers to a debt, along with any applicable interest, that is disbursed. Therefore, the presence of interest is not *sine-qua non*, and it may or may not be payable by the Corporate Debtor. The crucial factor is the understanding between the parties to determine the existence of the time value of money, which can take various forms apart from the mere payment of interest. The Hon'ble NCLAT further held that the various clauses in the Agreements clearly indicated the joint involvement of the Promoters, the Corporate Debtor, and

Respondent No. 1. This demonstrated the Corporate Debtor's consent to be a part of the agreement, and it established a clear intention to provide working capital to the Corporate Debtor. Such working capital was intended to be provided in various forms, including making payments for raw materials on behalf of the Corporate Debtor. Hon'ble NCLAT while dismissing the Appeal noted that that raw materials should be considered as part of the working capital, and any financial assistance provided for working capital should be treated as "financial debt" rather than "operational debt."

# EMPLOYMENT LAW

## THE GOVERNMENT OF HARYANA APPOINTS "AUTHORITIES" UNDER VARIOUS LABOUR LAWS

The Labour Department, Government of Haryana, vide multiple orders dated February 1, 2024, has appointed Deputy Labour Commissioners, Assistant Labour Commissioners, and Welfare Officers as "Authority" for specific purposes, as mentioned herein

- (i) To hear and decide claims related to wage deductions or delays in payment of wages under the Payment of Wages Act, 1936;
- (ii) to decide all claims for payment of less than minimum wages, remuneration for days of rest and overtime wages, under Section 13 and Section 14 of the Minimum Wages Act, 1948.

Further, Deputy Labour Commissioners, Assistant Labour Commissioners, and Welfare Officers having educational qualifications and experience as prescribed have also been appointed as "Commissioners" for the purpose of the Employee's Compensation Act, 1923.

## THE HIGH COURT OF DELHI RULES THAT HOSPITALS ARE DEEMED AS "INDUSTRY" UNDER THE INDUSTRIAL DISPUTES ACT, 1947

The High Court of Delhi, vide order dated February 1, 2024, in the case of *Vallabhbai Patel Chest Institute v. Nishikesh Tyagi*, noted that hospitals, despite being non-profit institutions, qualify as part of an industry under the Industrial Disputes Act, 1947 ("ID Act"). It also observed that the ID Act defines 'industry' broadly enough to encompass entities providing services such as hospitals.

The High Court of Delhi, in this case, was hearing the petition to quash the award given by the Labour Court, Karkardooma, Delhi, wherein the court had directed the petitioner to reinstate the respondent with full back wages. The

petitioners filed the petition challenging the said award contending that hospitals, being a medical institution does not qualify as an industry under the ID Act. However, the High Court of Delhi did not find any illegality in the order of the labour court and dismissed the petition.

## INTRODUCTION OF SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) AMENDMENT ACT, 2024

The Rajya Sabha, vide notification dated February 2, 2024, has introduced the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Amendment Act, 2024. The afore-said bill aims to extend the time limit for filing complaints from 3 (Three) months to 1 (One) year, from the date of incident/last incident, with the possibility of further extension if circumstances prevent timely reporting. The amendment bill also eliminates the provision for conciliation under Section 10 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, recognizing its potential to compromise the dignity of women and undermine the seriousness of sexual harassment complaints. These amendments sought to provide better protection for women in the workplace and ensure a fair and supportive environment for addressing such grievances.

## ENHANCEMENT IN RATE OF PERMANENT DISABLEMENT BENEFIT/DEPENDENT'S BENEFIT UNDER EMPLOYEES' STATE INSURANCE ACT, 1948

The Employees State Insurance Corporation ("ESIC") vide notification dated February 2, 2024, published the increased rates of permanent disablement benefit and dependent benefit under Employees State Insurance Act, 1948 ("ESI Act"). The afore-said rates are effective from August 1, 2022, for cases of disablement or death that occurred up to December 31, 2021. This enhancement aims to provide

better compensation for employees affected by workplace injuries or fatalities.

#### **ESIC DIRECTS EMPLOYERS TO DOWNLOAD AND PROVIDE E-PEHCHAN CARD TO ALL EMPLOYEES AFTER REGISTRATION UNDER EMPLOYEES STATE INSURANCE SCHEME**

The ESIC, vide circular dated February 2, 2024, directed all the regional offices and sub-regional offices to issue directions to all employers to download e-pehchan card from the Employees State Insurance portal. The aforementioned circular also notes that once the said cards are downloaded, they should be handed over to the respective employees or the insured persons immediately after registration under the Employees State Insurance Scheme. Additionally, the insured persons should also be given a hard copy of the e-pehchan card by the employers.

#### **THE GOVERNMENT OF GUJARAT MANDATES AUTHENTICATION BY AADHAR FOR SCHEMES PROVIDED TO REGISTERED BUILDING AND OTHER CONSTRUCTIONS WORKERS BENEFICIARIES**

The Labour, Skill Development and Employment Department, Government of Gujarat, vide multiple notifications dated February 5, 2024, has mandated the use of AADHAAR as an identity document for availing benefits under the following schemes administered by the Government:

- (i) Educational Assistance Scheme to registered Building and Other Construction Workers beneficiaries;
- (ii) Special Coaching Class Scheme to the children of registered Building and Other Construction Workers beneficiaries;
- (iii) Mukhayamantri Bhagyalaxmi Bond Scheme to provide bond in the name of 1<sup>st</sup> (First) girl child, up to age of 1 (One) year of the registered Building and Other Construction Workers.

In this regard, individuals seeking benefits under the aforementioned schemes must provide proof of possession of AADHAAR number or undergo AADHAAR authentication. Individuals without Aadhaar may apply for enrolment. Further, the notifications also list down the documents required to provide benefits, till the time Aadhaar is assigned to an individual, for children below the age of 18 (Eighteen) years, and for beneficiaries above 18 (Eighteen) years.

#### **HIGH COURT OF KARNATAKA HOLDS THAT STATUS OF "PROTECTED WORKMAN" CANNOT BE GRANTED TO WORKMEN FACING DISCIPLINARY CHARGES**

The High Court of Karnataka, via order dated February 7, 2024, in the case of *M/S Armstrong Design and Acmite India Manufacturing Pvt. Ltd., v. Assistant Labour Commissioner*, noted that conferring the status of "protected workmen" to

workmen facing disciplinary action would fuel misconduct among others, and thus the same should not be practiced.

The petitioner employers filed a writ petition against an order by the assistant labour commissioner, Karnataka State Labour Institute, recognizing 5 (Five) workers as "protected workmen" under the ID Act. Among these 5 (Five) workmen, the respondent was also conferred the said status, while disciplinary proceedings were going on against him. The petitioner contended that the trade union failed to furnish necessary details as requested by them and argued that the status of "protected workmen" should be granted only to genuine office bearers elected in accordance with trade union rules.

The assistant labour commissioner contended that the workman is not facing serious charges, nor has been convicted, therefore he can be conferred with the status. However, the High Court rejected the said contention and noted that the assistant labour commissioner had committed a serious error, and endowing workmen facing disciplinary proceedings with such status will encourage other workers to indulge in such activities. Thus, the writ petition was allowed by the High Court.

#### **REVISION OF VARIABLE DEARNESS ALLOWANCE AND MINIMUM WAGES FOR CONTRACT WORKERS/ LABORERS IN ASSAM**

The office of the Labour Commissioner, Government of Assam, vide notification dated February 8, 2024, revised the variable dearness allowance rates for workers employed by contractors, who are not covered under the Minimum Wages Act, 1948, and where the workmen are not performing similar nature of work done by other workers. As per the afore-mentioned notification, the following increments have been made to the variable dearness allowance:

- (i) Highly skilled – INR 20,196 (Rupees Twenty Thousand One Hundred Ninety Six) per month;
- (ii) Skilled – INR 16,244 (Rupees Sixteen Thousand Two Hundred Forty Four) per month;
- (iii) Skilled (other than ITI Certificate holder) – INR 15,446 (Rupees Fifteen Thousand Four Hundred Forty Six) per month;
- (iv) Semi-skilled – INR 12,730 (Rupees Twelve Thousand Seven Hundred Thirty) per month; and
- (v) Unskilled - INR 10,975 (Rupees Ten Thousand Nine Hundred Seventy Five) per month.

#### **EMPLOYEES PROVIDENT FUND ORGANIZATION RESTRICTS DEPOSITS AND CREDIT TRANSACTIONS IN PAYTM PAYMENT BANK ACCOUNTS**

The Employees Provident Fund Organization ("EPFO"), vide order dated February 8, 2024, has refrained all the field

offices from accepting claims associated with bank accounts in Paytm Payment Bank Limited, with effect from February 23, 2024. The said order comes as per the Reserve Bank of India (RBI) press release dated January 31, 2024, wherein restrictions were placed on Paytm Payments Bank. The Reserve Bank of India, had directed Paytm Payments Bank Ltd to cease new customer onboarding with immediate effect, citing persistent non-compliances and material supervisory concerns as revealed by audit reports. Effective February 29, 2024, further deposits or credit transactions were disallowed in customer accounts, though withdrawals remained unrestricted. Other banking services were also terminated for Paytm Payments Bank after the same date.

Earlier, vide order dated November 1, 2023, the EPFO had included Paytm Payments Bank Limited in the list of banks who qualified under the Employee Provident Fund Scheme to accept payment settlements.

#### **ESIC MANDATES THE UPLOADING OF DEFAULTING EMPLOYERS' DATA ON THE ESIC WEBSITE**

The ESIC, vide letter dated February 9, 2024, requested all the field offices to upload the data of defaulting employers on the ESIC website. Furthermore, it requested to upload the data of all defaulting employers against whom C-19 notices have been issued, along with a compliance report which has to be sent to the Revenue Branch before the same is sent for presentation to the ESIC.

#### **THE GOVERNMENT OF KERALA REVISES CONSUMER PRICE INDEXES APPLICABLE TO SPECIFIC EMPLOYEES UNDER THE MINIMUM WAGES ACT, 1948**

The Government of Kerala, Labour and Skills Department, vide notification dated February 11, 2024, has made revisions to the consumer price index numbers applicable to the employees under the Minimum Wages Act, 1948, for the month of December, 2023. The said revisions have been made for specific districts, including but not limited to Thiruvananthapuram, Kollam, Punalur, Alappazha, Kottayam, Idukki, Ernakulam, Thrissur, etc.

#### **ESIC ADVISES THE FIELD OFFICE TO ISSUE CERTIFICATES REGARDING UPDATED PERMANENT DISABLEMENT BENEFITS AND DEPENDENTS BENEFITS**

The ESIC, through circular dated February 12, 2024, has informed all field offices that all permanent disablement benefits and dependent benefits rates, as applicable from August 1, 2018, have been updated in the system with respect to all beneficiaries. Further, all field offices are advised, vide the said circular, to ensure that a certificate confirming the same is submitted to ESIC headquarters by February 12, 2024. Failure to comply with the same will result in presuming all rates have been updated, with no

further requests considered, and accountability for any lapses will be determined.

#### **IMPLEMENTATION OF THE SOCIAL SECURITY AGREEMENT BETWEEN REPUBLIC OF INDIA AND FEDERATIVE REPUBLIC OF BRAZIL**

The EPFO vide letter dated February 13, 2024, has announced the implementation of the Social Security Agreement between the Republic of India and the Federative Republic of Brazil. The said agreement is effective from January 1, 2024. The aforesaid agreement facilitates detachment, totalization, and portability of social security benefits. Employees deputed from one country to the other for short-term assignments are exempted from social security contributions for up to 36 (Thirty Six) months, subject to obtaining a certificate of coverage. Employers may apply for the aforesaid certificate on behalf of their employees, with issuance of the same handled by Regional Offices in accordance with established guidelines.

#### **THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH HOLDS THAT THE REMEDY OF APPEAL CANNOT BE CIRCUMVENTED TO ESCAPE THE PRE-DEPOSIT REQUIREMENT UNDER PAYMENT OF GRATUITY ACT, 1972**

The High Court of Jammu & Kashmir and Ladakh, vide order dated February 19, 2024, in the case of *Cooperative Market Society Limited Bishnah, v. Assistant Labour Commissioner & Ors.*, noted that the remedy of appeal under Section 7(7) of the Payment of Gratuity Act, 1972 is statutory, and the same cannot be bypassed to avoid making the pre-deposit which is a *sine qua non* for the admission of appeal.

In the aforementioned case, the petitioners had filed a writ petition with the High Court, challenging the award passed by the controlling authority. The High Court noted that when a statutory remedy of appeal is available, a petition cannot be filed. However, to the extent since the collector did not provide the petitioner with an opportunity to be heard and passed the order on the basis of the certificate issued by the controlling authority, the petition was allowed by the aforesaid Court.

#### **THE GOVERNMENT OF ODISHA EXTENDS COVERAGE OF EMPLOYEES' STATE INSURANCE SCHEMES TO NOTIFIED AREAS**

The Ministry of Labour and Employment, Government of Odisha, vide order, dated February 20, 2024, extended the coverage of Employees State Insurance Schemes to all areas of the following districts:

- (i) Nayagarh; and
- (ii) Nabrangpur

The said notification will be made effective from March 1, 2024.

**THE HIGH COURT OF WEST BENGAL HOLDS THAT THE RIGHT TO RECEIVE MATERNITY BENEFITS CANNOT BE DENIED ON THE BASIS OF CONTRACTUAL LIMITATIONS**

The High Court of West Bengal, vide order dated February 26, 2024, in the case of *Malini Chakraborty v. Alok Kumar Banerjee*, observed that every woman is entitled to maternity benefits under Section 5(1) of the Maternity Benefits Act, 1961, and denial of the same constitutes discrimination and violates Article 14 of the Constitution of India.

The petition in the present case worked on a contractual basis with the Reserve Bank of India, wherein she was denied maternity leave and benefits on the basis that the terms of

the contract does not include them, and the same was acknowledged by the petitioner. The aforesaid Court, rejecting the contention of the respondents, noted that the Maternity Benefits Act, 1961 applies to all establishments with 10 (Ten) or more persons, and the purpose of the same is to ensure the well-being of a pregnant woman and prevent discrimination. The Court also noted that differentiation between regular and contractual employees creates an impermissible class within a class under Article 14 of the Constitution, and denial of the maternity benefits to the petitioner constitutes discrimination under the same. Thus, the respondents were directed to provide compensation in form of maternity leave with pay for the period it was denied to the petitioner.



## ENERGY

### **THE MINISTRY OF NEW & RENEWABLE ENERGY ON FEBRUARY 1<sup>ST</sup>, 2024 RELEASED THE SCHEME GUIDELINES FOR IMPLEMENTATION OF PILOT PROJECTS FOR USE OF GREEN HYDROGEN IN THE SHIPPING SECTOR**

Under the National Green Hydrogen Mission (NGHM), the Ministry issued the said Scheme Guidelines in the Shipping Sector with an objective to support the deployment of green hydrogen derivatives as fuel for ship propulsion etc., validate technical feasibility and performance of green hydrogen and its derivatives among other objectives. The Shipping Corporation of India or its successor, in case of disinvestment, will be the Implementing Agency for retrofitting of the existing ships. Components on creation of bunkers and refueling facilities will be implemented by the agency nominated by the Ministry of Ports, Shipping and Waterways (MoPSW). Proposed budgetary outlay of INR 115 Cr (Component A and Component B) till FY 2025-26 will be met from the provisions under the NGHM Head. The Implementing Agencies must strive to finish the pilot project for Component-A by December 31, 2027, and for Component-B by December 31, 2025. A Steering Committee, jointly chaired by the Secretaries of MoPSW and MNRE, will oversee the scheme, its implementation and its projects. The Scheme Guidelines establishes a project appraisal committee (PAC) to monitor/review/evaluate the project proposals and recommend projects for sanction of Central Financial Assistance (CFA).

### **THE MINISTRY OF NEW & RENEWABLE ENERGY ON FEBRUARY 2<sup>ND</sup>, 2024, RELEASED THE SCHEME GUIDELINES FOR IMPLEMENTATION OF PILOT PROJECTS FOR USE OF GREEN HYDROGEN IN THE STEEL SECTOR**

Under the National Green Hydrogen Mission (NGHM), the Ministry issued the said Scheme Guidelines in the Steel Sector with an objective to advance technologies and expertise for the use of green hydrogen in steelmaking

process, addressing any existing gaps, to support deployment of green hydrogen and its derivatives in steel, on pilot basis and to validate technical feasibility and performance of green hydrogen and its derivatives in the Iron & Steel manufacturing in real-world operational conditions among other objectives. The Ministry of Steel is empowered to nominate the Implementing Agency for these Scheme Guidelines. The Scheme Guidelines provide for setting up of a Steering Committee co-chaired by Secretary, Ministry of Steel and Secretary, MNRE for an overall monitoring and implementation of the scheme and projects undertaken under it. It further provides for the establishment of a Project Appraisal Committee to monitor/review/evaluate the project proposals and recommend projects for sanction of CFA. The budgetary allocation of INR 455 Crore until FY 2029-30 to be funded from the provisions under the NGHM head.

### **THE MINISTRY OF POWER VIDE RESOLUTION NO. 48-19/2/2024-NRE DATED FEBRUARY 2<sup>ND</sup>, 2024, AMENDED THE GUIDELINES FOR TARIFF BASED COMPETITIVE BIDDING PROCESS FOR PROCUREMENT OF FIRM AND DISPATCHABLE POWER FROM GRID CONNECTED RENEWABLE ENERGY POWER PROJECTS WITH ENERGY STORAGE SYSTEMS**

The Ministry vide the above stated resolution amended its Clause 14.3 of the existing guidelines which was published in the Gazette of India on June 9<sup>th</sup>, 2023. The Central Government notified the amendment to Clause 14.3 (*Delay in commencement of supply of power*) and deletes Clause 14.3 (b) (ii).

**THE MINISTRY OF POWER VIDE RESOLUTION DATED FEBRUARY 2<sup>ND</sup>, 2024, AMENDED THE GUIDELINES FOR TARIFF BASED COMPETITIVE BIDDING PROCESS FOR PROCUREMENT OF POWER FROM GRID CONNECTED WIND SOLAR HYBRID PROJECTS**

The Ministry vide the above stated resolution amended its Clause 15.5 of the existing guidelines. The Central Government notified the amendment to Clause 15.5 (*Delay in commencement of supply of power*) and Clause 15.5 (b) (ii) *“The HPG shall be debarred from participating in bids issued by any procurer, or any intermediary procurer for the following period: a.) For one year, in case of first default b.) For not less than 2 years, and not more than 3 years for second and any subsequent defaults”* shall stand deleted.

**THE MINISTRY OF POWER VIDE RESOLUTION DATED FEBRUARY 2<sup>ND</sup>, 2024, AMENDED THE GUIDELINES FOR TARIFF BASED COMPETITIVE BIDDING PROCESS FOR PROCUREMENT OF POWER FROM GRID CONNECTED SOLAR PV POWER PROJECTS**

The Ministry vide the above stated resolution amended its Clause 13.3 of the existing guidelines. The Central Government notified the amendment to Clause 13.3 (*Delay in commencement of supply of power*) and Clause 13.3 (b) (ii) *“The Generator shall be debarred from participating in bids issued by any Procurer or any Intermediary Procurer for the following period: a.) For one year in case of first default b.) For not less than 2 years and not more than 3 years for second and any subsequent defaults”* shall stand deleted.

**THE MINISTRY OF POWER VIDE RESOLUTION DATED FEBRUARY 2<sup>ND</sup>, 2024, AMENDED THE GUIDELINES FOR TARIFF BASED COMPETITIVE BIDDING PROCESS FOR PROCUREMENT OF POWER FROM GRID CONNECTED WIND POWER PROJECTS**

The Ministry vide the above stated resolution amended its Clause 14.5 of the existing guidelines. The Central Government notified the amendment to Clause 14.5 (*Delay in commencement of supply of power*) and Clause 14.5 (b) (ii) *“The WPG shall be debarred from participating in bids issued by any procurer, or any intermediary procurer for the following period: a.) For one year, in case of first default b.) For not less than 2 years, and not more than 3 years for second and any subsequent defaults”* shall stand deleted.

**THE MINISTRY OF NEW & RENEWABLE ENERGY ON FEBRUARY 14<sup>TH</sup>, 2024, RELEASED THE SCHEME GUIDELINES FOR IMPLEMENTATION OF PILOT PROJECTS FOR USE OF GREEN HYDROGEN IN THE TRANSPORT SECTOR**

Under the National Green Hydrogen Mission (NGHM), the Ministry issued the said Scheme Guidelines in the Transport Sector with an objective to support the deployment of green hydrogen as fuel in buses, trucks and four-wheeler vehicles

in a phased manner on a pilot basis, to validate the technical feasibility and performance of green hydrogen operated vehicles under the real-world operational conditions among other objectives. The Ministry of Road Transport and Highways (MoRTH) is empowered to nominate the Implementing Agency for these Scheme Guidelines. The Scheme Guidelines provide for setting up of a Steering Committee co-chaired by Secretary, MoRTH and Secretary, MNRE for an overall monitoring and implementation of the scheme and projects undertaken under it. It further provides for the establishment of a Project Appraisal Committee to monitor/review/evaluate the project proposals and recommend projects for sanction of CFA. The budgetary allocation of INR 496 Crore until FY 2025-26 to be funded from the provisions under the NGHM head.

**THE UNION CABINET ON FEBRUARY 29<sup>TH</sup>, 2024, APPROVED THE PM-SURYA GHAR: MUFT BIKLI YOJANA FOR INSTALLING ROOFTOP SOLAR IN ONE CRORE HOUSEHOLDS**

The Scheme called PM-Surya Ghar: Muft Bikli Yojana with a total outlay of Rs.75,021 crore for installing rooftop solar and providing free electricity up to 300 units every month for One Crore households was launched by Hon’ble Prime Minister on February 13<sup>th</sup>, 2024. The main feature of the Scheme includes providing a CFA of 60% of system cost for 2 kW systems and 40% of additional system cost for systems between 2 to 3 kW capacity. The CFA will be capped at 3 kW. At current benchmark prices, this shall mean Rs 30,000 subsidy for 1 kW system, Rs 60,000 for 2 kW systems and Rs 78,000 for 3 kW systems or higher. Households seeking subsidies can apply through the National Portal <https://pmsuryaghar.gov.in>, and select a suitable vendor for installing rooftop solar. Households will be able to access collateral-free low-interest loan products of around 7% at present for installation of residential RTS systems up to 3 kW. The benefits arising from incentives for promotion of such RTS installations in concerned areas shall also extend to Urban Local Bodies and Panchayati Raj Institutions. The scheme provides a component for payment security for renewable energy service company (RESCO) based models as well as a fund for innovative projects in RTS.

**THE UTTAR PRADESH CABINET ON MARCH 5<sup>TH</sup>, 2024 APPROVED THE GREEN HYDROGEN POLICY, 2024**

The Uttar Pradesh Green Hydrogen Policy, 2024 was approved thereby setting a target of one million metric tonnes per annum production of green hydrogen by the year 2028. The validity of the policy extends to 5 years and is expected to lead to employment generation of 1.20 Lakh jobs by 2028. The Uttar Pradesh New and Renewable Energy Development Agency (“UPNEDA”) will be the nodal agency for the implementation of the policy. Green Hydrogen projects will be provided capital subsidy of 10% to 30% depending on the geographical area of investment. The categorization of such subsidy would depend on the scale of

investment of the project. The Government is planning to provide land/revenue land on lease basis at the rate of Re 1 per acre per year for government PSU's for setting up of such

green hydrogen projects. For investors from the private sector, the lease rate if determined at Rs. 15,000 per acre per year.

## INFRASTRUCTURE

### STANDARD OPERATING PROCEDURE (SOP) FOR LAYING OF REGULATIONS MADE BY SECTION 35 OF THE NHAI ACT, 1988 BEFORE THE PARLIAMENT OF INDIA

The National Highway Authority of India ("NHA") vide policy circular bearing number 1.10.7/2024 dated February 26, 2024 ("Policy Circular") has decided to follow certain standard operating procedures ("SOPs") for laying gazette notifications related to regulations made by NHA under Section 35 of the NHA Act, 1988 before both Houses of the Parliament of India ("Parliament").

In this regard, the following SOPs are to be followed: -

- (i) The gazette notification related to the regulations made by the Policy Section, NHA under Section 35 of the NHA Act, 1988 or its amendments, after its publication, will be sent to the Establishment Section of Ministry of Road Transport and Highways ("MoRTH") with a request to lay it before the Parliament and provide the date of laying to NHA for records.
- (ii) MoRTH shall, with the approval of the Minister, Road, Transport & Highways or Minister of State, Road, Transport & Highways as the case may be, as per the procedure, lay the gazette notification before the Parliament.
- (iii) Policy Section of NHA will obtain the date of laying such gazette notification, by following up with Establishment Section of MoRTH.
- (iv) Policy Section of NHA shall also check about the date of laying of such gazette notification for the record, from the bulletins of the Parliament.
- (v) In the concerned file/e-file, a copy of the bulletin or an intimation received from MoRTH about date of laying the gazette notification shall also be kept for records.

### REVISED DOCUMENT FOR REQUEST FOR PROPOSAL (RFP) FOR APPOINTMENT OF CONSULTANCY SERVICES FOR PREPARATION OF DETAILED PROJECT REPORT (DPR) IN RESPECT OF NATIONAL HIGHWAYS AND CENTRALLY SPONSORED ROAD WORKS

The MoRTH vide circular bearing number RW/NH-33044/29/2021-S&R(P&B) dated February 9, 2024

("Circular"), issued the revised document for request for proposal ("Modified RFP") for appointment of consultant for preparation of detailed project report ("DPR") in respect of National Highways and centrally sponsored road works.

A number of amendments have been introduced in the Modified RFP, including the following:

- (i) In the Modified RFP, 10 (ten) marks have been allocated towards the quality of the past performance of the consultant in the last 5 (five) DPRs prepared by the consultant based on self-certification.
- (ii) The National Highways & Infrastructure Development Corporation Limited (NHIDCL) shall prepare central database of quality of past performance of the DPR consultants in Infracon with inputs from all executing agencies of MoRTH.
- (iii) The aforesaid database shall be prepared based on cumulative performance in the last 5 (five) DPR projects and will be dynamic in nature as new projects will be added.
- (iv) The rating shall be basis the criteria for rating of the DPR consultants' performance in individual National Highway projects given in Appendix-IX of the Modified RFP. Such exercise will be completed by April, 2024. The evaluation will be done for the said criteria based on self-certification, till April 2024.

### IMPLEMENTATION OF GSR 164 (E) AND PROVISIONS OF CHAPTER XII OF THE MOTOR VEHICLES ACT, 1988

The MoRTH vide its notification bearing number RT-11036/178/2021-MVL-Part(I) dated February 02, 2024 ("Notification") directed the Director General of Police of all states to issue necessary directions to the concerned investigation officers to comply with the provisions of the Motor Vehicles Act, 1988 ("MV Act") and the Central Motor Vehicles (Fifth Amendment) Rules, 2022 ("CMV Amendment Rules"), published vide GSR 164 (E) dated February 25, 2022, to enable petitioners to file their application for compensation within the time specified under the MV Act. The CMV Amendment Rules amended the Central Motor Vehicle Rules, 1989 ("CMVR") and included provisions for providing the accident information report to the applicant seeking compensation within the specified time.

The MV Act provides that the applicant shall file their application for compensation within the period of 6 (six) months from the date of the incident. Further, in order to enable the applicant to file their application for compensation, the applicants are required to be provided with the accident information reports within the time specified under the MV Act and the CMVR.

The Notification directed that special attention be paid to the compliance of the following provisions: -

- (i) As per Rule 150 A of the CMVR read with Clause 2 of the Annexure XIII of the CMVR, the investigating officer is required to intimate the accident to the claims

tribunal within 48 (forty-eight) hours of the accident, by submitting the First Accident Report (FAR), in Form I and upload on the website of the State Police.

- (ii) The police officers are required to submit accident information report to the claims tribunal within a period of 3 (three) months from the date of the accident, in accordance with Section 159 of the MV Act read with Clause 12 of Annexure XIII of the CMVR.
- (iii) The accident information report is to be treated as an application for compensation, as per Section 166(4) of the MV Act.



## STATEMENT ON DEVELOPMENTAL AND REGULATORY POLICIES

On February 8, 2024, the Reserve Bank of India (RBI) issued the Statement on Developmental and Regulatory Policies, outlining the developmental and regulatory policy measures across three main areas: Financial Markets, Regulations, and Payment Systems and Fintech.

The Reserve Bank of India announced two key measures in the *Financial Markets domain*:

- (i) **Review of Regulatory Framework for Electronic Trading Platforms (ETPs):** The RBI is revisiting the regulatory framework for ETPs, which was established in October 2018 with the objective to guarantee equitable access, clarity, and effectiveness in trading activities, curb market abuse, and respond to appeals from market participants for access to foreign ETPs that offer approved INR-based products. The updated framework will be made available for public consultation.

In the domain of *Regulations*, the Reserve Bank of India has introduced measures to enhance transparency and security in loan agreements and payment systems:

- (i) **Key Fact Statement (KFS) for Retail and MSME Loans & Advances:** All regulated entities (REs) will now be required to provide a Key Fact Statement (KFS) to borrowers for all retail and MSME loans. This statement will contain critical information about the loan agreement, including the all-inclusive interest cost, in a simple and easy-to-understand format, empowering borrowers to make informed decisions.

In the realm of *Payment Systems and Fintech*, the RBI has proposed initiatives to strengthen the security and

functionality of digital payment transactions:

- (i) **Enhancing the Robustness of AePS:** The Aadhaar Enabled Payment System (AePS) will undergo enhancements to streamline the onboarding process for AePS touchpoint operators, including mandatory due diligence, and additional fraud risk management requirements, aiming to bolster the security of AePS transactions and ensure financial inclusion.
- (ii) **Principle-based Framework for Authentication of Digital Payment Transactions:** A principle-based "Framework for authentication of digital payment transactions" will be adopted to facilitate the use of alternative authentication mechanisms beyond SMS-based OTP, prioritizing the security of digital payments.
- (iii) **Introduction of Programmability and Offline Functionality in Central Bank Digital Currency (CBDC) Pilot:** The CBDC Retail (CBDC-R) pilot will introduce programmability and offline functionality, enabling users to program specific expenditures and introducing offline transaction capabilities to address areas with poor or limited internet connectivity. These features will be introduced gradually through pilots to enhance the utility and accessibility of CBDC.

### Source

#### PAYPAL REGISTERS WITH FIU UNDER ANTI-MONEY LAUNDERING LAW

PayPal has registered with the Financial Intelligence Unit (FIU) under India's anti-money laundering law, on February 20, 2024. The registration is in compliance with Regulation of Payment Aggregator – Cross Border dated October 31, 2023 released by the Reserve Bank of India ("PA - Cross Border Regulations"). As per PA - Cross Border Regulations,

payment aggregators providing for cross-border payments (PA-CB) must register with the Reserve Bank of India (RBI). Further, non-banks engaged in PA-CB activities shall register themselves with the Financial Intelligence Unit-India (FIU-IND) as a pre-requisite to RBI authorisation. The registration of PayPal is also in compliance with Delhi High Court judgment dated July 24, 2023 which ruled classified PayPal as a 'reporting entity' obligated to adhere to the Prevention of Money Laundering Act, 2002. The Delhi High Court judgment was pursuant to PayPal's legal battle with FIU over its classification as a Payment Service Operator (PSO) and subsequent penalty imposition. The move signals PayPal's commitment to regulatory compliance in India's fintech sector.

**Source**

**PAYMENT INTERMEDIARY BY CARD NETWORK – RESTRAINING OF UNAUTHORIZED PAYMENT SYSTEM- FEBRUARY 15, 2024**

The Reserve Bank of India (RBI) has ordered leading card networks to discontinue business-to-business (B2B) payments routed through third party intermediaries. Such an arrangement involves the intermediary accepting corporate card payments and then transferring the funds to non-card-accepting recipients via IMPS/RTGS/NEFT. As per RBI, this arrangement qualifies as a payment system under the Payment and Settlement Systems Act, 2007, requiring an authorization that was not obtained. RBI has also raised concerns about the pooling of funds into an unauthorized account and non-compliance with originator and beneficiary information requirements.

**Source**

**ENABLING FRAMEWORK FOR REGULATORY SANDBOX**

The Reserve Bank of India (RBI) updated its Regulatory Sandbox (“RS”) framework, on February 28, 2024.

The RS framework has been revised again basis the experience gained by RBI in last few years. The key changes in the framework are as follows:

- (i) Extension of ‘target applicants’ of RS to LLPs and partnership firms.
- (ii) The end-to-end sandbox timeline has been extended from 7 (seven) months to 9 (Nine) months.
- (iii) Regulatory Technology and Supervisory Technology has been added in the list of technology which can be tested in RS.
- (iv) Local data storage has been made a mandatory feature of the technology/service/product to be tested in RS.

- (v) Rejected applicants can re-apply for RS of similar or same product only after cooling off period of 1 (One) year.
- (vi) The sandbox entity must process all the data, in its possession or under its control with regard to RS testing, in accordance with the provisions of Digital Personal Data Protection Act, 2023 (“Act”). Further, the sandbox entity should have appropriate technical and organisational measures to ensure effective compliance of the provisions of the Act and the rules thereunder.

The RBI had established an inter-regulatory Working Group in July 2016 to review the implications of FinTech and recommend regulatory adjustments. The group's report, released in February 2018, proposed the creation of a Regulatory Sandbox to test new financial innovations within a controlled environment. RS aims to foster responsible innovation, promote efficiency, and benefit consumers. It allows for live testing of new products or services under certain regulatory relaxations, facilitating evidence-based regulatory decision-making.

**Source**

**AMENDMENT TO MASTER DIRECTION ON PREPAID PAYMENT INSTRUMENTS**

The Reserve Bank of India (RBI) has amended the Master Directions on Prepaid Payment Instruments (**MD-PPIs**) dated 27, 2021. RBI has permitted authorised bank and non-bank PPI issuers to issue PPIs for making payments across various public transport systems. A new paragraph 10.2 has been added to the MD-PPI stating as follows:

- (i) Banks / non-banks are permitted to issue such PPIs;
- (ii) Such PPIs shall contain the Automated Fare Collection application related to transit services, toll collection and parking;
- (iii) Such PPIs shall be enabled only for payments across various modes of public transport such as metro, buses, rail, & waterways, tolls and parking;
- (iv) These PPIs can be issued without KYC verification of the holders;
- (v) These PPI can be reloadable in nature;
- (vi) The amount outstanding, in such PPIs shall not exceed Rs.3,000/- (Rupees Three Thousand) at any point of time;
- (vii) These PPIs can have perpetual validity; and
- (viii) Cash-withdrawal, refund or funds transfer shall not be permitted in such PPIs.

**Source**

### **UPI IS ACCEPTED IN FRANCE**

NPCI International Payments Limited (NIPL) has partnered with Lyra, a French payment solutions provider, to introduce Unified Payments Interface (UPI) in France on February 02, 2024.

The features of this partnership are highlighted below:

- (i) This partnership allows Indian tourists to use UPI for online transactions. With UPI acceptance, Indian tourists can securely conduct online transactions by scanning the QR code on the merchant website using UPI-powered apps.
- (ii) The acceptance of UPI in France opens up opportunities for merchants in tourism and retail.

#### **Source**

### **TERMS OF REFERENCE SIGNED BETWEEN THE RESERVE BANK OF INDIA AND NEPAL RASTRA BANK FOR CROSS-BORDER REMITTANCES**

The Reserve Bank of India (RBI) and Nepal Rastra Bank (NRB) have signed and exchanged Terms of Reference to integrate their fast payment systems, the Unified Payments Interface (UPI) of India and the National Payments Interface (NPI) of Nepal, respectively on February 15, 2024. The objective of

this integration is to facilitate cross-border remittances between India and Nepal, enabling users of both systems to make instant, low-cost fund transfers and deepen financial connectivity.

#### **Source**

### **LAUNCH OF INDIA'S RUPAY/UPI CONNECTIVITY WITH MAURITIUS AND SRI LANKA**

The Prime Ministers of India and Mauritius, along with the President of Sri Lanka launched RuPay cards and Unified Payments Interface (UPI) connectivity between India and Mauritius, as well as UPI connectivity between India and Sri Lanka on February 12, 2024.

- (i) This initiative allows for seamless digital payments between the countries, facilitating transactions for travellers and merchants.
- (ii) It enables Indian travellers to use UPI for payments in Mauritius and Sri Lanka, while Mauritian travellers can use the Instant Payment System (IPS) app in India. Additionally, Mauritius becomes the first country outside Asia to issue RuPay cards, enhancing payment accessibility in both countries.

#### **Source**



## MC13: CHARTING THE COURSE OF GLOBAL TRADE

Held every two years as mandated, the 13<sup>th</sup> Ministerial Conference (MC13) of the World Trade Organisation (WTO) convened in Abu Dhabi from February 26 to March 01, 2024 – extending into a fifth day due to unresolved negotiations. This mega event saw representatives from member countries engage in intense discussions surrounding key global trade issues. MCs serve as the highest decision-making body of the WTO and provide a platform for members to negotiate and make decisions on various global trade-related issues.

At MC13, ministers reaffirmed their commitment to establish a fully operational dispute settlement system by 2024 and to enhance the utilization of special and differential treatment (S&DT) provisions for developing and least developed countries (LDCs). They have also agreed to persist in negotiations where consensus proved challenging. Ministers at MC13 officially sanctioned the WTO membership terms for Comoros and Timor-Leste, marking the first additions to the membership roster in nearly eight years.

However, MC13 concluded without decisions on crucial matters, such as devising a permanent solution for public stock holding and curtailing fisheries subsidies that contribute to over-capacity and over-fishing.

We capture hereunder, certain crucial issues of importance in the Indian context –

**1. Fisheries Subsidies** - One of the longstanding issues on the agenda was fisheries subsidies. The WTO Agreement on Fisheries Subsidies, adopted at the 12th Ministerial Conference in June 2022, marked a significant step towards responsible and sustainable trade practices in the fishing industry. The agreement

aimed to curb harmful subsidies that contribute to overfishing and depletion of marine resources. While several countries, including Canada, Seychelles, Singapore, Switzerland, and the United States, formally accepted the agreement, India emerged as a vocal proponent for a 25-year moratorium on subsidies for distant water fishing. India's stance emphasized the importance of safeguarding the livelihoods of domestic fishermen who rely on sustainable fishing practices.

Furthermore, India emphasized the principles of Common but Differentiated Responsibilities and Respective Capabilities (CBDR-RC) and advocated for the incorporation of Special and Differential Treatment (S&DT) provisions in any comprehensive fisheries agreement.

While no consensus could be reached, momentum behind the Fisheries Subsidies Agreement continues to pick up pace with 71 members now having accepted the Fisheries Agreement.

**2. Agricultural Negotiations** - Agricultural negotiations centred on finding a permanent solution to the issue of Public Stockholding (PSH) for food security. Developing countries, led by India, highlighted the critical role of PSH programs in ensuring food security and safeguarding the livelihoods of millions of small-scale farmers.

India underscored the need for a level playing field in international agricultural trade, citing disparities in domestic support between developed and developing nations. The discussions also touched upon the interim peace clause agreed upon at the WTO's Bali Ministerial Conference in 2013, with developing countries seeking a permanent solution to address existing gaps and ambiguities in the interpretation of the clause.

However, MC13 has concluded with consensus still elusive on this issue.

3. **E-commerce** - The debate on e-commerce revolved around the extension of the moratorium on customs duties on electronic transmissions. Since its inception in 1998, the moratorium has played a crucial role in facilitating cross-border digital trade. However, concerns were raised regarding its impact on the digital divide between developed and developing countries.

India advocated for policy flexibility to promote digital industrialization in developing nations, stressing the need to address disparities in digital infrastructure and capabilities. Developing countries emphasized the importance of exploring all policy options, including the imposition of customs duties, to support domestic digital industries and bridge the digital gap.

Members however agreed to extend the moratorium on imposing customs duties on electronic transmissions by another two years. This moratorium will remain in effect until either MC14 or 31 March 2026, whichever is earlier.

4. **WTO Reform** - The ongoing Appellate Body crisis emerged as a major point of contention. The absence of a functional Appellate Body since 2019 has undermined the dispute settlement mechanism, raising concerns among WTO members about the effectiveness and predictability of the multilateral trading system. India reiterated its support for the WTO dispute settlement system and called for prioritizing the reinstatement of the Appellate Body as part of broader reform efforts, immediately.

At MC13 Members adopted a Ministerial Decision that acknowledges the strides taken towards a fully and well-functioning, efficient dispute settlement system accessible to all members by 2024. Ministers directed officials to expedite discussions, leverage existing progress, and address remaining issues in the pursuit of this goal.

#### 5. **Plurilaterals –**

- a. Investment Facilitation - India expressed reservations about plurilateral agreements within the WTO framework, particularly the China-led Investment Facilitation for Development Agreement (IFD). India, along with South Africa, voiced concerns about the potential dilution of multilateralism and the implications of such agreements on developing countries' interests.

Regardless, ministers from 123 WTO member nations released a Joint Ministerial Declaration,

signalling the completion of the Investment Facilitation for Development (IFD) Agreement and shared it with the public. The participating nations account for three-quarters of the WTO membership, encompassing nearly 90 developing economies and 26 least-developed economies.

- b. Services - During MC13, new regulations on services domestic practices came into effect, with the potential to reduce global trade costs by more than USD 125 billion. This collaborative effort, backed by 72 WTO members, aims to enhance the ease of services trade by simplifying and streamlining regulatory processes. Notably, it incorporates a groundbreaking commitment within a WTO agreement, ensuring non-discrimination based on gender when individuals, both men and women, apply for permits to provide services.

The disciplines are integrated as “additional commitments” into GATS schedules pursuant to GATS Article XVIII. The disciplines only supplement existing specific commitments undertaken in GATS schedules. The disciplines are binding only on those WTO members who inscribe them into their GATS schedules.

However, these disciplines will be applied on a most-favoured nation basis, ensuring that services suppliers from all WTO members can equally reap the benefits of their implementation.

6. **Special & Differential Treatment** – Ministers took a significant step by adopting a Ministerial Decision that addresses a longstanding 23-year-old mandate to review special and differential treatment (S&DT) provisions for developing and least developed countries (LDCs). The aim is to enhance the precision, effectiveness, and operational aspects of these provisions.

In summary, MC13 highlighted the complex and evolving nature of global trade dynamics, with divergent views and priorities shaping negotiations across various fronts. The conference underscored the need for inclusive and equitable solutions that address the concerns and interests of all WTO members, particularly those of developing countries, in fostering sustainable and inclusive global trade.

**DSK View:** *In the aftermath of MC13, as the dust settles on the heated debates and negotiations, it becomes increasingly apparent that the challenges facing global trade are multifaceted and dynamic. While the conference may not have yielded immediate solutions to all pressing issues, it served as a crucial platform for member countries to engage*

*in constructive dialogue and lay the groundwork for future agreements.*

*The complexity of the discussions underscores the diverse interests and priorities among WTO members, particularly between developed and developing nations. Yet, amidst these differences, there is a shared recognition of the importance of fostering sustainable and inclusive trade practices that benefit all stakeholders, from fishermen in coastal communities to small-scale farmers in rural areas.*

*As India looks ahead, it is clear that addressing the challenges identified at MC13 will require continued collaboration and innovation. This includes finding creative solutions to bridge the digital divide, ensuring food security through equitable agricultural policies, and reforming the WTO to better serve the needs of all members.*

*Ultimately, MC13 reaffirms the importance of the WTO as a forum for global cooperation and underscores the imperative for inclusive decision-making processes that consider the diverse perspectives and priorities of all member countries.*

# MEDIA & ENTERTAINMENT



## **BOMBAY HIGH COURT REFUSES TO STAY THE RELEASE OF THE DOCUMENTARY SERIES “THE INDRANI MUKERJEA STORY: BURIED TRUTH” ON NETFLIX**

The Bombay High Court (“Court”) recently dismissed a plea filed by the Central Bureau of Investigation (CBI) to halt the release of Netflix’s documentary series, ‘The Indrani Mukerjea Story: Buried Truth,’ (“Series”) which delves into the case of Sheena Bora’s disappearance. The CBI sought to delay the release of the Series until the conclusion of the trial in the Sheena Bora murder case, where Indrani Mukerjea is the prime accused. During the proceedings, the CBI expressed concerns about the Series’ content, particularly its portrayal of witnesses. Consequently, the Court directed Netflix to organize a special screening for the legal representatives of the parties and judges to address these apprehensions. This move aimed to ensure transparency and alleviate any potential biases regarding the Series’ impact on the trial. However, after viewing the Series, Justices Revati Mohite Dere and Manjusha Deshpande found no elements in the Series which were prejudicial to the ongoing trial. They underscored the importance of the presumption of innocence until proven guilty. This decision came after the CBI’s initial plea was denied by the special CBI court, prompting the agency to approach the Court seeking an injunction on the release of the Series. In pursuance to the Court’s decision, the Series was released on Netflix on February 29, 2024.

## **THE UNION MINISTRY OF COMMERCE AND INDUSTRY IN A WRITTEN REPLY IN RAJYA SABHA SUBMITTED THAT THE CURRENT COPYRIGHT LAWS ARE “WELL-EQUIPPED” TO DEAL WITH GENERATIVE AI CONTENT**

In response to the queries raised in the Rajya Sabha regarding copyright infringement by generative AI, the Union Ministry of Commerce and Industry (“Ministry”) in a written reply to the same submitted that the existing intellectual property rights acts in the country suffice to shield AI-

generated content and innovations. Intellectual Property Rights, encompassing Copyright and related rights, confer exclusive privileges to legal entities for a specified period. These privileges safeguard creative works, inventions, and innovations, facilitating royalty collection via licensing. Compliance with legal criteria is a requisite for obtaining these rights. India, a participant in major international agreements, ensures robust protection through its Copyright Law for creative works and the Patent system for inventions. The Ministry further submitted that Generative AI users engaging in commercial use must obtain permission unless exempted under fair dealing exceptions outlined in Section 52 of the Copyright Act. As Intellectual Property Rights are private, enforcement lies with individual rights holders. The Copyright Law furnishes robust civil measures and criminal remedies to combat infringement or unauthorized usage, including digital circumvention. The Ministry concluded by stating that there is no necessity for a distinct category of rights for AI and associated innovations within the Indian Intellectual Property Rights (IPR) framework and there are presently no proposals to introduce the same.

## **TELANGANA HIGH COURT DIRECTS CBFC TO RECONSTITUTE REVISING COMMITTEE AND DECIDE CERTIFICATION OF THE FILM ‘VYUHAM’**

In response to two writ appeals filed before the Telangana High Court (“Court”), appealing against a prior judgment of the single judge of the Court favoring the Telugu Desam Party (TDP) in nullifying the Central Board of Film Certification’s (CBFC) certification for the film ‘Vyuham’, the division bench of the Court altered the previous order and instructed the CBFC’s Revising Committee to reconvene and decide on the film’s certification status by February 9, 2024. The legal discord originated from the film’s producer and director (“Appellants”) appealing against the CBFC’s decision to deem the film unsuitable for public exhibition. Following this, the TDP filed a writ petition, arguing that the CBFC’s certification violated provisions of the Cinematograph Act,

1952. Subsequently, the single judge annulled the certification, imposing a three-week suspension. The Appellants contended that political entities like the TDP lacked the standing to file defamation writs and suggested that CBFC's decisions should be immune from prior restraint. However, the Court affirmed the TDP's status as an aggrieved party with the legal standing to petition, and recognized Nara Lokesh's (member of TDP) authority to represent the TDP's interests. While upholding the single judge's ruling, the Court directed the reconstitution of the Revising Committee to ensure compliance with the Cinematograph Act and Certification Rules.

### **DELHI HIGH COURT REBUKES MUSIC COMPANY FOR ISSUING NOTICES AGAINST MONETIZATION OF SONGS BY BHOJPURI SINGER KHESARI LAL YADAV**

The Delhi High Court ("Court") recently rebuked Global Music Junction Private Limited for issuing notices to various entities, including social media platforms, demanding the cessation of monetizing Bhojpuri singer and actor Khesari Lal Yadav's songs. These notices were purportedly based on a High Court *ex-parte* order but were found to misrepresent the court's directives. The legal dispute traces back to a lawsuit filed by Global Music in 2022 against Yadav, alleging breach of an agreement prohibiting collaboration with third parties for new intellectual property until September 30, 2025. Initially, a single judge bench of the Court granted an *ex-parte* injunction in favor of Global Music, but this was later vacated. Subsequently, Global Music appealed, and in September 2023, a division bench issued specific directions, restraining Yadav from collaborating with entities other than Global Music to monetize new songs until September 30, 2025, while permitting continued activities in the Bhojpuri film industry and on various media platforms. In the present case, Yadav had filed an application before the single judge, alleging Global Music's serious violations of the division bench's order. He argued that the notices constituted contempt of court and had resulted in the unjust removal of many songs from YouTube. While Global Music requested time to respond, the Court observed that they had exceeded the division bench's directives, rendering them potentially liable for contempt. The Court acknowledged Yadav's claims of adverse impacts on his professional engagements. Furthermore, the Court emphasized that Global Music's attempt to enforce the *ex-parte* order was improper as it no longer existed, thus misrepresenting the court's directives. Despite Global Music's protestations, the Court clarified that the company could seek enforcement through the Court by filing an application, after which necessary directions would be issued.

### **SINGAPORE EMERGENCY ARBITRATOR DENIES SONY INTERIM RELIEF IN ZEE MERGER CASE**

The Singapore International Arbitration Centre (SIAC) dismissed Sony Group's application for emergency interim

relief against Zee Entertainment Enterprises, seeking to halt the latter's plea before India's insolvency tribunal to execute a merger scheme with Sony's local unit. Sony had urged the tribunal to prevent Zee from pursuing legal remedies from the National Company Law Tribunal (NCLT) and other forums. However, the emergency arbitrator ruled that it lacked jurisdiction to prevent Zee from approaching the NCLT for the merger implementation, as these matters fell within the statutory system and were under the NCLT's purview. The context of the Sony – Zee dispute is the termination of the \$10-billion merger by Sony on January 22, 2024, which was attributed to Zee's purported failure to meet financial thresholds and pre-conditions outlined in the agreement. Following the termination of the agreement, Sony initiated emergency arbitration proceedings against Zee before SIAC, alleging violations of the merger agreement terms. While Sony sought a termination fee of \$90 million, Zee contested the entitlement of Sony's subsidiaries to terminate the agreement and argued against the fee's validity. Post the termination of the agreement, Zee made clear that it intended to pursue legal action against Sony at the NCLT and SIAC, calling for the withdrawal of the termination and implementation of the merger scheme as sanctioned by the NCLT.

### **KERALA HIGH COURT CLOSES PLEA AGAINST MAMMOOTTY'S 'BRAMAYUGAM' AFTER PRODUCERS AGREE TO CHANGE THE CHARACTER'S NAME**

The Kerala High Court ("Court") recently dismissed a plea seeking the revocation of certification for the Malayalam film "Bramayugam," starring Mammooty, for its alleged defamatory portrayal of a real-life person. The petition was filed by a member of the leading Brahmin family, Punjamon Illam ("Petitioner"), claiming that the character 'Kunjumon Potty,' portrayed by Mammooty, depicted negative actions that could tarnish their reputation. The Petitioner argued that the film appropriated their family name and depicted similarities to their traditional home. However, the makers informed the Court that they had applied to change the character's name to 'Kodumon Potty,' which was approved by the Central Board of Film Certification (CBFC). Consequently, the Court dismissed the petition following confirmation of the name change by the CBFC.

### **SARAH SILVERMAN'S LAWSUIT AGAINST OPENAI HAS BEEN PARTIALLY DISMISSED**

A federal judge has dismissed the majority of a lawsuit filed by Sarah Silverman, Ta-Nehisi Coates, and other authors against OpenAI regarding the utilization of copyrighted books to train its generative artificial intelligence chatbot. U.S. District Judge Araceli Martinez-Olguin in their ruling, issued on February 12, 2024, rejected claims for vicarious copyright infringement, negligence, and unjust enrichment against the firm led by Sam Altman. The judge concurred with a previous ruling in a similar case against Meta, stating

that the authors failed to demonstrate that every response generated by OpenAI's ChatGPT relies solely on information extracted from copyrighted material. However, the authors were granted the opportunity to amend their complaint. The judge permitted a claim for violation of California's unfair competition law to proceed, alleging that OpenAI's use of copyrighted works to train its AI model for profit constitutes an unfair business practice. Notably, OpenAI did not contest a claim for direct copyright infringement. This ruling aligns with previous judgments in the Northern District of California, highlighting the challenge for creators to substantiate their claims without evidence of AI tools generating substantially similar answers to copyrighted works.

### **'TOP GUN' ACTOR BARRY TUBB SUES PARAMOUNT FOR USING HIS IMAGE IN 'TOP GUN: MAVERICK' WITHOUT PRIOR PERMISSION**

Barry Tubb, a supporting actor from the original 1986 film "Top Gun," has filed a lawsuit against Paramount Pictures over the unauthorized use of his likeness in the 2022 sequel, "Top Gun: Maverick." Tubb, who played the character Leonard "Wolfman" Wolfe in the original film, claims that his contract did not include provisions for his image to be used in any potential sequels of the 1986 film. The lawsuit alleges that a scene in 2022 film "Top Gun: Maverick" prominently features Tubb's likeness in a way that is not incidental, and no prior consent was obtained from him for such usage. Tubb asserts that Paramount's actions are misleading and deceptive, as his contract did not anticipate the use of his likeness beyond the original film. The lawsuit seeks a jury trial, although the specific amount of compensation being sought by Tubb is not disclosed.

# MINISTRY OF CORPORATE AFFAIRS ("MCA")

## ESTABLISHMENT OF CENTRAL PROCESSING CENTRE

The MCA, *vide* its notification dated February 02, 2024 ([accessible here](#)), has established the Central Processing Centre ("CPC") at the Indian Institute of Corporate Affairs, Plot No. 6, 7, 8, Sector 5, IMT Manesar, District Gurgaon, Haryana – 122050, having territorial jurisdiction all over India.

This CPC shall process and accept/reject the e-forms that may be filed by the users of MCA portal. The jurisdictional Registrar of Companies ("ROC"), other than Registrar of the CPC and within whose jurisdiction the registered office of the company is situated, shall continue to have jurisdiction over the companies whose e-forms are processed by the CPC in respect of all other provisions of the Companies Act, 2013 and the rules made thereunder.

## GRANT OF EXTENSION FOR FILING E-FORM LLP NO. BEN-2 AND E-FORM LLP NO. 4D

The MCA, *vide* its General Circular No. 01/2024 dated February 07, 2024 ([accessible here](#)), while taking into consideration the phase of transition of MCA-21 from V2 to V3 portal, has extended the due date of filing the E-Form LLP BEN-2 (*Declaration by the beneficial owner who holds or acquires significant beneficial ownership in contribution*) and E-Form LLP No. 4D (*Return to the Registrar in respect of declaration of beneficial interest in contribution received by the LLP*), without any additional fees, up and until May 15, 2024.

## INCORPORATION RELATED SERVICES TO NOW BE ACCESSIBLE THROUGH THE NATIONAL SINGLE WINDOW SYSTEM

The MCA, *vide* its publication dated February 12, 2024 ([accessible here](#)), has informed that the company and LLP incorporation related services are now accessible through

the National Single Window System ([accessible at www.nsws.gov.in](http://www.nsws.gov.in)).

## COMPANIES (REGISTRATION OFFICES AND FEES) AMENDMENT RULES, 2024

The MCA, *vide* its notification dated February 14, 2024 ([accessible here](#)), has notified the Company (Registration Offices and Fees) Amendment Rules, 2024 ("**CROF Amendment Rules 2024**") which amends the Companies (Registration Offices and Fees) Rules, 2014.

The key provisions of the CROF Amendment Rules 2024 have been summarised below:

- (a) The Registrar of the CPC shall now examine or cause to be examined every application, e-Form or document (detailed below) required or authorized to be filed or delivered for approval, registration for taking on record by such Registrar.
- (b) The Registrar of the CPC shall take a decision on the application, e-Forms or documents within a period of 30 (thirty) days from the date of filing excluding the cases which require the approval of the Central Government, Regional Director or any other competent authority.
- (c) The Registrar of the CPC shall exercise jurisdiction all over India in respect of the examination of the following application, e-Forms or documents, as stated hereinbelow:

S. No.	Name of E- Form	Description
1.	MGT-14	Filing of resolutions and agreements
2.	SH-7	Notice to the registrar of any

		alteration of share capital
3.	INC-24	Application for approval of Central Government for change of name
4.	INC-6	One person company - application for conversion
5.	INC-27	Conversion of public company into private company or <i>vice versa</i>
6.	INC-20	Intimation to the registrar of revocation/surrender of license
7.	DPT-3	Return of deposits
8.	MSC-1	Application to the registrar for obtaining the status of dormant company
9.	MSC-4	Application for seeking status of active company
10.	SH-8	Letter of offer
11.	SH-9	Declaration of solvency
12.	SH-11	Return in respect of buy-back of securities

- (d) Additional application, e-Forms or documents to be processed by CPC are to be notified by April 1, 2024.
- (e) After the establishment of CPC, jurisdictional ROCs will now have to focus more on their core functions of inquiries, inspection and investigation for ensuring robust corporate governance.

**DEPLOYMENT AND USAGE OF CHANGE REQUEST FORM (CRF) ON MCA – 21**

The MCA, *vide* its General Circular No. 02/2024 dated February 19, 2024 (*accessible [here](#)*), has introduced the Change Request Form (“**CRF**”) which is now available on the MCA’s V3 portal. This web-based form is intended to be utilized only under exceptional circumstances, to put forth any request to the ROC that cannot be addressed through the existing forms, services or functionalities available.

The CRF is not a substitute for any reporting, application, approval related, registration and/or registry requirements, and if CRF is used for a specific purpose instead of the existing designated form for such specific purpose, the CRF will not be entertained and is liable to be rejected. Once filed, ROCs are expected to process the CRF within a period of 3 (three) days, after which, such CRF shall be forwarded to the Joint Director (e-governance cell), who shall then process and decide on the matter within a maximum period of 7 (seven) days.

The primary purpose of CRF is for correction of master data (on the MCA portal) and to comply with directions of courts/tribunals, which typically cannot be complied with using the existing forms or services.

## STATEMENT ON DEVELOPMENTAL AND REGULATORY POLICIES

Reserve Bank of India (“RBI”) *vide* press release bearing reference no. 2023-2024/1827 dated February 8, 2024, issued the Statement on Developmental and Regulatory Policies (“**Statement**”). The Statement sets out various developmental and regulatory policy measures proposed by RBI relating to (i) Financial Markets; (ii) Regulations; and (iii) Payment Systems and Fintech, as given below:

### I. Financial Markets

#### a) Review of the Regulatory Framework for Electronic Trading Platforms (“ETPs”)

In October 2018, the RBI introduced a regulatory framework for ETPs to ensure fair, transparent and efficient trading, prevent market abuse, and authorize certain ETPs already operating in the market. However, recently RBI has noticed an increased integration of onshore and offshore forex markets, technological advancements and diversified product offerings. Accordingly, it proposes to review the extant ETP market. Regulatory framework to accommodate market developments and issue a revised framework for public feedback.

#### b) Hedging of gold price risk in the over the counter (“OTC”) market in the International Financial Services Centre (“IFSC”)

In December 2022, resident entities were permitted to hedge gold price risk through recognized exchanges in the IFSC. Now, they're also permitted to hedge gold prices in the OTC segment within the IFSC, offering increased flexibility and accessibility to derivative products for hedging gold exposure. Instructions for this expansion are being issued separately.

## II. Regulations

### a) Key Fact Statement (“KFS”) for retail and MSME loans & advances

The RBI has enforced measures to enhance transparency in loan pricing by stipulating that lenders must furnish borrowers with a KFS, detailing essential loan information. The step is aimed at ensuring borrowers make an informed decision while availing loans.

## III. Payment Systems and Fintech

### a) Enhancing the robustness of Aadhaar Enabled Payment System (“AePS”)

The AePS, managed by National Payments Corporation of India (“NPCI”). In order to boost transaction security, RBI has proposed measures include refining onboarding processes for touchpoint operators and implementing additional fraud risk management protocols.

### b) Principle-based Framework for Authentication of Digital Payment Transactions

The RBI has floated a proposal for a principle-based framework to accommodate emerging authentication methods beyond SMS-based OTP, which aims to adapt to technological innovations and ensure robust security for digital payment transactions.

## **RBI CIRCULAR ON PARTICIPATION OF INDIAN BANKS ON INDIA INTERNATIONAL BULLION EXCHANGE IFSC LIMITED (“IIBX”)**

RBI on February 9, 2024, *vide* circular bearing No. RBI/2023-24/120 (“**Circular**”) has allowed the branch/subsidiary/joint venture of an Indian bank in GIFT-IFSC to act as a trading member (“**TM**”)/trading and clearing member (“**TCM**”) of IIBX, and Indian banks authorized to import gold/silver to act as Special Category Client (“**SCC**”) of IIBX.

- This Circular is applicable to all Scheduled Commercial Banks (other than Regional Rural Banks).
- The TM/TCM is permitted to execute trades only on behalf of clients (without proprietary trading). The SCCs need to appoint one of the IFSC Banking Units (“**IBUs**”) to act as a clearing member on their behalf.
- All client trades placed on the exchange should be against 110% advance pay-in of funds (buy order) of the expected value of bullion intended to be purchased and securities (sell order) in the account of the bank, as is applicable.
- For TM/TCM activities, the parent bank is required to seek a no objection certificate from the RBI prior to its branch/subsidiary/joint venture in GIFT-IFSC seeking TM/TCM status on IIBX. A Bank acting as a TM/TCM/SCC of IIBX needs to seek additional approval from the Department of Regulation, RBI in case of any change in their role or scope of activities at IIBX from those permitted by this circular.

**DSK View:** This Circular aims to streamline the operations of Indian banks in GIFT-IFSCs. It also lays down a framework for compliance with regulatory standards and facilitating smoother trading activities within the financial center.

## **PAYMENT INTERMEDIARY BY CARD NETWORK – RESTRAINING OF UNAUTHORIZED PAYMENT SYSTEM**

RBI on February 15, 2024, *vide* press release bearing No. 2023-2024/1885, expressed concerns over a payment intermediary operated by a card network and has asked the card network to keep all such arrangements under abeyance till further orders.

The RBI discovered a card network arrangement allowing businesses to make card payments through intermediaries to non-card accepting entities. This arrangement involved intermediaries accepting card payments from corporates and transferring funds to non-card accepting recipients via IMPS/RTGS/NEFT. Upon examination, the RBI deemed this arrangement a payment system under the Payment and Settlement Systems (“**PSS**”) Act, 2007. Authorization under

Section 4 of the PSS Act is required for such payment systems, which was lacking in this case, rendering the activity unauthorized.

The arrangement has also raised two main concerns:

- a) The intermediary in the above arrangement pooled large amounts of funds into an account which is not a designated account under PSS Act,
- b) Transactions processed under this arrangement did not comply with the originator and beneficiary information requirements, as stipulated under master direction on know your customer (“**KYC**”) issued by the RBI.

RBI also clarified that it has not restricted the card network on normal usage of business credit cards.

**DSK View:** This highlights the RBI's vigilance in monitoring payment systems to ensure compliance with regulations. Such unauthorized arrangements could pose risks to the financial ecosystem. It underscores the importance of obtaining proper authorization for payment systems to maintain legality and stability in financial transactions.

## **RBI CIRCULAR ON AMENDMENT TO MASTER DIRECTIONS ON PREPAID PAYMENT INSTRUMENTS**

RBI on February 23, 2024 *vide* circular bearing No. RBI/2023-24/126 has now permitted authorized banks and non-bank PPI users to issue PPIs for making payments across various public transport systems.

**DSK View:** The RBI has expanded the use of PPIs to include public transportation systems. The amendments aim to provide convenience, speed, affordability, and safety of digital modes of payment to commuters for transit services.

## **RBI ISSUED THE MASTER DIRECTION – RESERVE BANK OF INDIA (BHARAT BILL PAYMENT SYSTEM) DIRECTIONS, 2024 TO STREAMLINE BILL PAYMENTS PROCESS**

RBI *vide* Master Direction- Reserve Bank of India (Bharat Bill Payment System) Directions, 2024 (“**MD-BPPS**”) dated February 29, 2024 seeks to streamline the process of bill payments, enable greater participation, and enhance customer protection among other changes.

This has a reference to the current regulations covering Bharat Bill Payment System RBI Circular DPSS.CO.PD.No.940/02.27.020/2014-15 dated November 28, 2014 which provides for a tiered structure with (a) NPCI Bharat Bill Pay Ltd as a Central Unit (b) Bharat Bill Payment Operating Units (BBPOUs) and (c) Agent network/s of the BBPOUs.

It has been decided to put in place a revised regulatory framework - Bharat Bill Payment Systems Directions, 2024. The MD-BPPS shall be applicable from April 01, 2024 and shall supersede the circular dated November 28, 2014.

**DSK View:** *The new directions aim to ensure customer protection and grievance redressal while fixing responsibility for operations, guidelines and due diligence on designated units.*

**RBI INVITES COMMENTS ON THE “DRAFT DISCLOSURE FRAMEWORK ON CLIMATE-RELATED FINANCIAL RISKS, 2024**

RBI vide press release bearing no. 2023-2024/1958 dated February 28, 2024 invites comments on the *Draft Disclosure framework on Climate-related Financial Risks, 2024 (“Disclosure Framework”)*.

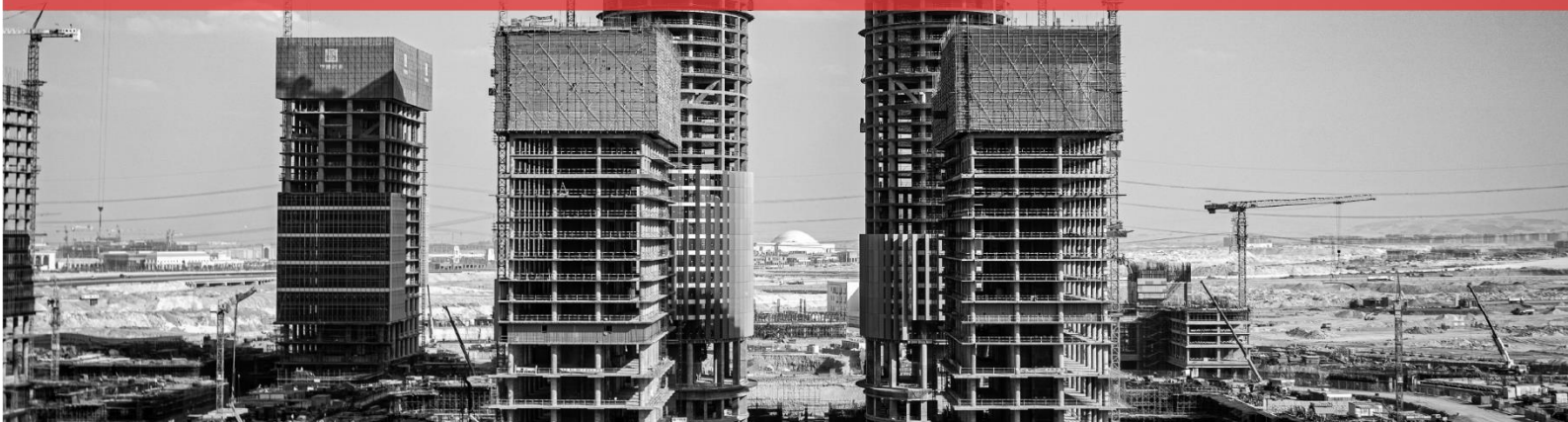
The Disclosure Framework proposes to make disclosure of climate-related financial risks mandatory for RBI-regulated entities (“REs”). It is based on the four thematic areas or pillars – (i) Governance, (ii) Strategy, (iii) Risk Management

and (iv) Metrics and Targets – as recommended by the Task Force on Climate-related Financial Disclosures.

These guidelines shall be applicable to all Scheduled Commercial Banks (excluding Local Area Banks, Payments Banks and Regional Rural Banks), All Tier-IV Primary (Urban) Co-operative Banks, All All-India Financial Institutions (viz. EXIM Bank, NABARD, NaBFID, NHB and SIDBI) and All Top and Upper Layer Non-Banking Financial Companies.

The RBI has invited comments by e-mail with the subject line “*Comments on Disclosure framework on Climate-related Financial Risks, 2024*”, by April 30, 2024.

**DSK View:** *RBI has stated that the Disclosure Framework has been issued in order to fulfil the need for a better, consistent and comparable disclosure framework for REs, as inadequate information about climate-related financial risks can lead to mispricing of assets and misallocation of capital. This framework may work towards fostering a habit of early assessment of climate-related financial risks and opportunities as well as facilitate market discipline.*



### **MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY HAS ISSUED GUIDELINES TO COMBAT MISLEADING ADVERTISEMENTS AND UNFULFILLED PROMISES ASSOCIATED WITH THE SALE OF RETIREMENT HOMES**

The Maharashtra Real Estate Regulatory Authority (“MahaRERA”) has released draft model guidelines bearing No. MahaRERA/CC/729/2024 pertaining to the sale of retirement homes. These guidelines were open for public comments until February 29, 2024. This initiative comes in response to complaints from senior citizens regarding deceptive advertisements and unfulfilled promises made by developers.

The primary objective of these guidelines is to guarantee that purchasers of retirement homes receive the promised facilities. This is achieved by outlining specific design elements such as lifts, ramps, door widths, ergonomic furniture, and safety measures like alarm systems and CCTV surveillance. MahaRERA's proactive measures align with the 2019 guidelines from the Ministry of Housing and Urban Affairs, stressing the importance of including particular provisions in the 'Agreement of Sale' and other relevant documents.

Developers promoting their projects as "Retirement Home/Senior Home/equivalent" are required to adhere to the minimum physical criteria outlined in these guidelines before marketing their projects. The guidelines address concerns related to misrepresentation and aim to ensure strict compliance with construction details. This initiative is designed to safeguard the interests and safety of senior citizens involved in real estate transactions.

### **JAMMU & KASHMIR REAL ESTATE REGULATORY AUTHORITY ORDERS REGISTRATION OF ALL REAL ESTATE PROJECTS WITH JAMMU AND KASHMIR REAL ESTATE REGULATORY AUTHORITY**

By virtue of a prior order bearing no. S.O.13 dated January 8, 2024, issued by the Housing and Urban Development Department (“HUD”), Shri Satish Chandra was appointed as the Chairperson of Jammu and Kashmir Real Estate Regulatory Authority (“JKRERA”). Consequently, the authority commenced its operations from January 18, 2024.

In continuation of the ongoing operations of JKRERA, HUD has issued a Circular bearing No. 02-JK(HUD) of 2024 dated February 2, 2024. The circular explicitly instructs all heads of departments within HUD to register and obtain approval for all real estate projects, both new and ongoing, with JKRERA before commencing any work. This aligns with the provisions laid out in the J&K Real Estate (Regulation & Development) Rules, 2020.

### **INSOLVENCY AND BANKRUPTCY BOARD OF INDIA'S REVISED DIRECTIVES: RESOLUTION PROFESSIONALS NOW OBLIGED TO ADMINISTER INDIVIDUAL BANK ACCOUNTS FOR EACH REAL ESTATE PROJECT OF A CORPORATE DEBTOR**

The Insolvency and Bankruptcy Board of India (“IBBI”), through a Notification dated February 15, 2024, bearing No. IBBI/2023-24/GN/REG113, has introduced changes to its regulations. The revisions now mandate that the interim resolution professional (“IRP”) or resolution professional (“RP”) must maintain separate bank accounts for each real estate project of a corporate debtor (regulation 4D).

In addition to this, the amendments stipulate the convening of committee meetings within 30 days, with the provision for extending intervals, albeit ensuring a minimum of one meeting per quarter. The updated regulations permit electronic voting for various matters, offering extensions upon creditor request. Approval from the committee is now

required for insolvency resolution process costs, and the resolution professional is tasked with facilitating meetings where registered valuers elucidate valuation methodologies. Fair value, liquidation value, and valuation reports must be shared with committee members following an assurance of confidentiality. Committees retain the discretion not to disclose fair value, and resolution professionals can invite separate resolution plans for each real estate project.

Moreover, the amendments introduce the option for considering and forming monitoring committees for the implementation of resolution plans, emphasizing the continuation of the resolution professional's responsibilities until extension decisions by the Adjudicating Authority are made.



## ARTIFICIAL INTELLIGENCE

### ASEAN RELEASES DRAFT OF THE “ASEAN GUIDE ON AI GOVERNANCE AND ETHICS”

On February 01, 2024, the Association of South East Nations (“ASEAN”) released its draft of the ASEAN Guide on AI Governance and Ethics (“Guide”) ([accessible here](#)). This move comes as the ten-nation bloc aims to effectively regulate the AI space while promoting sustainable growth. The draft document serves as a practical guide for organizations in the region looking to develop, design, and deploy AI technologies. The Guide establishes seven guiding principles, including transparency and explainability, fairness and equity, security and safety, human-centric AI, privacy and data governance, accountability and integrity, and robustness and reliability, on which AI governance should be based. Additionally, the Guide provides recommendations on national-level initiatives that can be undertaken to enhance the growth of AI.

Read more [here](#).

### MINISTRY HOLDS THAT THE EXISTING IPR REGIME IS WELL EQUIPPED TO PROTECT AI GENERATED WORKS

The Union Ministry on Commerce and Industry, on February 09, 2024, provided a written reply to the Rajya Sabha concerning queries about copyright infringement by Generative AI (“Gen AI”) ([accessible here](#)). The Minister of State, Shri Som Prakash, affirmed that intellectual property rights in India, including copyright and other related laws, grant exclusive rights to legal persons for a specified duration. Intellectual property owners must meet specific criteria stipulated under Indian law and major international conventions and agreements on intellectual property rights that India is a party to in order to obtain such rights. In this context, the Minister of State reiterated that there is no need to establish a separate category of rights for AI and related

innovations. Therefore, while AI and related innovations are continually evolving, the Patent Act, 1970 and Copyright Act, 1957 is well-equipped, in the government's view, to protect Gen AI works and related innovations.

Read more [here](#).

## FINTECH

### PARLIAMENTARY STANDING COMMITTEE ON COMMUNICATIONS AND INFORMATION TECHNOLOGY CALLS FOR TARGETED SUCCESS OF DOMESTIC FINTECH APPS

On February 8, 2024, the Parliamentary Standing Committee on Communications, and Information Technology (“Standing Committee”), presented the fifty fourth report of the Standing Committee on ‘Digital Payments and Online Security Measures for Data Protection’ ([accessible here](#)).

The Standing Committee brought to light how foreign owned fintech entities such as PhonePe and GooglePay held a combined market share of 83.3%, whereas indigenous apps such as held BHIM UPI with a market share of 0.22% (as of Nov’23). The Standing Committee, considering the same, suggested a targeted strategy that focuses on the growth of Indian fintech companies, the standing committee affirmed Indian fintech apps would be more practical and easily regulated by the Reserve Bank of India (“RBI”) and the National Payment Corporation of India as opposed to foreign entities. The concerned report emphasizes the necessity for the promotion of domestic fintech entities under the Make in India scheme.

The report also focused on the rise in online financial fraud, with the Committee noting that the volume and value of money lost in cyber frauds is very high when compared to recovery rate (10.4% over the last 3 years i.e. 2020, 2021, 2022) which can be deemed to be abysmally low. The

Committee suggested a multi-pronged approach with effective co-ordination of all stakeholders, deeming punitive measures to be long drawn out and ineffective. The report of the Standing Committee also recommended that MeitY implement region specific coordination mechanism of law enforcement agencies by constituting Joint Cyber Coordination Teams based upon cybercrime hotspots/areas reporting more cyber-crimes such as Jamtara and Mewat.

These recommendations come in light of the growing volume of digital payments in India, where fintech applications are anticipated to be crucial to such transactions. The push for domestic substitutes is in alignment with the overarching goal of promoting self-reliance and indigenous innovation in the nation's growing digital environment.

Read more [here](#).

#### **RESERVE BANK OF INDIA UPDATES "ENABLING FRAMEWORK FOR REGULATORY SANDBOX" TO ENSURE COMPLIANCE WITH DIGITAL PERSONAL DATA PROTECTION ACT, 2023**

The RBI on, February 28, 2024, updated the "Enabling Framework for Regulatory Sandbox" ("**Revised Framework**") ([accessible here](#)). The Revised Framework now requires all sandbox entities to comply with the provisions of the Digital Personal Data Protection Act, 2023 ("**DPDP Act**"). The Revised Framework requires all entities that are part of the regulatory sandbox to process data, in their possession or

under their control, in accordance with the provisions as prescribed under the DPDP Act. Furthermore, the duration of the testing period for the regulatory sandbox has been increased from six months to nine months.

Read more [here](#).

#### **INFORMATION TECHNOLOGY**

#### **CENTRAL CONSUMER PROTECTION AUTHORITY RELEASES DRAFT GUIDELINES FOR PREVENTION ON MISLEADING ADVERTISEMENT IN THE COACHING SECTOR**

The Central Consumer Protection Authority, on February 06, 2024, released the draft guidelines of the 'Guidelines for Prevention of Misleading Advertisement in Coaching, 2024' ("**Draft Guidelines**") ([accessible here](#)). These guidelines, issued under Section 18 of the Consumer Protection Act, 2019, provide a broad definition of "coaching," encompassing tuition, instructions, academic support, learning programs, or guidance from any source. As a result of this extensive definition, the guidelines are applicable to all advertisements, irrespective of form, format, or medium. Furthermore, the Draft Guidelines impose various obligations on coaching advertisements, including requirements for disclosing information about successful candidates. Comments and suggestions on the draft guidelines are welcomed until March 16, 2024.

Read more [here](#).

# WHITE COLLAR CRIME

## APPLICATION SEEKING FURTHER INVESTIGATION IS A PROTEST PETITION

Aggrieved by the police's investigation and resultant chargesheet, the victim filed an application under Section 173(8) of Code of Criminal Procedure, 1973 ("CrPC") for further investigation claiming that the police had failed to collect certain material evidence. The trial court rejected this application stating that recourse to Section 173(8) was not available (and the criminal revision application filed by the victim against this order before the High Court was dismissed). The **Supreme Court** observed that the appropriate recourse would have been for the victim to file a protest petition against the chargesheet. However, the caption of the application is a technicality and should have been treated as a protest petition by the trial court. The Supreme Court then allowed this application as a protest petition and directed further investigation.

**Case - XXX v. State (Criminal Appeal No. 562 of 2024)**

## SECTION 120B OF THE IPC BY ITSELF IS NOT A SCHEDULED OFFENCE UNDER PMLA

The **Patna High Court** has stayed proceedings under the Prevention of Money Laundering Act, 2002 ("PMLA") in a liquor supply case in Bihar on an alleged violation of the Bihar Excise Prohibition Act, 2016. The question before the High Court was whether Directorate of Enforcement ("ED") can institute an Enforcement Case Information Report ("ECIR") with respect to an offence which is not a scheduled offence under PMLA by taking recourse to section 120B of the IPC (which is conspiracy and is listed in the schedule to PMLA). The stay was granted relying upon judgment in *Pavana Dibbur v. The Directorate of Enforcement* (2023 INSC 1029), where the Supreme Court held that the offence punishable under Section 120B of the Indian Penal Code, 1860, ("IPC") would become a scheduled offence only if the conspiracy alleged pertains to a scheduled offence.

**Case – Sunil Bhardwaj @ Sunil Kumar v. Deputy Director, Directorate of Enforcement (Criminal Miscellaneous No. 4441 of 2024)**

## SUPREME COURT SEEKS REPORTS FROM ALL STATES RE. COMPLIANCE WITH SATENDER KUMAR ANTIL CASE

In the 2022 judgment of *Satender Kumar Antil v. CBI*, the **Supreme Court** laid down guidelines for disposal of bail applications, including time limits for hearings and disposal, direction to Union to introduce a separate bail law to streamline the grant of bails. The Supreme Court recently sought reports from each State Government and High Court on their compliance with these guidelines. This is a noteworthy endeavor on part of Supreme Court and is aimed at bringing about a much needed overhaul in the manner bail applications are heard and disposed in the country.

**Case- Satender Kumar Antil v. CBI (MA No. 2034 of 2022 in MA No. 1849 of 2021 in SLP (Crl.) No. 5191 of 2021)**

## SUPREME COURT PRONOUNCES FACTORS FOR CONSIDERATION BY HIGH COURTS WHEN HEARING APPEALS FROM ACQUITTAL

While laying down certain factors which High Courts must consider when hearing appeals from acquittals, the Supreme Court held that the cardinal principle of presumption of innocence gets further concretized upon acquittal. Certain factors discussed are – (i) if the acquittal is based on a plausible view, it is not open to High Court to reappreciate the evidence; (ii) if the appellate court seeks to reverse the acquittal, it must give reasons and specifically address all the reasons given by the trial court in support of the acquittal.

**Case- Mallappa & Ors. v. State of Karnataka (2024 SCC OnLine SC 130)**

**“JAIL, NOT BAIL” SAYS SUPREME COURT FOR OFFENCES UNDER THE UNLAWFUL ACTIVITIES (PREVENTION) ACT, 1967**

The **Supreme Court** recently noted that the regular approach of ‘bail is rule, jail is exception’ does not find place in bail applications under the Unlawful Activities (Prevention) Act, 1967 (“**UAPA**”) and bail applications must be rejected as a rule. Supreme Court’s rationale was that Section 43D(5) of UAPA states that an accused shall not be released on bail or on his own bond unless the Public Prosecutor has been given

an opportunity of being heard, and if, on a perusal of the case diary or the report under section 173 of the CrPC, the court opines that there are reasonable grounds for believing the accusation to be prima facie true. The Supreme Court noted that this provision was unique to UAPA and not found in any other statute.

*Case- Gurwinder Singh v. State of Punjab & Anr. (Criminal Appeal No. 704 of 2024)*



## DSK Legal Knowledge Center

Contact Details for any queries: [knowledge.management@dsklegal.com](mailto:knowledge.management@dsklegal.com)

### Mumbai

1701, One World Centre,  
Floor 17, Tower 2B,  
841, Senapati Bapat Marg,  
Mumbai - 400013.  
Tel +91 22 6658 8000

### Mumbai

C-16, Dhanraj Mahal,  
3rd Floor,  
Apollo Bunder, Colaba,  
Mumbai - 400001.  
Tel +91 22 6152 6000

### Bengaluru

201, 2nd floor, Prestige Loka,  
7/1 & 7/7, Brunton Road,  
Craig Park Layout, Ashok Nagar,  
Bengaluru - 560025.  
Tel +91 80 6954 8770

### New Delhi

Max House, Level 5,  
Okhla Industrial Area, Phase 3,  
New Delhi - 110020.  
Tel +91 11 4661 6666

### Pune

Ground Floor, 1 Modibaug,  
Ganesh Khind Road, Shivajinagar,  
Pune - 411016.  
Tel +91 20 6684 7600

✉ [contactus@dsklegal.com](mailto:contactus@dsklegal.com)

**in** DSK Legal

🌐 [www.dsklegal.com](http://www.dsklegal.com)

### Disclaimer

This document intends to provide general information on a particular subject/s and is not an exhaustive treatment of such subject/s and is intended merely to highlight issues. It is not intended to be exhaustive or a substitute for legal/professional advice. The information is not intended to be relied upon as the basis for any decision which may affect you or your business and does not constitute legal advice and should not be acted upon in any specific situation without appropriate legal advice. DSK Legal shall not be responsible for any loss whatsoever sustained by any person relying on this material.