



# CLASIS LAW

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## Notable Recognitions & Accolades



ASIA-PACIFIC 2021



Third Edition of our annual e-book on  
“Doing Business in India” 2021  
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# THE CLASIS LAW PODCAST

**We are live on  
Spotify!**

Yes, you heard it right, we have launched our podcast channel "The Clasis Law Podcast" wherein we discuss about the latest and trending legal issues and a lot more.

So, stay tuned to our channel and don't forget to follow the channel "The Clasis Law Podcast".



**Latest Episode**

**Episode - 9**

**Privatization of Bharat Petroleum Corporation (BPCL)**

## **Other Episodes**

1. [Let's Talk About Mental Health](#)
2. [Holiday Binge](#)
3. [An introduction to the Drone Rules, 2021 in India](#)
4. [Introduction to IPO – Part 2](#)
5. [Introduction to copyrights: a musicians perspective](#)
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# THE UNION BUDGET 2022 KEY HIGHLIGHTS



The Union Budget for 2022-23 was presented on 1 February 2022 by Mrs. Nirmala Sitharaman, the Hon'ble Finance Minister of India. The Hon'ble Finance Minister made some key policy announcements, such as reducing timelines for corporate exits, introduction of a new legislation to repeal existing laws related to Special Economic Zones (SEZ), reviewing the regulatory framework for private equity investors, etc. and conveyed that this year's budget seeks to lay the foundation and give a blueprint of the economy of India over Amrit Kal of the forthcoming 25(twenty-five) years.

The Hon'ble Finance Minister laid down the four priorities of the budget which are PM Gati Shakti; inclusive development; productivity enhancement and investment, sunrise opportunities, energy transition and climate action; and financing of investments, which are the key sectors benefitting from this year's budget.

In light of the budget presented, we have highlighted the key changes, which are summarized as below:

## **(1) Ease of Doing Business**

- The next phase of Ease of Doing Business (EODB 2.0) and Ease of Living will be launched.
- Several IT-based systems have been established which will accelerate the registration of new companies in India.
- The Centre for Processing Accelerated Corporate Exit (C-PACE) with process re-engineering will be established to facilitate and speed up the voluntary winding-up, wherein the timelines for voluntary exit for corporates would be cut down to 6 (six) months from 2 (two) years. This is likely to provide a relief to corporates seeking voluntary winding up of businesses.

# THE UNION BUDGET 2022

## KEY HIGHLIGHTS

- This phase will involve active involvement of the states, digitization of manual processes and interventions, integration of the central and state-level systems through IT bridges, a single point access for all citizen-centric services and the overlapping compliances will be removed and standardization will be adopted.
- A new legislation would be introduced to repeal the Special Economic Zones Act. The new legislation would enable states in collaborating and becoming development centers and reforms in customer administration of the SEZ will be undertaken, which will ease doing business by SEZ and will be implemented this year only in end of September.

### **(2) Defense**

- In order to reduce the imports in the equipment for armed forces, the government has taken an initiative to earmark 68% of the capital procurement budget for the domestic industry in this year's budget, which was reserved to 58% in the previous year. This is line with the commitment of the Government to reduce dependence on imports and promote 'AtmaNirbharta' (self-reliance) in defence equipment for the Armed Forces.
- Private industry will be encouraged to take up design and development of military platforms and equipment in collaboration with Defence Research and Development Organization (DRDO) and other organizations through Special Purchase Vehicle (SPV) model.

### **(3) Sunrise Opportunities**

- Government contribution will be provided in sunrise opportunities, which include Artificial Intelligence, Geospatial Systems and Drones, Semiconductor and its eco-system, Space Economy, Genomics and Pharmaceuticals, Green Energy, and Clean Mobility Systems, that will provide for modernization of the country and contribute to sustainable development, employment opportunities for youth and make India initiative.

### **(4) Housing**

- The Central Government will work with the State Governments for reduction of time required for all land and construction related approvals, in order to promote affordable housing for middle class and economically weaker sections in urban areas.
- The Government will also work with the financial sector regulators to expand access to capital along with reduction in cost of intermediation.

### **(5) Infrastructure and Manufacturing**

- The contracts for implementation of the multi-modal Logistics parks at four different locations vide the PPP mode (Public Private Project) to be awarded in 2022-23.
- 'PM Gati Shakti' masterplan for expressways will be formulated and 100 (one hundred) PM GatiShakti Cargo Terminals for multi-modal logistics will be set up in the next 3 (three) years. The focus is on the modernization of infrastructure over the medium term, leveraging tech platforms of Gati Shakti via multi-modal approach.

# THE UNION BUDGET 2022

## KEY HIGHLIGHTS

- Data Centres and Energy Storage Systems including dense charging infrastructure and grid-scale battery systems will be included in the harmonized list of infrastructure. This is likely to enable priority financing for these sectors.
- 400 (four hundred) new generation 'Vande Bharat' trains will be developed and manufactured in the next 3 (three) years.
- For the safety and capacity augmentation, 2,000 kms of rail network to be brought under indigenous world-class technology Kavach.
- In 2022-23, the National Highway network to be expanded by 25,000 kms which is likely to cost INR 200 billion.

### **(6) Taxation**

- Corporate surcharge shall be reduced to 7% from 12% on co-operative societies for those having a total income of more than INR 10 Million and upto INR 100 Million.
- Alternate Minimum Tax (AMT) reduced to 15% for co-operative societies from 18.5%.
- A concessional tax regime of 15% tax was introduced earlier for newly incorporated domestic manufacturing companies. The last date for commencement of manufacturing or production under this regime will be extended by one year i.e. from 31 March 2023 to 31 March 2024.
- Income of a non-resident from off-shore derivative instruments, or over the counter derivatives issued by an off-shore banking unit, income from royalty and interest on account of lease of ship and income received from portfolio management services in Indian Financial System Code shall be exempted from income tax, subject to specified conditions.
- Tax on transfer of virtual digital assets such to be taxed at 30% along with no deductions allowed except the cost of acquisition of virtual digital assets. Loss on sale of digital assets cannot be set off against any other income. TDS at 1% will be levied on transaction above the threshold. Gifting of the virtual digital assets will also carry a tax liability at the hands of the receiver.
- Surcharge on Long Term Capital Gain (LTCG) arising on transfer of any type of assets to be capped at 15%.

### **(7) Start-ups**

- Eligible Start-ups established before 31st March 2022 had been provided a tax incentive of 3 (three) consecutive years out of 10 (ten) years from incorporation. The period of incorporation of the eligible start-up will be extended by 1 (one) more year i.e. upto 31st march 2023 for providing such tax incentive.
- The announcement of drone Shakti is viewed as the renewed focus of the Government into emerging industry trends and technology. The focus has been placed on start-ups to facilitate promotion of drone Shakti through services and Drone-As-A-Service (DrAAS), to enable introduction in select Industrial training institutes (ITI's), in all states, where the required courses for skilling will be taught.
- In order to reduce the imports in the equipment in the defence sector, the government has taken an initiative to give a boost to the private sector for developing military solutions by allotting 25% of the annual research and development budget for private companies and start-ups.



# THE UNION BUDGET 2022

## KEY HIGHLIGHTS

### (8) Electric Vehicles

- Battery swapping policy to permit Electric Vehicle (EV) charging stations for automobiles to be framed. This is done for the development of the EV infrastructure and to increase the usage of EV technology in public transportation and will open up new avenues for companies to grow and enter the business of battery swapping and eventually create special clean zones.
- For the purpose of improving the efficiency in the EV ecosystem, private sector will be pushed to create sustainable and innovative business models for 'Battery or Energy as a Service'.

### (9) Telecom

- Spectrum auctions will be conducted for the rollout of 5G in 2022.
- Fiber optical contracts in villages to be awarded under 'BharatNet' project under public-private mode in 2022-23 and to be completed by 2025, wherein measures will be taken to enable better and more efficient use of the optical fiber.

### (10) Others

- Reserve Bank of India will launch its blockchain-based Central Bank Digital Currency (CBDC) in 2022-23.
- Necessary amendments in the Insolvency and Bankruptcy Code will be carried out to enhance the efficiency of the resolution process and facilitate cross border insolvency.
- An expert committee will be set up to examine and suggest appropriate measures regarding regulatory and other aspects of Venture Capital and Private Equity Players.
- Allocation of additional funds in the tune of INR 195 Billion for the Production Linked Incentives (PLI) for manufacturing high efficiency solar modules will be made.
- World-Class foreign universities and institutions will be allowed in the Gujrat International Finance Tec-City (GIFT City) to offer courses in financial management, Fintech, science, technology, engineering and mathematics. These universities will be free from domestic regulations, except those by International Finance Services Centres Authority (IFSCA)
- An international Arbitration Centre will be set up in the GIFT City for timely settlement of disputes under the international jurisprudence.



# GUEST ARTICLE



## A Brief Review of Indian Space Law

*By - Ms. Nandini Nagar,  
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### Introduction

The Indian government is beginning to see the possibility of putting India on the world map as regards the international space regime. Since the year 1962, the Indian government has had exclusive control over the Indian space programme even though there have been several proposals and requisitions by the private sector players to allow the said programme to be opened up to them. Although, apparently the Indian government is now developing a favourable vision toward privatization of the space industry, the said privatization is supposed to be backed by an exhaustive and robust legal framework. The present circumstance has drawn attention from the legal and scientific fraternity to the absence of a regime which would sanction privatization of the space industry. Accordingly, this article intends to briefly discuss the existent legal framework on space law in India and how the upcoming privatization and commercialization of the space industry requires to be backed by an exhaustive and robust legal regime.

### Current framework

The Indian legislature needs to step up and make room for a legal regime dedicated to space, space travel, exploration, research and development thereby laying down the law with regard to launch of satellites, orbital slots etc. India is not only lacking such a law but is also under an obligation to enact laws which are drafted in accordance with the international protocols as set up by the United Nations to which India is a member state. Proposals and sincere deliberations by the Indian government toward commercialization of the space industry have further augmented this necessity. India is a member state to most of the significant international treaties on space. Some of them being *Outer Space Treaty*, *the Rescue Agreement*, *the Liability Convention*, *the Registration Convention* and *the Moon Treaty*. Hence, it is fairly apparent that for commercialization and privatization of the Indian space industry to take place, having a legal framework that is in perfect alignment with the said international treaties is a pre-condition. In the recent past, certain companies whose eyes are set on space activities have emerged in the space exploration ecosystem. In spite of such ventures coming into existence, there is material uncertainty to the relevance of their operation on account of the absence of a spatial legal framework. Even though India has a Space Commission which serves as a driving force for drafting policies and there is DOS [which came into existence by the virtue of Government of India (allocation of business) Rules, 1961 as amended from time to time] which is in charge of implementation of such policies, research and development lies entirely with **ISRO [Indian Space Research Organization]**. Such a state of affairs presents a very deficient scope for private sector intervention and resultant productivity.

# GUEST ARTICLE

As a response to this deficiency, DOS has formulated certain draft policies pertaining to remote sensing, satellite navigation, space-based communication, space transportation, technology transfer guidelines and humans in space. Such policies are still impending for a response from various stakeholders since 2020. In conjunction to the said policies, a more concrete step that has manifested itself in the form of the Space Activities Bill, 2017 is as on date, under consideration by the Indian government as has been stated by the Union Minister Jitendra Singh in the monsoon session. In essence, the broad vision behind the Bill is twofold. Primarily, it is likely to focus on identification of legal purposes of space exploration [being a peaceful purpose and a purpose in the interest of national security] and secondarily, it is likely to necessitate Indian government to draft broader policies on space exploration. A cursory view of the Bill makes it abundantly clear that the rationale behind the Bill is to strike the perfect balance between commercialization of the space sector and governmental regulation. When viewed intricately, it seems that the objectives are realization of spacecraft and its application upon technology that may be of utility on earth, identification of launch vehicles/facilities and realization of space applications for national ground infrastructure innovation.

It is noteworthy that the said Bill is not the opening step toward space industry commercialization. The Indian National Space Promotion and Authorization Centre (IN-Space) was made as an independent nodal agency under the Department of Space to promote, handhold, license, authorise and monitor private space activities in India. Access to Department of Space facilities and expertise has been extended to private players to support their space activities which in its own right, a monumental step toward the long pending privatization.

Even though there is a concrete legislation in the pipeline, the Indian private space companies have their own set of apprehensions with regard to several aspects. For instance, as on date DOS and ISRO have no standard set of agreements enabling collaboration with such private players. Hence, such negotiations are likely to be highly volatile.

## Conclusion

It is evident that Indian private sector players, scientific and legal fraternity and population at large are in anticipation of the Space Activities Bill, 2017 transcending into an Act thereby changing the course of history of Indian space exploration that has come a long way since the year 1962. The enactment of the said Bill will not only ensure commercialization and privatization of the Indian space industry and intensify acceleration of scientific/space research but will also allow India to fulfill its obligation of having a municipal law in adherence of the international space treaties it is a party to. It is remarkable that since it is the Model Law on National Space Legislation as formulated by the International Law Association that elaborates upon obligations of the member states under the United Nations treaties on outer space, the Department of Space studied the same intricately based upon which the Space Activities Bill, 2017 was adequately customized. Hence, India's space exploration endeavours are likely to be in perfect alignment with international space protocols in conjunction with playing a pivotal and unique role in national development and governance.

**Disclaimer** - *The views expressed here are of the author alone and readers should not act on the basis of this information without seeking professional legal advice.*

# LEGAL UPDATE



## Supreme Court clarifies applicability of “neutrality of arbitrators” to arbitrations initiated pre-2015 amendments to the Arbitration Act

### Introduction

In its recent judgment of **Ellora Paper Mills Limited vs The State of Madhya Pradesh(1)**, the Supreme Court of India has clarified that the “neutrality of arbitrators” as ensured by Section 12(5) read with the Seventh Schedule of the Arbitration and Conciliation Act, 2015 (“**Amendment Act**”) is applicable to pre-amendment arbitrations.

### Facts of the Case

The State of Madhya Pradesh (“**Respondent**”) had awarded a tender to Ellora Paper Mills (“**Appellant**”) for the supply of cream wove paper and duplicating paper. A dispute arose between the parties as the Appellant was not paid for almost 90% of its supplies and its consignments were rejected without any justification. On the orders of the High Court the dispute was referred to an Arbitral Tribunal called “Stationery Purchase Committee”, which consisted solely of the officers/employees of the Respondent.

Subsequently, an application was filed by the Appellant before the High Court of Madhya Pradesh under Section 14 read with Section 11 and 15 of the Arbitration and Conciliation Act, 1996 (“**Act**”) seeking termination of the mandate of the Stationery Purchase Committee and the appointment of a new arbitrator. According to the Appellant, the officers constituting the Stationery Purchase Committee being the employees of the Respondent were ineligible to continue as arbitrators in light of Section 12(5) of the Act. The High Court dismissed the application and held that the Amendment Act, 2015, by which Section 12(5) was inserted, came into effect from 23.10.2015 and that it did not apply retrospectively to Arbitral Tribunals constituted prior to that date.

The Appellant challenged the said order of the High Court before the Supreme Court of India. In the appeal before the Supreme Court, the Appellant relied heavily on the judgment of **Jaipur Zila Dugdh Utpadak Sahkari Sangh Limited v. Ajay Sales & Suppliers(2)** to establish that the Arbitral Tribunal had lost its mandate in view of Section 12(5) read with Seventh Schedule of the Act and a new arbitrator ought to be appointed.

In defense, the Respondent stressed on the fact that since the Arbitral Tribunal –Stationary Purchase Committee was constituted prior to the date of coming into effect of the Amendment Act by which Section 12(5) was inserted, the same did not apply retrospectively.

### Observations and Findings

Before examining the validity of the Arbitral Tribunal on the touchstone of Section 12(5) read with Seventh Schedule of the Act, the Apex Court observed that the object behind inserting Section 12(5) and the Seventh Schedule vide the Amendment Act, 2015 was to address the issue of “Neutrality of Arbitrators”.

Reading the provisions of Section 12(5) of the Act, **“notwithstanding any prior agreement to the contrary, any person whose relationship with the parties or counsel or the subject matter of the dispute falls under any of the categories specified in the Seventh Schedule, he shall be ineligible to be appointed as an arbitrator”**, the court held that in the eventuality of an arbitration clause being found foul of the amended provision, the appointment of the arbitrators would be beyond the pale of the arbitration agreement and the court would be free to appoint a suitable arbitrator. The Apex Court clarified that this would be the effect of the non-obstante clause contained in sub-section (5) of Section 12 and the other party cannot insist upon the appointment of arbitrator in terms of the arbitration agreement.



# LEGAL UPDATE

The court relied on the law laid down in **Bharat Broadband Network Limited v. United Telecoms Limited(3)**, **Jaipur Zila Dugdh Utpadak Sahkari Sangh Limited, and Trf Ltd. v. Energo Engineering Projects Ltd(4)**, to dismiss contentions that the amended provisions applied only to Arbitral Tribunals constituted after its coming into effect and that once proceedings had begun a person had no right to approach the High Court under Section 11 of the Act for the appointment of a new arbitrator.

The court also clarified that the ineligibility imposed under Section 12(5) of the Act could be waived only by way of a written agreement arrived at between the parties subsequent to the dispute having arisen.

## Conclusion

Applying the aforesaid principles to the facts of the case, the court held that the officers constituting the Arbitral Tribunal-Stationary Purchase Committee being employees of the Respondent had become ineligible in view of Section 12(5) of the Act. The application of the Appellant seeking termination of the original tribunal and appointment of a new arbitrator is in accordance with law and hence maintainable. Accordingly, the appeal was allowed.

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*(1) Judgment dated January 04, 2022*

*(2) 2021 SCC OnLine SC 730*

*(3) (2019)5 SCC 755*

*(4) (2017) 8 SCC 377*

# JUDGEMENTS

## **In the matter of M/S Marjan Motors Private Limited (“Company”) for non-appointment of Company Secretary**

The Company being an unlisted private limited company with a paid-up capital of INR 419,437,410 failed to appoint a whole-time company secretary within 6 months from the date of casual vacancy, i.e. September 1, 2019 in accordance with Section 203(4) of the Companies Act, 2013. The Company appointed a company secretary on March 1, 2021, thereby contravening the aforesaid provisions for a period of 364 days from March 1, 2020 to February 28, 2021. The Registrar of Companies, Tamil Nadu (“ROC”) after examining the default, passed the adjudication order dated September 30, 2021 and imposed a penalty of INR 500,000 on the Company and INR 414,000 on each director.

The Company and its Directors filed an appeal to the Regional Director, Southern Region (“Regional Director”), against the aforesaid order pleading that the delay had occurred due to unavoidable circumstances and was unintentional.

The Regional Director set aside the order passed by the ROC and reduced the penalty from INR 500,000 to INR 50,000 imposed on the Company and from INR 414,000 to INR 42,000 imposed on each director.

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## **In the matter of M/S Angala Enterprises Limited (“Company”) for non-appointment of Company Secretary**

The Company being an unlisted public limited company with a paid-up capital of INR 84,476,700 failed to appoint a whole-time company secretary within 6 months from the date of casual vacancy, i.e. October 2, 2018 in accordance with Section 203(4) of the Companies Act, 2013. The Company appointed Company Secretary on June 1, 2019, thereby contravened the aforesaid provisions for a period of 61 days from April 1, 2019 to May 31, 2019. The default came to the notice while scrutinising the application for conversion of the Company from public limited company to private limited company. The Registrar of Companies, Tamil Nadu (“ROC”) passed the adjudication order dated November 25, 2021 and imposed a penalty of INR 500,000 on the Company and INR 111,000 on director in default.

The Company and its Directors filed an appeal to the Regional Director, Southern Region (“Regional Director”), against the aforesaid order pleading that the delay had occurred due to unavoidable circumstances and was unintentional.

The Regional Director set aside the order passed by the ROC and reduced the penalty from INR 500,000 to INR 50,000 imposed on the Company and from INR 111,000 to INR 12,000 imposed on the director in default.

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## **In the matter of M/S Tunwal E-Vehicle India Private Limited (“Company”) for non-maintenance of registered office**

In the present case, letters from the Regional Director, North Western region (“Regional Director”), to the Company’s registered office address, for shifting of registered office of the Company from the State of Gujarat to the State of Maharashtra, had been returned by the postal authorities on two occasions with the remarks ‘not delivered addressee moved’. Hence, the Regional Director instructed Registrar of Companies, Gujarat, Dadra & Nagar Haveli (“ROC”) to take necessary action for violation of Section 12 of the Companies Act, 2013. Thereafter the ROC issued adjudication notices on November 17, 2021 and December 23, 2021 to the Company’s registered office address which returned undelivered. Neither any representatives of the Company furnished any reply in response to the adjudication notices nor did they appear for hearing.

Therefore, considering the abovementioned facts of the case, the ROC had reasonable cause to believe that the Company had failed to maintain its registered office as per Section 12 of the Companies Act, 2013 and hence imposed a penalty of INR 100,000 on Company and INR 100,000 on each Director of the Company.

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## **In the matter of M/S Tatva Chintan Pharma Chem Limited (“Company”) for non-compliance of Section 42(6) of the Companies Act, 2013**

The Company approached the Registrar of Companies, Gujarat, Dadra & Nagar Haveli (“ROC”), for adjudication of offence committed under Section 42(6) of Companies Act, 2013 as the Company received the share application money in its general bank account instead of a separate

# JUDGEMENTS

bank account in a scheduled bank. Further, in the application filed with ROC, the Company stated that it had complied with all requirements of Section 62 and Section 42 of the Companies Act, 2013 except opening of a separate bank account with a scheduled bank to receive share application money.

The ROC after considering the following factors namely: (a) The amount of disproportionate gain or unfair advantage, whenever quantifiable, made as a result of default, (b) The amount of loss caused to an investor or group of investors as a result of the default, and (c) The repetitive nature of default imposed a penalty of INR 100,000,000 on Company and INR 2,000,000 on each of its Director.

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**In the matter of Utkal Chamber of Commerce and Industry Limited ("*Company*") for not using the word 'Limited' in the name of the company**

A member of the Company alleged that the Company along with another organization had issued a joint appeal in a full page advertisement wherein the Company's name has been given as 'Utkal

Chamber of Commerce and Industry' without using the word 'Limited' thereby committing a willful violation of the provisions of the Companies Act, 2013 ("**Act**").

The Registrar of Companies-cum-Official Liquidator, Odisha, ("**Adjudicating Officer**") issued show cause notice under Rule 3(3) of the Companies (Adjudication of Penalties) Rules, 2014. and on perusing the complaint and subsequently cross checking the above-mentioned joint appeal, it was discovered that the Company's name was published without the word "Limited". However, one of the directors of the Company contended that the matter was never brought before the Board of Directors for discussion for which he should not be responsible for any violation committed in the publication of the said advertisement.

Based on the facts and documentary evidences, the Adjudicating officer considered that the Company has violated the provisions of Section 12(3)(c) of the Act and thus imposed a penalty of INR 608,000 on the Company and its Directors/officer-in-default except one Director (who contended that he has never consulted about the issue of the said advertisement) for the period September 6, 2021 (date of publication of advertisement in the "Times of India", Bhubaneswar edition) to 22.11.2021 (date of hearing of the matter).

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# CORPORATE REGULATORY UPDATES

## Increase in additional fees for delay in filings of forms with MCA

Ministry of Corporate Affairs ('MCA') on January 11, 2022 issued the Companies (Registration Offices and Fees) Amendment Rules, 2022 to further amend the provisions of the Companies (Registration Offices and Fees) Rules, 2014 to increase the additional fees payable by the companies on delay in filings of various forms with MCA as per the table below:

S. No.	Period of delays	Additional fees as a multiple of normal fees	Higher additional fees as a multiple of normal fees (for certain cases)
1	Upto 15 days (sections 139 and 157)	One time of normal fees	--
2	More than 15 days and upto 30 days (Section 139 and 157) and upto 30 days in remaining forms	2 times of normal filing fees	3 times of normal filing fees
3	More than 30 days and upto 60 days	4 times of normal filing fees	6 times of normal filing fees
4	More than 60 days and upto 90 days	6 times of normal filing fees	9 times of normal filing fees
5	More than 90 days and upto 180 days	10 times of normal filing fees	15 times of normal filing fees
6	Beyond 180 days	12 times of normal filing fees	18 times of normal filing fees

The amendment will be effective from July 1, 2022.

In case of delay in filing of e-form INC-22 or e-form PAS-3, on two or more occasions, within a period of three hundred and sixty five days from the date of filing of the last such belated e-form, higher additional fees should become payable instead of additional fees. Wherever higher additional fees is payable, additional fee is not required to be paid.

# CORPORATE REGULATORY UPDATES

## **Commencement of provisions relating to additional fees and higher additional fees under Companies (Amendment) Act, 2017 and Companies (Amendment) Act, 2020**

Ministry of Corporate Affairs ('MCA') on January 11, 2022 issued commencement notifications, wherein, MCA has notified July 1, 2022 as the date on which the provisions of the second and third proviso to clause (i) of Section 80 of Companies (Amendment) Act, 2017 and provisions of Section 56 of the Companies (Amendment) Act, 2020 shall come into force. Both the respective sections are related to Section 403 of the Companies Act, 2013 which empowers the Central Government (through MCA) to prescribe the additional fees for delay in filing forms or submitting required documents under the Companies Act, 2013.

## **Securities And Exchange Board of India brings forth amendment in the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2019**

On 14 January 2022, Securities and Exchange Board of India ("SEBI") issued the SEBI (Foreign Portfolio Investors) (Amendment) Regulations, 2022 to amend the SEBI (Foreign Portfolio Investors) Regulations, 2019.

By way of these Regulations, SEBI has made the following amendments in the SEBI (Foreign Portfolio Investors) Regulations, 2019:

(i) In Sub-Regulation (1) of Regulation 7, the words "National Securities Depositories Limited" shall be substituted with the word "The Board".

(ii) In Chapter VIII-A, Regulation 43B, shall be inserted:-

### **"Exemption from strict enforcement of the regulation in other cases**

43B. (1) The Board may *sou motu* or on an application made by a foreign portfolio investor, for reasons recorded in writing grant relaxation from the strict enforcement of any of the provisions of these regulations, subject to such conditions as the board deems fit to impose in the interests of investors and the securities market and for the development of the securities market, if the board is satisfied that

(a) The non-compliance is caused due to factors beyond the control of the entity; or  
(b) The requirement is procedural or technical in nature.

(2) The application referred to under sub-regulation (1) shall be accompanied by a non-refundable fee of US \$ 1,000 payable by way of NEFT/RTGS/IMPS or any other mode allowed by the Reserve Bank of India in the designated bank account of the board."

## **SEBI launches "Saaṛthi"- Mobile App on Investor Education**

On 19 January 2022, SEBI launched "Saaṛthi"- SEBI's Mobile App on Investor Education. The mobile app is yet another initiative of SEBI with a view to empower investors with knowledge about securities market. With the recent surge in individual investors entering the market, and more importantly a large proportion of trading being mobile phone based, this App will be helpful in easily accessing the relevant information.

The basic objective behind creating this App is to create awareness amongst the investors about the basic concepts of securities market, KYC process, trading and settlement, mutual funds, recent market developments, investor grievances redressal mechanism, etc.

The App is available both in Hindi and English at present but the aim in future is to make the App available in other languages so as to cater to more people and spread awareness.

## **SEBI issued the Securities and Exchange Board of India {KYC (Know Your Client) Registration Agency} (Amendment) Regulations, 2022**

On 28 January 2022, SEBI issued the Securities and Exchange Board of India {KYC (Know Your Client) Registration Agency} (Amendment) Regulations, 2022 to amend the Securities and Exchange Board of India {KYC (Know Your Client) Registration Agency} Regulations, 2011. The regulations shall come into force on the date of their publication in the Official Gazette.

Some of the amendments made by SEBI in the Regulations are as follows:

I. In Sub-Regulation 1 after clause (d) of Regulation 2, the following new clause shall be inserted:

"(da) "change in control", in relation to a KRA, means: -

(i) if its shares are listed on any recognised stock exchange, change in control within the meaning of regulations framed under clause (h) of sub-section (2) of section 11 of the Act;

(ii) in any other case, change in the controlling interest;

Explanation. — For the purpose of sub-clause (ii), the expression "controlling interest" means, (A) an interest, whether direct or indirect, to the extent of at least fifty-one percent of voting rights; or (B) right to appoint majority of the directors or to control the management directly or indirectly;"

# CORPORATE REGULATORY UPDATES

II. Sub-Regulation (2) of Regulation 2 shall be substituted with the following, namely: -

*"(2) All other words and expressions used but not defined in these regulations shall have the same meaning as have been assigned to them under the Act or the Securities Contracts (Regulation) Act, 1956, or the Depositories Act, 1996, or the Companies Act, 2013, or Prevention of Money Laundering Act, 2002 or any rules or regulations made thereunder or any statutory modification or re-enactment thereto, as the case may be."*

III. In Regulation 15

*(i) after the clause (d), the following new clause shall be inserted, namely, -*

*"(da) KRA shall carry out an independent validation of the KYC records uploaded onto its system by the intermediary in such a manner as specified by the Board from time to time."*

*(ii) after clause (o), the following new clause shall be inserted, namely, -*

*"(p) KRA shall maintain an audit trail of any upload/ modification /download regarding the KYC records of each client."*

IV. In regulation 16, after clause (d), the following new clause shall be inserted,-

*"(e) The intermediary shall integrate its systems with the KRA to facilitate seamless movement of KYC documents to and from the intermediary to the KRA."*

## **SEBI issues Circular on Change in Control of the Asset Management Company involving Scheme of Arrangement under Companies Act 2013**

On 31 January 2022, SEBI issued a circular on Change in control of the asset management company involving scheme of arrangement under Companies Act 2013.

Regulation 22 (e) of SEBI (Mutual Fund) Regulations 1996, requires that no change in the control of an asset management company shall be made unless prior approval of the trustee and SEBI has been obtained.

SEBI had issued a Circular on 4 March 2021 which prescribed the procedure which was to be followed for the change in control of an asset management company.

In order to streamline the process of providing approval to the proposed change in control of an AMC involving scheme of arrangement which needs sanction of National Company Law Tribunal ("**NCLT**") in terms of the provisions of the Companies Act, 2013, SEBI decided the following:

(a) the application seeking approval for the proposed change in control of the AMC under Regulation 22(e) of Mutual Fund Regulations shall be filed with SEBI prior to filing the application with the NCLT;

(b) on being satisfied with compliance of the applicable regulatory requirements, an in-principle approval will be granted by SEBI;

(c) the validity of such in-principle approval shall be three months from the date of issuance, within which the relevant application shall be made to NCLT; and

(d) Within 15 days from the date of order of NCLT, applicant shall submit the following documents to SEBI for final approval:

- (i) Application for the final approval;
- (ii) Copy of the NCLT Order approving the scheme;
- (iii) Copy of the approved scheme;
- (iv) Statement explaining modifications, if any, in the approved scheme vis-à-vis the draft scheme and the reasons for the same; and
- (v) Details of compliance with the conditions/ observations mentioned in the in-principle approval provided by SEBI.

All other provisions mentioned in para C (3) of SEBI Circular dated 4 March 2021 regarding the procedure for Change in Control of AMC shall remain unchanged.

The provisions of this Circular shall be applicable to all the applications for change in control of AMC for which the schemes of arrangement are filed with NCLT on or after 1 March 2022.



# Off Beat Section

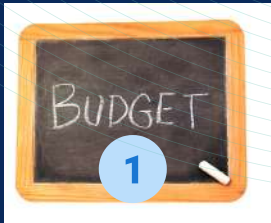
## Iconic Facts about Union Budget of India



The Finance Minister of India presented the Union Budget for the fiscal year 2022-2023 on **1st February 2022**. The Union Budget of India, also referred to as the *Annual Financial Statement* in Article 112 of the **Constitution of India**. Lets read about some iconic facts on budgets of India.

### ..... INDIA'S FIRST BUDGET .....

The first budget was introduced on April 7, 1860 by Scottish economist and politician James Wilson. Independent India's first budget was presented on **November 26, 1947** by the then Finance Minister *R K Shanmukham Chetty*.



### ..... FIRST PAPERLESS BUDGET .....

The COVID-19 pandemic turned the budget for the year 2021-22 paperless - first in independent India.



### ..... BLACK BUDGET .....

The Black Budget was presented by *Yashwantrao B Chavan* in the year 1973-74. It was termed as Black Budget because of the fiscal deficit of **Rs. 550 crore**, it was a time when India was facing acute financial distress.



### ..... ONCE-IN-A CENTURY BUDGET .....

In order to revive the Asia's third largest economy via investing in infrastructure and healthcare, the "once-in-a-century" budget was presented on Feb 2021.



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