Newsletter

February 2018

Clasis Law has been ranked amongst the Top 40 Indian Law Firms by RSG Consulting Rankings 2017

Welcome to the February Edition of the Clasis Law Newsletter

This edition brings to our readers a featured article titled "Macquarie Bank Vs. Uttam Galva Metallics Limited".

Clasis Law has been successful in securing an important judgment for its client, Macquarie Bank, which will also be a major relief especially to foreign creditors and to other Operational Creditors at large. In a recent judgment passed in the case of Macquarie Bank Vs. Uttam Galva Metallics Limited, the Supreme Court has categorically held that the requirement of Certificate under Section 9 (3) (c) of the Insolvency and Bankruptcy Code, 2016 is not a condition precedent to trigger the insolvency proceedings and that the same is not a mandatory requirement. The Court has further held that the Demand Notices filed on behalf of lawyers under the Code are valid and in order.

We continue to highlight certain key judgements passed by the Hon'ble Court as well as changes in Corporate and Commercial laws and updates on Projects and Intellectual Property.

Your inputs and feedback are always welcome and we look forward to our interactions with you.

"Clasis Law's Head of Pan India Operations & Corporate Practice, Vineet Aneja is recognized as one of India's Most Trusted Corporate Lawyers by ICCA, 2017"

Contents

Macquarie Bank Vs. Uttam Galva Metallics Limited

Clasis Law recently represented Macquarie Bank in two Civil Appeals in the connected matters of Macquarie Bank Vs. Uttam Galva Metallics Limited and Macquarie Bank Vs. Shilpi Cable Technologies Limited, where a Supreme Court bench comprising of Justice R.F. Nariman and Justice Navin Sinha passed a common judgment dated December 15, 2017 in both the Appeals and held as follows:

(a) The filing of the Certificate under Section 9 (3) (c) of the Insolvency and Bankruptcy Code, 2016 ("Code") is a procedural requirement and directory in nature; and

(b) The Demand Notices issued by the Advocates under Section 8 of the Code are valid and in order.

To provide a brief background, Section 9 (3) (c) of the Code envisages that along with an Application to initiate Insolvency Proceedings under Section 9 of the Code against the Corporate Debtor, the Operational Creditor 'shall' file a Certificate from the Financial Institution maintaining accounts of the Operational Creditor confirming that there is no payment of an unpaid operational debt by the Corporate Debtor.

It must be noted that the Section 9 (3) (c) of the Code categorically states that this Certificate has to be issued by a "Financial Institution" as defined under Section 3 (14) of the Code. The term Financial Institution as defined under Section 3 (14) of the Code includes a Scheduled Bank, a financial institution as defined under Section 45-I of the Reserve Bank of India Act, 1934, a public financial institution as defined in Clause 72 of Section 2 of the Companies Act, 2013 and any such other institution as the Central Government may by notification specify as a financial Institution.

In the abovementioned matters, Macquarie Bank had filed Applications under Section 9 of the Code before the National Company Law Tribunal ("NCLT") to initiate Insolvency Proceedings against Uttam Galva Metallics Limited and Shilpi Cable Technologies Limited. Macquarie Bank being a foreign Bank and not having an account with any Financial Institution as defined under the Code, it could not provide for a Certificate as per the requirement of Section 9 (3) (c) of the Code. However, in order to reflect the debt of Uttam Galva Metallics Limited and Shilpi Cable Technologies Limited, Macquarie Bank filed its own Certificates under Section 9 (3) (c) of the Code, which reflected that no payment from the debtors had been received.

Although, the NCLT allowed the Application filed by Macquarie Bank under Section 9 of the Code in the case against Shilpi Cable Technologies Limited, however, Macquarie Bank's Application under Section 9 of the Code against Uttam Galva Metallics Limited was rejected by the NCLT. The NCLT rejected Macquarie Bank's Application initiating insolvency proceedings against Uttam Galva Metallics Limited on the ground that the filing of the Certificate under section 9 (3) (c) of the Code is a mandatory requirement and Macquarie Bank having failed to file the said certificate along with its Application cannot be allowed to initiate insolvency proceedings against Uttam Galva Metallics Limited.

In view of the above, subsequent appeals were filed before the National Company Law Appellate Tribunal ("NCLAT") in both the Uttam Galva Metallics Limited and Shilpi Cable Technologies Limited. In both the Appeals the NCLAT held as follows:

(a) That Macquarie Bank was not a Financial Institution within the meaning of the Code and thus the Certificate filed by it is not in terms of the requirement under Section 9 (3) (c) of the Code. The said requirement being mandatory in nature, an Application in absence of the Certificate is not maintainable by Macquarie Bank and as such deserved to be dismissed; and

(b) That the Advocate/lawyer, a Chartered Accountant or a Company Secretary or any other person in absence of any authority by the Operational Creditor and since such person do not hold any position with or in relation to the Operational Creditor, cannot issue the Demand Notice under Section 8 of the Code.

In relation to the point (a) above, the NCLAT heavily relied upon its Order passed in the case of Smart Timing Steel Limited Vs. National Steel and Agro Industries Limited ("Smart Timing Case"). In the said Order, the NCLAT had held that the requirement of filing a Certificate under Section 9 (3) (c) of the Code is a mandatory requirement. An appeal against the judgment passed by the NCLAT in Smart Timing Case was also filed before the Supreme Court, however, the Supreme Court refused to interfere with NCLAT's judgment and dismissed the said appeal.

Therefore, aggrieved by the Orders of the NCLAT in both the cases of Uttam Galva Metallics Limited and Shilpi Cable Technologies Limited, Macquarie Bank approached Supreme Court by filing Civil Appeals under the Code. Macquarie Bank submitted before the Supreme Court that the NCLAT, vide its Orders against Macquarie Bank, has failed to implement the true legislative intent behind the passing of the Code as the Orders by NCLAT are rendering the Appellant (Macquarie Bank) remediless under the Code, which is not the intention of the legislature behind the Code. It was further submitted on behalf of Macquarie Bank that the requirement under Section 9 (3) (c) of the Code is a mere procedural one as the same is only required to prove the existence of debt which can be proved in so many other ways, including providing a certificate from the bank (and not necessarily a Financial Institution under the Code) maintaining the account of the Operational Creditor, reflecting that no payment was made by the debtor.

Further, Macquarie Bank also submitted that the Code is silent and nowhere states that Advocates cannot issue the Demand Notice under Section 8 of the Code. It was submitted on behalf of Macquarie Bank that the Advocate duly represented by the Operational Creditor shall have a "position in relation to" the Operational Creditor and therefore can be authorized to issue the Demand Notice under Section 8 of the Code on behalf of the Operational Creditor.

The submissions of Uttam Galva Metallics Limited and Shilpi Cable Technologies Limited before the Supreme Court were primarily limited to the precedent set in the Smart Timing Case and the use of the word "shall" with respect to the requirement of filing the Certificate under Section 9 (3) (c) of the Code.

After hearing both the parties, the Supreme Court passed its judgment and settled the legal position and held that the filing of Certificate under Section 9 (3) (c) of the Code is not a pre-requisite to trigger insolvency proceedings under the Code. The Court held that the filing of the Certificate under Section 9 (3) (c) of the Code is a procedural requirement and is directory in nature. The Court further held that the Demand Notices filed by Advocates under Section 8 of the Code are valid and in order.

Through this judgment the Supreme Court has implemented the true legislative intent behind the Code and has enabled the Operational Creditors, especially the foreign Operational Creditors, to initiate insolvency Proceedings against their debtors without being restricted by procedural requirements that are not mandatory in nature. This judgment, is thus, a huge respite especially for the foreign Operational Creditors who do not have an account with a Financial Institution within the meaning of the Code, as now they are not restricted by the said requirement to initiate insolvency proceedings under the Code.

For any clarification or further information, please contact

Mustafa Motiwala
Partner
E: mustafa.motiwala@clasislaw.com

Pragya Nalwa
Associate
E: pragya.nalwa@clasislaw.com

Legal Alerts

NCLT dismisses the application filed against an operational debtor on account of existing dispute between the parties

Recently, the National Company Law Tribunal, New Delhi Principal Bench (NCLT) while deciding the application filed by a creditor against an operational debtor under section 9 of the Insolvency and Bankruptcy Code (the **"Code"**) *in Sky RMC Plants Private Limited vs. Ahluwalia Contracts (India) Limited [(IB) – 103 (PB)/2018]*, passed an order dated February 1, 2018, wherein, it has held that filing of a suit by the operational creditor itself against the corporate debtor, prior to initiating corporate insolvency resolution process under the Code, amounts to "*existence of dispute*" for the purposes of Section 8(2)(a) of the Code. Accordingly, the NCLT dismissed the application filed by the operational creditor against the corporate debtor under Section 9(5)(ii)(d) of the Code.

The facts leading to the present application reflect that an application was filed under Section 9 of the Code to trigger corporate insolvency resolution process. A statutory notice was issued to the corporate debtor on September 15, 2017 under Section 8 of the Code which was objected by the operational debtor on September 26, 2017 on the grounds that the applicant had already filed a commercial summary suit in the Hon'ble Bombay High Court on February 22, 2017 in the same matter, which was at first rejected by the Hon'ble High Court on June 19, 2017 on the grounds of non-removal of defects, and was subsequently restored on August 4, 2017. It is pertinent to mention here that the suit was restored prior to the issuance of the statutory notice issued by the Applicant.

After hearing the parties, the NCLT observed that the Code has debarred the entertainment of any application of an operational creditor where a dispute in the form of suit or arbitration is pending. Further, after perusing Section 8 (2) (a) of the Code, the NCLT observed that it has not been disputed that a suit has been filed and is pending before the Hon'ble Bombay High Court in which various orders have been passed. The notice has been duly responded within ten days and the objections have been raised with regard to the dispute pending in the form of suit before the Hon'ble Bombay High Court.

Accordingly, the NCLT dismissed the application under Section 9(5)(ii)(d) of the Code, by holding that if a notice of dispute has been received by the operational creditor or if there is a record of dispute in the information utility in the form of a pending suit filed by the operational creditor against the corporate debtor prior to the issuance of statutory notice, the operational creditor cannot pursue the corporate insolvency resolution process against the debtor.

Although this judgment upholds the provisions of the Code, it certainly clarifies that the words used in Section 8 of the Code, i.e. "*existence of a dispute, if any, and record of the pendency of the suit or arbitration proceedings filed before the receipt of such notice or invoice in relation to such dispute*" also includes the suit filed by the operational creditor itself, and as such, an operational creditor cannot pursue both the legal remedies against the corporate debtor, which is again contrary to the settled erstwhile law in relation to winding up of companies under the Companies Act, 1956, where a suit and a winding up proceeding could be pursued simultaneously.

Corporate and Commercial

Online Filing System for Offer Documents, Schemes of Arrangement, Takeovers and Buy backs

On January 19, 2018, SEBI, in order to facilitate ease of operations in terms of seeking observations on draft offer documents, draft letter of offers and draft schemes of arrangement under SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009, SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 and SEBI (Buy Back of Securities) Regulations, 1998 and various circulars issued thereunder, has introduced an online system for filings related to public issues, rights issues, institutional placement programme, schemes of arrangement, takeovers and buy backs. The simultaneous filing of documents i.e. physical and online shall start from February 1, 2018 and continue till March 31, 2018. Thereafter, from April 1, 2018 physical filing of the aforesaid documents shall be discontinued and only online filing will be accepted.

Ministry of Corporate Affairs notifies certain sections of the Companies Amendment Act, 2017

On January 23, 2018, the Ministry of Corporate Affairs released a circular appointing, January 26, 2018 as the date on which the provisions of section 1 and section 4 of the Companies Amendment Act, 2017 shall come into force.

Section 1 is the short title and the commencement of the Companies (Amendment) Act, 2017 whereas the notified amendment in Section 4(5)(i) is as under:

"*Upon receipt of an application under sub-section (4), the Registrar may, on the basis of information and documents furnished along with the application,* ***reserve the name for a period of twenty days from the date of approval*** *or such other period as may be prescribed:*

Provided that in case of an application for reservation of name or for change of its name by an existing company, ***the Registrar may reserve the name for a period of sixty days from the date of approval***."

Companies (Registered Valuer's and Valuation) (Amendment) Rules 2018

On February 9, 2018, the Ministry of Corporate Affairs ("MCA") notified the Companies (Registered Valuer's and Valuation) (Amendment) Rules 2018, which amend Rule 11 on 'transitional arrangement'. By way of this amendment, persons who were rendering valuation services on the date of commencement of the original rules can now continue to do so without registration under the rules up to September 30, 2018.

Notification of sections of the Companies (Amendment) Act 2017

On February 9, 2018, the MCA issued a notification notifying certain sections of the Companies (Amendment) Act 2017 and appointing February 9, 2018 as the date on which the provisions of the said act shall come into force. The amendments to the notified sections, amongst others, relate to, the definitions clause, the authentication of a document by an officer or employee of a company, the civil liability for mis-statements in a prospectus, voting rights, prohibition on issue of shares on a discount, further issue of share capital, convening of an extra ordinary board meeting, notice of a meeting, postal ballot, declaration of dividend, eligibility and qualifications of auditors, powers and duties of auditor and auditing standards, appointment of directors, application for allotment of DIN, number of directorships, restriction on powers of the board, disclosure of interest by a director and related party transactions.

SEBI issues a circular on Electronic book mechanism for issuance of securities on private placement basis

On January 5, 2018, SEBI issued the revised guidelines for the Electronic Book Mechanism for issuance of debt securities on private placement basis. Electronic book mechanism is a process carried out through a web based portal for online bidding of private placement of debt securities which are proposed to be listed on exchanges. The revisions made to the existing framework are aimed at further streamlining the procedure for private placement of debt securities, allowing private placement of other classes of securities which are in the nature of debt securities and enhancing transparency in the issuance, resulting in better discovery of price. The revised guidelines for the Electronic Book Mechanism shall come in to force with effect from April 1, 2018.

Easing of Access Norms for investment by FPIs

On February 15, 2018, the Securities and Exchange Board of India ("**SEBI**") in consultation with stakeholders has decided to make following changes in extant regulatory provisions to ease the access norms for investment by Foreign Portfolio Investors (FPIs):

a) Discontinuance of requirements for seeking prior approval from SEBI in case of change in local custodian/ Designated Depository Participant (DDP);

b) Rationalization of procedure for submission of PCC/MCV Declarations and Undertakings (D&U) and Investor grouping requirement at the time of continuance of registration of FPIs;

c) Placing reliance on due diligence carried out by erstwhile DDP at the time of change of Custodian/ DDP of FPIs;

d) Exemption to FPIs having Multiple Investment Managers (MIM) structure from seeking prior approval from SEBI in case of Free of Cost (FOC) transfer of assets;

e) Simplification of process for addition of share class;

f) Permitting FPIs operating under the Multiple Investment Managers (MIM) structure to appoint multiple custodians;

g) Permitting appropriately regulated Private Bank/ Merchant Bank to invest on their behalf and also on behalf of their clients;

h) The facility of granting conditional registration shall also be extended to existing funds, proposing to convert as India dedicated funds. However, existing India dedicated funds will be given time of 90 days to achieve 'broad based status'.

Bills approved by the Union Parliament in a major policy initiative to protect the savings of the investors

The Union Cabinet on February 20, 2018, has given its approval to introduce the following bills in the Parliament:-

a) **Banning of Unregulated Deposit Schemes Bill, 2018** – this Bill is aimed at tackling the menace of illicit deposit taking activities in the country. Companies/ institutions running such schemes exploit existing regulatory gaps and lack of strict administrative measures to dupe poor and gullible people of their hard-earned savings; and

b) **Chit Funds (Amendment) Bill, 2018** - in order to facilitate orderly growth of the Chit Funds sector and remove bottlenecks being faced by the Chit Funds industry, thereby enabling greater financial access of people to other financial products, certain amendments to the Chit Funds Act, 1982 have been proposed.

Projects, Energy and Natural Resources

Virgin Hyperloop sets eye on Connecting Mumbai to Pune

India might be the first market for Hyperloop One after the Maharashtra Government signed a Memorandum of Understanding with Richard Branson to begin the development of the Mumbai-Pune route. Chairman of Virgin Hyperloop One, Richard Branson, has promised to connect Mumbai to Pune in 25mins or less in the next five to seven years. The said project has estimated revenue of $55 billion in the first thirty years of operation and will also result in reduced levels of greenhouse emissions. Hyperloop One has taken keen interest in the Indian Market and is set to decide on a detailed framework on other aspects like engineering, Public Private Partnership etc. in the next six months.

India signs six MoUs with Palestine

India has signed six MoUs with Palestine worth USD 40 Million this month when Prime Minister Narendra Modi visited Ramallah, being the first Indian Prime Minister to visit Ramallah in 30years. The six MoUs, each for a separate project, would result in infrastructural development of Palestine. The most important infrastructure project being the construction of Indo-Palestine Super-speciality hospital at Beit Sahour in Bethelhem Governorate at a cost of USD 30 million. The other MoUs results in the construction of Turathi, an India Palestine centre for empowering women; Construction of a new National Printing press at Ramallah; Construction of a school in Muthalth Al Shuhada Village; Construction of school in Tamoon village in Tubas Governorate in Palestine and Construction of an additional floor to Jawaharlal Nehru for Boys at Abu Dees.

Emirates Group to support Andhra Pradesh in the field of Aviation

Emirates Group has entered into a Memorandum of Understanding with Andhra Pradesh to support the state in Infrastructural development in the field of Aviation. Under the initial agreement, Emirates Group will exercise it's expertise in aviation and try to recognise investment and development opportunities available. The collaboration between the State and Emirates is expected to be a big boost to the infrastructural development of the State and consequently result in the economic and industrial growth of India.

Animal Passage plan mandatory for Infrastructure Projects

The standing committee, headed by environment minister Harsh Vardhan, made it mandatory for all Infrastructure projects passing through protected areas and notified eco sensitive zone to have an Animal Passage Plan vide its decision on 25th January 2018. The implementing agencies would be under obligation to have a plan to ensure the safe movement of wild animals and allocate funds for the purpose of constructing such safe passage ways. Prior to this, implementing agencies were to follow the guidelines framed by Wildlife Institute of India but the same were not obligatory in nature. Earlier, implementing agencies would avoid making an Animal Passage plan to cut down on cost but now they would be under obligation to do the same. This would result in fewer litigation and better protection of wildlife.

Home Ministry sanctions 370crs for Border Infrastructure

The Home Ministry has allocated almost 370crs to Border Security Force (BSF) and Indo-Tibetan Border Police Force (ITBP) for construction of Border Infrastructure. The allocated amount would be utilised in the construction of bunkers and special climate control huts in the forward areas among other things.

IP Updates

Sweet relief for Ferrero Rocher

This is pertaining to a suit filed in the Delhi High Court by Ferrero SpA. & Anr., (together the "**Plaintiffs**") against Piyush Devangan & Ors. (together the "**Defendants**") seeking a decree of permanent injunction against the Defendants from selling chocolates under the mark/name "D-Lizie" which are lookalikes of the Plaintiffs' "Ferrero Rocher" chocolate specialities. It came to the knowledge of the Plaintiffs that the Defendants are manufacturing and selling lookalikes of the Plaintiffs' Ferrero Rocher chocolates specialities under the name D-Lizie and thereby violating the statutory and common rights of the Plaintiffs in India. The Plaintiffs submitted that the manufacturing, selling and dealing in the impugned chocolate infringes the Plaintiffs' registered trademark as the Defendants have not only copied the trade dress but have also copied the overall get up and unique aspects of packaging of the Plaintiffs' Ferrero Rocher. The Plaintiffs state that the Plaintiffs' chocolates "Ferrero Rocher" are sold at a worldwide level and are amongst the best known confectionary products in the world with an annual sales turnover of nearly one billion US dollars and in excess of 1130 crores as the sales turnover in India for the years 2008 to 2013. Further, consumers are able to identify and recognise the products of the Plaintiffs from a distance due to the distinct and stunning packaging style of Ferrero Rocher which is unique. The Plaintiffs' trademark and the trade dress of Ferrero Rocher are well known and have been using by the Plaintiffs for several decades. The Plaintiffs also stated that Plaintiffs' Ferrero Rocher trademarks and trade dress have acquired a "well known status" across the globe including India. The Plaintiffs have listed some unique elements of the Ferrero Rocher chocolates before the Court, such as, the rounded crushed sold wrappers, a white sticker on individual products, each chocolate resting in a fluted brown coloured cupcake shape holder, unique shape and packaging of the transparent box with soft round edges etc.

The Plaintiffs further states that the Plaintiffs spend millions of dollars worldwide, including in India, for the promotion and publicity of Ferrero Rocher under the trade dress and Ferrero Rocher's trademarks. In support of this contention, the Plaintiffs relied on the judgment passed by the Delhi High Court in the case of Ferrero SpA & Anr. Vs. Raj Baid & Ors. In this judgment based on the submissions of the Plaintiffs, the court held that the Plaintiffs are the registered proprietor of the trademark Ferrero Rocher which is one of the 4 biggest confectionary producers worldwide and is ranked amongst the top 50 most reputable companies in the world. Further the Plaintiffs had placed reliance on several evidences suggesting the Plaintiffs' right in the Ferrero Rocher trademarks and trade dress by several foreign courts, global presence of the Plaintiffs' trademark on the internet denoting the goodwill and reputation of the Plaintiffs. The Delhi High Court in the aforementioned matter held that:

> "*The plaintiffs have also established that they have acquired the status of "well known mark" by virtue of various factors such as use of its trade mark and trade dress since as long back as 1982 and its subsequent registration, its wide-spread business across numerous countries, the immense goodwill and reputation acquired by it around the world, the wide scale advertising and promotional activities carried out by plaintiff and its massive turnover on annual basis.*
>
> *This Court is of the view that the plaintiffs have proved beyond doubt that the plaintiff is the registered proprietor of the trademark FERRERO ROCHER as well the trade dress and hence the plaintiffs have the exclusive right to use the trademark including trade dress of FERRERO ROCHER.*"

The Delhi High Court relying on the evidence submitted by the Plaintiffs in the present matter observed that it is a clear case of infringement of the statutory and common rights of the Plaintiffs in relation to the Plaintiffs' Ferrero Rocher trademarks and trade dress. The Delhi High Court vide its order dated 22nd January, 2018 disposed the suit by passing a decree in favour of the Plaintiffs and against the Defendants with cost.

IJPL mark is violation of IPL trade mark –Relief to BCCI

This is pertaining to an ad-interim application filed in the Bombay High Court by the Board of Control for Cricket in India (the "**Plaintiff**") against Grace India Sports Private Limited (the "**Defendant**") seeking a decree of injunction against the Defendant from restraining the Defendant from infringing the Plaintiff's registered trade mark IPL, IPLTwenty20, by use of the impugned trade marks IJPL, IJPL T20 and the impugned domain names/ websites www.ijplt20.com, www.juniorsipl.com and www.ijplth.com in respect of the similar services and/or goods as those the Plaintiff has secured registrations. Further, the Plaintiff sought an ad-interim order that the Defendant is restrained from promoting the impugned services and/or impugned goods trade marks IJPL, IJPL T20 in any medium including through its websites with the domain names www.ijplt20.com, www.juniorsipl.com and www.ijplth.com.

The Plaintiff is the apex governing body for cricket in India and the Defendant claimed to be organising similar services as the Plaintiff viz. cricket talent hunts/cricket camps and cricket tournaments under the trade mark IJPL, IJPL T20 and domain names / websites www.ijplt20.com, www.juniorsipl.com and www.ijplth.com.

The Plaintiff submitted that the Plaintiff has designed and adopted logos comprising a batsman swinging a bat as if hitting a ball, a semi-circular arc suggesting movement or path of the bat, with the expressions IPL and Indian Premier League with the word and the numeral TWENTY 20 in connection to a unique concept of cricket matches wherein opposing teams play matches of 20 overs each. The Plaintiff submitted that the logos as a whole and in their entirety are unique, novel, catchy and attractive. The Plaintiff has been using the trade marks IPL, Indian Premier League, IPLT20 and IPL Twenty 20 in relation to the tournament and goods and services associated and the marks are registered trademarks in the name of the Plaintiff. It was further submitted that the "Indian Premier League Twenty 20" whose inaugural event was held on April 18, 2008 in Bangalore has received the sanction of the International Cricket Council. The Plaintiff had commenced promoting and publicising the event even prior to the inaugural event, both in India as well as abroad and by the time of the inaugural event, the trademarks of the Plaintiff was already popular. Further, the sponsors and franchisees had spent a huge amount of money in excess of several crores of rupees which led to tremendous publicity and hype in respect of the tournament and the Plaintiff has also earned substantial income. The Plaintiff has also registered its trade marks in other jurisdictions and operates a domain name/website www.iplt20.com in relation to its tournaments. The Plaintiff's aforesaid trade marks have acquired the status of "well-known trade marks.

The Plaintiff has various occasions asked the Defendant to stop violating the marks of the Plaintiff and also sent cease and desist notices to the Defendant in this regard when it came to their knowledge that the Defendant has been using the marks which are identical and similar to the marks of the Plaintiff. The use of the marks by the Defendant which are identical to the Plaintiff's marks are quite evident form many media publications which have been used by the Defendant to promote their tournaments.

Upon analysing the facts, the Bombay High Court prima facie held that the Defendant's impugned trade mark IJPL contains the whole of the Plaintiff's registered trade mark IPL and that the rival services/activities are also same or similar. The Hon'ble Court granted ad-interim reliefs to the Plaintiff vide its order dated January 16, 2018 stating that the Plaintiff had made a strong prima facie case for grant of reliefs for infringement of trade mark and passing off, and denial of reliefs would cause the Plaintiff irreparable injury.

Recent Events

Knowledge session on Efficient Dispute Resolution hosted by Clasis Law
13th February 2018, Mumbai

Clasis Law hosted a roundtable on efficient dispute Resolution in a rapidly evolving business environment: Why arbitrate in Singapore, and how will any award be enforced in India? in the Mumbai office on February 13, 2018. Mr Mustafa Motiwala, Head of Mumbai office and Litigation and Disputes Resolution practice and Ms Sapna Jhangiani, Partner, Clyde & Co., Singapore are the speakers in the event. Sapna gave a very informative and elaborate presentation about SIAC arbitrations and its rules. Mustafa spoke about enforcement of foreign awards in India and various strategies relating to the same. The event was attended by select clients and was followed by Q&A and interactions based on live cases of the audience.

Offbeat

Interesting Facts

A Floating Post Office

Set in a huge houseboat against the snow-clad mountains on the beautiful Dal Lake in Srinagar, India's first and only floating post office is also believed to the be the only one of its kind in the world!

90% of the world's fresh water is in Antarctica

The Antarctic ice sheet holds about 90% of the fresh water that is present on the planet's surface, according to the British Antarctic Survey. The interior of the continent is extremely dry with only small amounts of annual snowfall, making much of Antarctica a desert.

Mawsynram, The wettest place in the World

Mawsynram, a village on the Khasi Hills, Meghalaya, receives the highest recorded average rainfall in the world with an annual rainfall of 11,871 millimeters.

Amazon

The Amazon rainforest produces more than 20% the world's oxygen supply. The Amazon River pushes so much water into the Atlantic Ocean that, more than one hundred miles at sea off the mouth of the river, one can dip fresh water out of the ocean.

The highest cricket ground in the world

At an altitude of 2,444 meters (8,018 ft) and surrounded by thick forests of deodar, the Chail Cricket Ground in Chail, Himachal Pradesh, is the highest in the world. It was built in 1893 and is a part of the Chail Military School.

Squirrels

Squirrels plant thousands of new trees each year simply by forgetting where they put their acorns.

New Delhi
14th Floor
Dr. Gopal Das Bhawan
28, Barakhamba Road
New Delhi 110 001
T: +91 11 4213 0000
F: +91 11 4213 0099

Mumbai
1st Floor, Bajaj Bhawan
226, Nariman Point
Mumbai 400 021
T: +91 22 49100000
F: +91 22 49100099

info@clasislaw.com
www.clasislaw.com