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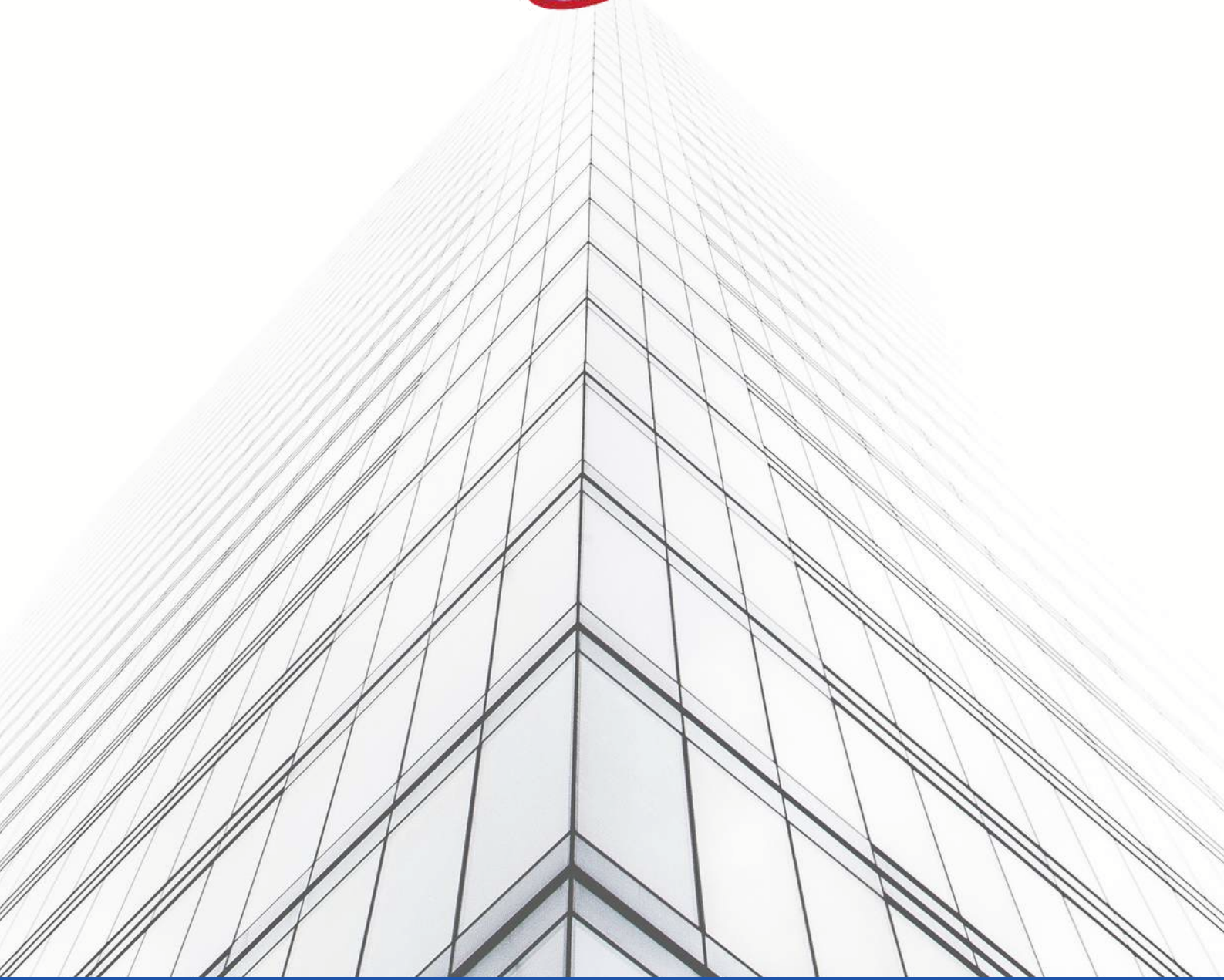
Official Newsletter

CLASIS LAW



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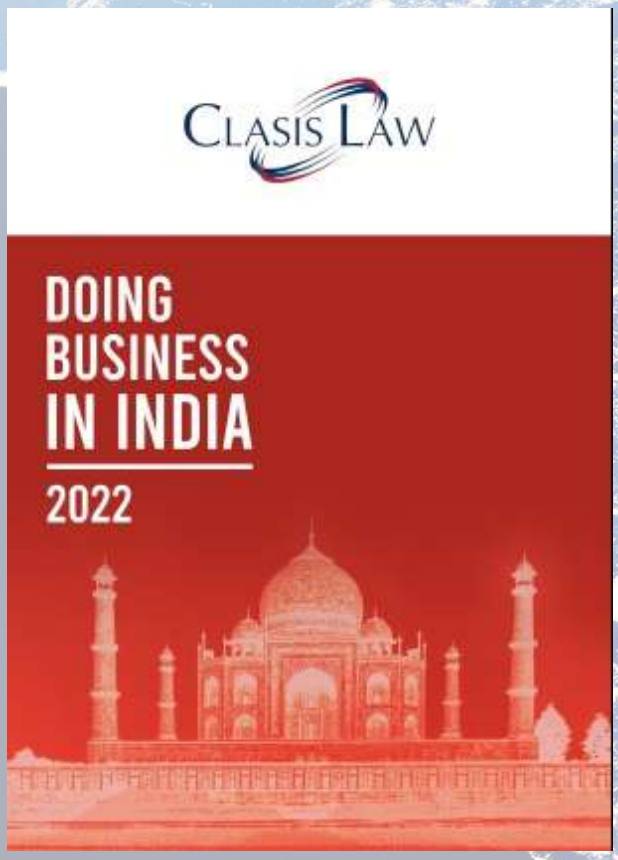
CLASIS LAW

DOING BUSINESS IN INDIA

We are pleased to share the
Fourth Edition of our guide titled
"Doing Business in India".
The guide intends to give the reader an overview of the various aspects of doing business in India including but not limited to the applicable legislations, compliances and processes.



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FEATURED ARTICLE

Registrar shall not Re-Determine The Status of a Trademark as "Well-Known" if already declared by Court

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The Delhi High Court has recently clarified that if the Court has declared a trademark to be a well-known trademark, then the Registrar is only required to include the said trademark in the "List of Well-Known Trademarks" and cannot enter in to an exercise of re-determination.

The facts leading to the present case***(1)*** are that TATA SIA Airlines **("Petitioner")** operates its full-service Airline under the trademark VISTARA®. The Petitioner has obtained registrations for the trademark VISTARA® in multiple classes i.e., 12, 16, 18, 21, 25, 27, 28 and 39 and applications in certain other classes are pending. In 2019, the Petitioner filed a suit***(2)*** seeking injunction restraining the Defendants therein from infringing the registered trademark VISTARA® and device mark  and passing off etc. before the Delhi High Court. The Petitioner also sought a declaration of the trademark VISTARA® as a well-known trademark as defined under the TM Act. By its order dated August 5, 2019, the suit was decreed in favour of the Petitioner and the trademark VISTARA® was declared as a well-known trademark, entitled to the highest degree of protection across all classes including against disparate products and services. Thereafter, the Petitioner wrote to the Registrar of Trademarks **("Respondent")** to consider the decree passed by the High Court and consequently include the trademark VISTARA® in the "List of Well-Known Trademarks" by virtue of the provision of Section 11(8)***(3)*** of the Act. The Respondent refused the application and the Petitioner was compelled to file the present writ petition seeking a writ of mandamus directing the Respondent to consider the Petitioner's letter for inclusion of the trademark VISTARA® in the List of Well-Known Trademarks, amongst other reliefs.

ISSUES

The issues raised for the Court's consideration were:

i. Whether once the Court has determined the trademark to be a well -known, can the proprietor of the said trademark be compelled to comply with Rule 124(4) of the Trademark Rules, 2017 **("TM Rules")**?
ii. Whether the said Proprietor's request for inclusion of the mark in the List of Well-Known Trademarks can only be entertained when made in the particular form(5) along with the prescribed fee(6); and/or
iii. Whether Rule 124 comes in conflict with section 11(8) of the Trademarks Act, 1999 ("TM Act")?

COURT'S OBSERVATIONS

After hearing the arguments presented by all parties, the High Court proceeded to adjudicate on the issues involved in the present matter. In relation to *issue* (i) above, the Court opined that the used of the word 'shall' in Section 11(8) of the TM Act leaves not a speck of doubt that once the trademark has been determined to be a well-known mark at least in one relevant section of the public in India by any Court, there is no further scope for determination by the Registrar. Section 11(8) on a plain reading admits of no caveat or exception or any discretion with the Registrar, who is under a clear mandate to include the trademark determined by the Court as a well-known Trademark. In the scheme of hierarchy and in view of the unambiguous language of Section 11(8), the Registrar cannot review or re-determine the status of the trademark declared to be well-known by a Court and is bound to proceed to publish it in the List of Well-Known Trademarks.

The Court also observed that a conjoint reading of Section 11(8) of the Act and Rule 124(1) shows that the scheme of the TM Act provides two different and distinct mechanisms for determination of a trademark as a well-known mark viz. (a) by a Court of Registrar, which is covered by Section 11(8); and (b) by the Registrar on an application in accordance with the procedure prescribed under Rule 124 read with the relevant schedules. This unambiguously connotes that either the Court or the Registrar can determine a trademark to be a well-known mark and it goes without saying that if either one of them has determined the trademark to be a well-known trademark, the other cannot and therefore no proprietor can be relegated to a second round. Therefore, if the Court has declared a trademark to be a well-known trademark, then the Registrar is only required to include the said trademark in the List of well-known Trademarks and cannot enter into an exercise for re-determination.

While examining Rule 124 and considering *issue (ii)* above, the Court noted that on a plain reading the said Rule does not admit any ambiguity and when holistically read, is not restricted to mere determination of a trademark as a well-know trademark and therefore the heading should not be taken as a guide to understand the import of the Rule. It is true that Rule 124(1) enables any person to make an application for determination of the trademark as well-known and while doing so, mandates the making of the application in Form TM-M and paying the prescribed in the First Schedule. However, Rule 124(2), requires the Registrar to take into account provisions of Section 11(6) to (9), which includes sub-section (8). Therefore, an existing declaration of the trademark as well-known is bound to be taken into consideration. Further sub-Rules (5) and (6) enables the Registrar to publish trademark in the Trade Marks Journal and include the same in the List of Well-Known Trademarks or remove the same, if included erroneously. Provisions of the Rule include the procedure for examining if the mark is already declared as well-known and therefore be included in the List of Well-Known Trademarks. Rule 124(5) does not differentiate between a trademark determined to be well-known by the Court or by the Registrar and in both eventualities the procedures envisaged is the same and consciously the word 'Registrar' is omitted after the words 'in case the trademark is determined as well-known'. In the scheme of the Rule follows sub-Rule (2), where the examination may show that the mark has been determined a well-known by the Court. The purpose of Rule 124 was to streamline the procedure and bring uniformity and going by the language of the Rule, it cannot be restricted in its application to cases where request for 'inclusion' is made with respect to a trademark 'determined' as well-known by the Registrar under Rule 124(1) and exclude inclusion where such a determination is by the Court.

In relation to the fee, the Court held that the Fee of INR 1,00,000/- has been prescribed in the First Schedule for 'inclusion' and not 'determination' of a trademark in the List of Well-Known Trademarks. Therefore, the Court held, no infirmity can be found with the decision of the Respondent in insisting on applying for the inclusion of the trademark VISTARA® in the List of Well-Known Trademarks in the prescribed and requisite form TM-M along with prescribed fee of INR 1,00,000/- under First Schedule to Rule 124.

In response to the issue whether Rule 124 comes in conflict with Section 11(8) (issue no. iii), the Court held that there is no conflict between the said provisions and Rule 124 is an enabling provision for giving effect to Section 11(8) after the trademark has been declared to be well-known by a judicial order. The Legislature while enacting Section 11(8) has proscribed the Registrar from re-determining a trademark already declared as well-known by a Court/Registrar and does not deal with the procedure or mechanism for determination or publication or inclusion of the trademark, which is separately provided for Rule 124 read with the Schedules.

Thus, the Court held that even where a trademark is declared to be a well-known trademark by the Court, Rule 124 will apply with respect to the procedure for publication and inclusion, save and except, calling for documents and inviting objections under sub-Rule (4) and (5) thereof.

The writ petition was accordingly disposed of.

ANALYSIS

The present judgment is relevant in the sphere of trademarks registration as it brings clarity in the two processes prescribed in the TM Act for declaration of trademark as a well-known trademark. Additionally, by way of this clarification by the High Court, trademark holders are saved from duplicity and delay in such proceedings encouraging Intellectual Property holders to actively participate in safeguarding their rights.

Footnotes

1. TATA SIA Airlines Limited vs Union of India W.P. (C) – IPD No. 64 of 2021
2. TATA SIA Airlines Limited vs M/s Pilot18 Aviation Book Store & Anr. C.S.(COMM) 156/2019
3. *"Where a trade mark has been determined to be well-known in at least one relevant section of the public in India by any Court or Registrar, the Registrar shall consider the trade mark as well-known for registration under this Act."*
4. Rule 124 – Determination of Well-Known Trademark by Registrar
5. Form TM-M
6. INR 1,00,000/-

LEGAL UPDATE

No challenge to arbitral award permitted on the ground of insufficient stamp duty paid

Introduction

In a recent judgement in the case of ARG Outlier Media Private Limited vs HT Media Limited***(1)***, the Delhi High Court has *inter alia* held that once the Agreement has been admitted in evidence by the Arbitrator and passed an award by relying on the said Agreement, the said award cannot be set aside on the ground that the Agreement was insufficiently/improperly stamped.

Facts and Grounds for Challenge

The disputes in the matter arose from an Agreement of Barter **(Agreement)** entered into between ARG Outlier Media Pvt. Ltd. **(Petitioner)** and HT Media Ltd. **(Respondent)**. In pursuance of the Arbitration in terms of the arbitration clause contained in the Agreement, the Ld. Sole Arbitrator **(Arbitrator)** had directed the Petitioner to pay to the Respondent a sum of Rs. 5 crores along with interests and costs **(Award)**. The said Award was challenged by the Petitioner in this petition filed under Section 34 of the Arbitration and Conciliation Act, 1996 **(Act)** inter alia on the ground that the Agreement was improperly stamped and should have been impounded by the Arbitrator before passing the Award.

Submissions

The Petitioner submitted that the Agreement was executed by the Respondent in Delhi and by the Petitioner in Mumbai, and thus was chargeable to duty in Mumbai under Section 3(a) of the Maharashtra Stamp Act, 1958 **(MSA)**. They contended that mere stamping the Agreement under the provisions of the Indian Stamp Act, 1899 (ISA) applicable to NCT of Delhi would not make the Agreement sufficiently stamped and thus was to be impounded by the Arbitrator before acting on it in terms of the judgement in the case of **N.N. Global Mercantile Private Limited vs Indo Unique Flame Ltd.*(2)*** (NN Global Mercantile). To buttress their arguments, the Petitioner relied on the judgement in the case of **Religare Finvest Limited vs. Asian Satellite Broadcast Private Limited and Ors*(3)*** (Religare Finvest). The Petitioner further submitted that the Sole Arbitrator has wrongly stated that no submissions in this regard were made and relied on the written submissions made at the stage of final arguments.

The Respondent submitted that the Agreement was executed in Delhi as evidenced by the recitals and other various terms thereof. It further submitted that the Arbitrator relied on the exchange of emails between the parties to conclude that with consent of the parties, Agreement was executed in Delhi. The Respondent relied on the order dated 13.02.2020 passed by the Arbitrator in the S.16 application wherein since no submission regarding short duty being paid was made by the Petitioner, the Arbitrator found the Agreement to have been properly stamped in accordance with the ISA applicable to NCT of Delhi (Order). The Respondent further submitted that the Petitioner did not raise

this issue during the course of its oral submissions and mere insertion of the said ground in written submissions cannot now be used as ground to challenge the Award. The Respondent further submitted that the Petitioner never in the S.11 application before the High Court for appointment of Arbitrator raised this plea which was duly recorded in the order of the High Court in S.11 application.

Analysis & Conclusion

Regarding issue 1, the Court noted that the Agreement records that the same has been executed and stamped in accordance with the ISA in New Delhi which is not disputed by the Petitioner till this Petition. The Court further noted the fact that the Arbitrator rejected the submission of the Petitioner in the Award relying on his Order which dealt with this issue in detail. The Court noted that in terms of the judgement in the case of Ssangyong Engineering and Construction Company Limited vs National Highway Authority of India(4), and Delhi Airport Metro Express Private Limited vs Delhi Metro Rail Corporation Limited(5), the mistake of the Arbitrator in interpretation of the MSA cannot be a ground to interfere into the Award under S.34 of the Act. The Court further noted that the Petitioner had never raised this issue during S.11 application and at the time of filing of affidavit of admission/denial in the Arbitration Proceedings. The Court also noted that the Arbitrator framed an issue based on the admissibility of the Agreement at a later stage but as Petitioner did not make any new submission in this regard, the Arbitrator found no reason to deviate from his Order and passed the Award. The Court thereafter discussed the provisions of Section 36 and 61 of the ISA. Section 36 states that once an instrument has been admitted in evidence, it cannot be called in question except as provided under Section 61. Section 61 allows the appellate court to review lower courts' decisions on instrument admissibility based on duty payment either *suo motu* or on reference by the Collector and impound the instrument if insufficient duty is paid or no penalty is levied. The Court referred to the judgements of *Javer Chand and Others vs. Pukhraj Surana(6)* and *Shyamal Kumar Roy vs. Shushil Kumar Agarwal(7)* which held that once a document is admitted in evidence, it cannot be called into question at any stage except as provided by Section 61. The Court observed that the said proposition had been applied to reject a challenge specifically to arbitral award in the case of Rung Lal Kalooram vs. Kedar Nath Kesriwal(8) and SNG Developers Limited vs Vardhaman Buildtech Private Limited(9). The Court also opined that the Petitioner did not refer to the judgement in Religare Finvest in its written submissions before the Arbitrator and thus, by operation of law, the Petitioner is now debarred from challenging the Agreement. Referring to NN Global Mercantile judgement it held that even if the principle laid therein is applicable, once the Arbitrator admitted the Agreement and passed an Award, such an Award cannot be faulted on the ground that the Agreement was insufficiently stamped. The Court further observed that in terms of S.34 of the Act, it may not even have powers vested under S.61 of the ISA and if the Court had the power under S.61 of the ISA, it can only impound the agreement and refer it to adjudication but cannot alter or affect the validity of the award on that ground. The Court thus refused to interfere with the Award and dismissed the Petition.

Footnotes

- O.M.P. (COMM) 161/2023 and IA 8019/2023
- 2023 SCC OnLine SC 495 (5 Judges Bench)
- 2022 SCC OnLine Del 221
- (2019) 15 SCC 131
- (2022) 1 SCC 131
- (1962) 2 SCR 333
- (2006) 11 SCC 331
- 27 CWN 513
- 2021:DHC:4100

Patent Act Prevails over Competition Act in cases of Anti-Competitive Agreements and Abuse of Dominant Position by Patentee

Introduction

Recently, the Hon'ble High Court of Delhi **("Court")** dealt with the clash between the Patents Act, 1970 **("Patents Act")** and the Competition Act, 2002 **("Competition Act").*(1)*** The question at hand was *whether, and to what extent, the Competition Commission of India **("CCI")** could exercise jurisdiction over matters that also fell under the purview of the Patents Act.* The Court delved into the principles of statutory interpretation, assessing the prevalence of laws and the scope of authority of both - the CCI and the Controller under the Patents Act **("Controller")**.

Facts

The case involved four appeals***(2)*** and a writ petition***(3)*** that together raised a pivotal question of whether the CCI could investigate the actions of a patent holder who asserted his/her rights after obtaining a patent in India? The central issue was whether the CCI, under the Competition Act, had the authority to inquire into actions taken by a patentee. Succinctly put, the four appeals and the writ petition collectively challenged the following:

1. A 2016 Judgement***(4)*** which dismissed writ petitions filed by Telefonaktiebolaget LM Ericsson **("Ericsson")** against CCI, Micromax Informatics Limited **("Micromax")**, and Intex Technologies (India) Limited **("Intex").** Micromax and Intex alleged that Ericsson was imposing unfair conditions for licensing standard essential patents **("SEPs")** in telecommunications, violating Sections 3 or 4 of the Competition Act. The 2016 Judgement held that CCI can proceed against Ericsson under the Competition Act based on complaints by Micromax and Intex.

2. The CCI challenged the 2015 Judgement***(5)*** in a writ petition by Ericsson against CCI and Best IT World (India) Private Limited **("iBall")**. The 2015 Judgement, while not addressing the merits, quashed proceedings initiated by CCI under the Competition Act due to a settlement between Ericsson and iBall. The Judgement granted CCI the liberty to take *Suo Moto* action or act on a new information against Ericsson for abuse of dominant position.

3. Monsanto appealed the 2020 Judgement***(6)*** against CCI and various informants. The 2020 Judgement, relying on the 2016 Judgement (Case No. 1 above), rejected Monsanto's writ petition, asserting that CCI had the authority to proceed against Monsanto under the Competition Act based on allegations by the informants. The informants accused Monsanto of excessive royalties and not providing its patents reasonably, thereby violating Sections 3 or 4 of the Competition Act.

4. Ericsson's writ petition challenges CCI's notices/summons issued in response to Micromax's complaint about Ericsson's licensing practices for SEPs. The notices alleged that Ericsson's practices violated Sections 3 or 4 of the Competition Act.

Contentions of the Parties

The Patentees, i.e., Ericsson and Monsanto, made the following submissions:

- The 2016 and 2020 Judgements are unsustainable and that the CCI lacked jurisdiction to inquire into matters involving patentees' exercise of their rights.
- Patent licensing is not a sale or purchase of goods/services, and thus, CCI's jurisdiction under the Competition Act is not applicable.
- The informants' complaints relate to patent licensing and abuse of dominance, which, according to the patentees, are covered under the Patents Act. Sections 84(6) and 90(1)(ix) of the Patents Act address anti-competitive practices by patentees.
- The Controller and Civil Courts are better equipped to assess fair rates and determine anti-competitive practices. CCI lacks expertise in deciding patent-related issues.
- CCI's jurisdiction is ousted by the provisions of the Patents Act. The Patents Act comprehensively covers issues related to anti-competitive behaviour and patent abuse.

On the other hand, the CCI supported by the Informants made the following submissions:

- CCI defended the 2016 and 2020 Judgements, asserting that it had the authority to inquire into patentees' anti-competitive behaviour.
- The Competition Act is not subservient to the Patents Act and can apply concurrently. The "Aspects Doctrine" supports the idea that the overlap of the two acts does not negate CCI's authority.
- CCI's power is essential to address anti-competitive practices, and its decisions have a broader impact across the market, unlike remedies available under the Patents Act.
- The informants provide material suggesting that patentees have abused their dominant position and imposed anti-competitive agreements on licensees.
- The Patents Act's mechanisms are insufficient for addressing anti-competitive behaviour effectively, making CCI's involvement necessary.
- Legislative history supports CCI's authority to investigate anti-competitive practices by patentees.
- CCI is the regulator of the market and the Competition Act's scope extends to anti-competitive agreements and abuse of dominant position by patentees, across legislations.
- Private settlements between informants and patentees can't preclude CCI's jurisdiction over anti-competitive behaviour.

Analysis and Findings of the Court

Firstly, the Court delved into the conflict between the Patents Act and the Competition Act and examined their respective roles and powers in relation to anti-competitive agreements, abuse of dominant position, and patent licensing conditions. The Court assessed which of the two should prevail in cases where both statutes appear to be special laws. The Court opined that both Acts are special laws in their respective fields. Chapter XVI of The Patents Act which was introduced by way of an amendment after the Competition Act, pertains to working of patents, compulsory licenses, and revocation. The Court employed the well-established principle of statutory interpretation that later laws take precedence over earlier laws as there is a presumption that the legislature formulated the later law while being aware of the existence of the earlier law. It also emphasized the importance of considering the purpose, policy, and clear intent of the relevant provisions of both statutes.***(7)*** The Court further highlighted the test for determining whether a statute is general or special, focusing on the principal subject matter and particular perspective. It remarked that the focus must be on the principal subject-matter with reference to the Act's intendment.***(8)***

Thereafter, the Court analysed provisions of the two Acts, specifically addressing the powers and

functions of the CCI and the Controller under each Act. The Court outlined the CCI's authority to inquire into allegations of anti-competitive agreements and abuse of dominant position, as well as its power to determine relevant markets, geographic markets, and product markets. The Court observed that the CCI's inquiry closely mirrored the Controller's role under the Patents Act concerning compulsory licenses, working of patents, and imposition of reasonable conditions.

A detailed examination of Chapter XVI of the Patents Act revealed its comprehensive coverage of issues related to patents, including compulsory licenses, revocation, and abuse of patent rights. The Court highlighted the Controller's power to grant compulsory licenses if public requirements were not met, the patented invention was not available at a reasonable price, or if the patent was not worked in India. The Court further analysed Section 84(6) of the Patents Act which allowed a license holder to seek compulsory license, emphasizing the need to consider efforts to obtain a license on reasonable terms.

The Court addressed the potential conflict between the Competition Act's Section 3(5)(i)(b) and the Patents Act, asserting that the Competition Act's provision allowed imposition of reasonable conditions necessary to protect patent rights. However, it interpreted this provision as an exemption from scrutiny under Section 3 of the Competition Act, indicating the legislature's intent for the Patents Act to govern issues related to patents.

Furthermore, considering the legislative intent, the Court quashed the proceedings initiated by the CCI, asserting that the Patents Act prevails over the Competition Act on issues related to patentee's rights under the Patents Act. However, it also emphasized that this judgment does not express an opinion on the merits of the claims regarding anti-competitive conditions or abuse of dominant position by patentees.

Conclusion

On a consideration of the above legal landscape, the Court held that the Patents Act is a special statute dealing with cases of anti-competitive agreements and abuse of dominant position by a patentee in exercise of their rights under the Patents Act. It also affirmed that the Competition Act is a general legislation pertaining to anti-competitive agreements and abuse of dominant position generally, but the provisions of Chapter XVI of the Patents Act are a complete code in themselves, and would thus prevail over the Competition Act.

Footnotes

1. Telefonaktiebolaget LM Ericsson (PUBL) V. Competition Commission of India & Anr., LPA 247/2016, pronounced on July 12, 2023, Hon'ble High Cour of Delhi.
2. LPA/246/2016 and LPA/247/2016 by Telefonaktiebolaget LM Ericsson (Ericsson); LPA/550/2016 by the CCI; and LPA/150/2020 by Monsanto.
3. WP(C) 8379/2015 filed by Ericsson against the CCI.
4. Delhi High Court judgment dated March 30, 2016 in WP(C) 464/2014 and WP(C) 1006/2014.
5. Delhi High Court judgment dated December 14, 2015 in WP(C) 5604/2015.
6. Delhi High Court judgment dated May 20, 2020 in WP(C) 1776/2016.
7. Ashoka Marketing Ltd. v. PNB & Ors., (1990) 4 SCC 406.
8. Gobind Sugar Mills Ltd. v. State of Bihar, (1999) 7 SCC 76.

JUDGEMENTS

In the matter of Antique Exim Private Limited ("Company") for violation of section 138 of the Companies Act, 2013 ("Act")

During the course of an inquiry under section 206 of the Act, the inquiry officer noted that as per the financial statement for financial years 2018-19 and 2019-20 the turnover of the Company exceeded INR 200 crores however, it had not appointed an Internal Auditor as required under section 138 of the Act. Accordingly, the Registrar of Companies, Gujarat, Dadra and Nagar Haveli **("ROC")** issued a show cause notice to the Company and its officers in default.

The authorized representative of the Company submitted that the Company had constituted inhouse Internal Audit Department. Hence, it had not appointed any external professional as internal auditor of the Company. He further stated that the Director's report for the financial years from 2014-15 to 2019-20 have reported the adequacy of internal control with reference to the financial statement. Thus, there was no violation of section 138 of the Act.

The presenting officer objected that the reply of the Company was not satisfactory and that it was liable to appoint internal auditor from the financial year 2014-15 onwards.

Consequently, ROC levied a penalty of INR 200,000/- on the Company and INR 50,000/- on each officer in default for violating the provisions of section 138 of the Act.

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In the matter of Cookiejar Technologies Private Limited ("Company") for violation of various provisions of section 42 of the Companies Act, 2013 ("Act")

The Company had suo moto filed an application with the Registrar of Companies, Pune **("ROC")** for adjudication for non-compliance of section 42 of the Act.

The Company had issued equity shares to Clayfin Technologies Private Limited **("Investor")** by way of private placement. The Investor had remitted the share application money in existing current bank account of the Company and the equity shares were allotted to it. The Company in its application admitted the following non-compliances of section 42:

(a) Not opening a separate bank account in a scheduled bank for receipt of private placement share application money;
(b) Failure in filing form MGT-14 before issue of private placement offer cum application letter and within 30 days from date of passing special resolution for issue of equity shares on private placement basis; and
(c) Delay in filing of return of allotment in e-form PAS-3.

Accordingly, the ROC issued an adjudication notice to Company. The Company submitted that it had received investment from Investor by way of private placement. It further claimed that neither the management nor directors had any legal knowledge and that the Company was incapable of recruiting a competent professional to handle the legal and

JUDGEMENTS

secretarial work due to nil revenue. A hearing was scheduled by the ROC wherein the directors of Company submitted that pursuant to provisions of section 42(6) of the Act as the Company had allotted the shares within 60 days of receipt of application money it is not liable to repay the application money to Investor. Additionally, the Investor had submitted its non-objection in writing regarding non-refund of share application money. They also requested that since the directors and promotors are the same individuals, for the penalty be levied on them in their individual capacity and not in dual designation capacity.

Consequently, ROC imposed a total penalty of INR 6,00,000/- on the Company and INR 3,00,000/- each on the officers in default for violation of provisions of section 42(4), 42(6) and 42(8) of the Act.

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In the matter of Mr. Thiyagarajan Parthasarathy for violation of section 155 of the Companies Act, 2013 ("Act")

While processing DIR-5 for surrender of Director Identification Number **("DIN")** of Mr. Thiyagarajan Parthasarathy **("Applicant")** with"), the Regional Director, Northern Region **("RD")** it was observed that the Applicant had applied and obtained two DINs on the MCA portal. The Applicant admitted to RD that the DIN being surrendered has been/ is still associated with a company and new DIN was applied while incorporating another company. RD rejected the surrender of DIN as the Applicant's clarification with respect to duplication was not satisfactory and it appeared that the second DIN was obtained in violation of section 155 of the Act. RD requested the Registrar of Companies, Tamil Nadu, Chennai, Andaman & Nicobar Islands **("ROC")** to take necessary action for such violation. Consequently, ROC issued an Adjudication Hearing Notice to the Applicant and the violation was admitted by authorized representative of Applicant. ROC then imposed a penalty of INR 5,03,500/- on the Applicant for violation of section 155 of the Act.

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In the matter of Krishikan Krishikan Private Limited ("Company") for violation of section 62(1)(c) and 42 of the Companies Act, 2013 ("Act")

The Company suo moto filed an application with the Registrar of Companies, Karnataka, **("ROC")** to adjudicate the non-compliance under section 62(1)(c), 62(3) and 42 of the Act. The Company had issued Optionally Convertible Debentures **("OCDs")** under section 71 of the Act, thrice on separate occasions as right issue under section 62(1)(a) of the Act instead of issuing them as preferential allotment under section 62(1)(c) of the Act. Further, it was submitted by the Company that the provisions had been violated due to lack of procedural significance of section 62, 42 and other applicable provisions of the Act. The Company had also repaid the subscription money to the debenture holders along with 12% interest.

JUDGEMENTS

Subsequently, the date of hearing was fixed and the authorized representative of the Company and promotors-cum-directors appeared before the ROC and submitted that the default had occurred due to lack of procedural clarity of the applicable sections of the Act. Furthermore, he stated that the Company had followed provisions of section 62 for issue of OCDs in all 3 issues, and if the first issue was treated as violation of section 42, then the remaining 2 issues may not fall under the scope of violation of section 42 as the Company had followed the provisions of section 62 while issuing OCDs in 2nd and 3rd instances which were offered to the friends of shareholders-cum-directors after the OCDs were renounced in their favor.

As the Company had wrongly issued OCDs under section 62(1)(a) as rights issue, which is only meant for issue of equity shares or preference shares in proportion of their existing shareholding, it had failed to comply with section 42 of the Act read with rule 14 of the Companies (prospectus and Allotment of Securities) Rules, 2014. It had also failed to comply with provisions of section 62(1)(c) by not employing appropriate method of issuing OCDs.

Consequently, ROC imposed a penalty of INR 5,000/- each on the Company and on every officer in default for each violation of section 62(1)(c) of the Act. Additionally, a penalty of INR 200,000/- on the Company and INR 100,000/- each on every promoter-cum-director for each violation of section 42 of the Act.

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In the matter of NDO India Private Limited ("Company") for violation of section 203 of the Companies Act, 2013 ("Act")

The Company suo moto filed an application with the Registrar of Companies, Karnataka **("ROC")** to adjudicate the non-compliance of section 383A of the Companies Act, 1956 and section 203 of the Act. The Company submitted that the post of company secretary of the company was vacant from April 8, 2008 and no whole-time company secretary was appointed till June 11, 2019. The authorized representative of the Company submitted that four of the directors to whom the notice was sent had resigned and ceased to be director of the Company with effect from October 10, 2008. Further, he submitted that one of the directors to whom the notice was sent was not a director during the period of default and the other four were nominee directors.

ROC adjudicated the default and stated that for the period of default the Company had a Managing Director **("MD")**, the MD would be held liable and for the remaining duration of default, all the directors of the Company would be held liable.

ROC imposed a penalty of INR 500,000/- on the Company and on its 7 directors individually that were liable of default during the relevant period. Further, a penalty of INR 234,000/- each was imposed on other 4 directors who were in default till October 10, 2008.

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Appointment of Director nominated by the Debenture Trustee on boards of issuers

On 4 July 2023, the Securities and Exchange Board of India **("SEBI")** issued a circular on the appointment of a Director nominated by the Debenture Trustee on boards of issuers. Regulation 23(6) of the SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021 **("NCS Regulations")** obligates an issuer which is a company under the Companies Act, 2013 to ensure that its Articles of Association requires its Board of Directors to appoint as director, the person nominated by the debenture trustee(s) in terms of clause(e) of sub-regulation (1) of regulation 15 of the SEBI (Debenture Trustees) Regulations, 1993. While this obligation exists for issuers that are companies under the Companies Act, 2013, there is no similar obligation for issuers that are not companies. In this regard, representations have been received from Debenture Trustees. A gist of the representations, as follows, merit attention:

(a) Issuers that are incorporated under different statutes are also under the purview of other regulators have expressed in the ability to execute such amendments as the composition of their boards is governed by certain statutes which do not provide for appointment of nominee directors by Trustees.

(b) Appointment of any director on the boards of certain issuers which are governed by certain statutes requires prior approval of the President of India.

(c) Certain issuers are unable to appoint Nominee Directors on their boards as their principal document/charter does not provide for the same; in a few cases, the absence of a statutory mandate fetters them from amending their principal document.

The appointment of a director including nominee director is driven by the provisions of the principal document of the entity (Articles of association, in case of companies under the Companies Act, 2013). A nominee director is a director, and therefore, except for specific provisions of law, articles or the terms of the agreement under which the right of nomination comes, the position, appointment process, responsibilities, etc., of the nominee director are the same as that of any other director on the Board. Accordingly, owing to the issues mentioned above and similarities in roles and responsibilities of the directors as mentioned above, issuers that fall in any of the categories mentioned in (a), (b) or (c) above shall submit an undertaking to their Debenture Trustees that in case of events as mentioned in Regulation 15(1)(e) of SEBI (Debenture Trustees) Regulations, 1993, a non-executive/independent director/trustee/member of its governing body shall be designated as nominee director for the purposes of Regulation 23(6) of NCS Regulations, in consultation with the Debenture Trustee, or, in case of multiple Debenture Trustees, in consultation with all the Debenture Trustees. The circular shall come into force with immediate effect.

Master Circular for Debenture Trustees

On 6 July 2023, SEBI issued a circular relating to Debenture Trustees. Debenture Trustees are regulated under the provisions of Securities and Exchange Board of India (Debenture Trustees) Regulations, 1993 **('DT Regulations')**. While the broad framework for Debenture Trustees has been laid down in the DT Regulations, over the years, procedural/disclosure requirements and obligations have been specified by SEBI through circulars. For effective regulation of the corporate bond market and to enable the Debenture Trustees and other market stakeholders to get

access to all the applicable circulars at one place, this Master Circular has been prepared. This Master Circular is a compilation of the relevant existing circulars, with consequent changes. The stipulations contained in these circulars have been detailed chapter-wise in this circular. Accordingly, the circulars listed in Part-A of Annex-1 of this Master Circular shall stand superseded by this Master Circular. Further, the applicability of provisions of the circulars listed in Part-B of Annex-1 of this Master Circular, to the extent they pertain to Debenture Trustees, have been rescinded.

Roles and responsibilities of Trustees and board of directors of Asset Management Companies (AMCs) of Mutual Funds

On 7 July 2023, SEBI issued a circular on the Roles and responsibilities of Trustees and board of directors of Asset Management Companies (AMCs) of Mutual Funds.

As per the extant regulatory framework, the Trustees hold the property of the Mutual Fund in trust for the benefit of the unit holders and their primary role is to ensure that AMCs appointed by them act in the best interests of the unitholders. Accordingly, any conflict between interests of the unitholder and that of AMCs' stakeholders needs to be addressed by the Trustees. While the SEBI (Mutual Funds) Regulations 1996 **('MF Regulations')** provide for restrictions to address certain scenarios of conflict of interest, there are other areas of conflict which require specific attention from the Trustees. At the same time, as an AMC is responsible for managing the funds of the schemes, the board of directors of the AMC is also accountable to ensure that the interests of the unitholders are protected. SEBI had constituted a Working Group with a view to streamline the responsibilities at the level of the Trustees and AMCs, to deliberate and make recommendations for ensuring that Trustees can devote their attention to the fiduciary obligations and supervisory role cast upon them. Based on the recommendations of the Working Group and deliberations in the Mutual Fund Advisory Committee (MFAC), SEBI decided to specify the "core" responsibilities for the Trustees of a Mutual Fund. Accordingly, amendments were carried out in MF Regulations. The amendments were notified on 27 June 2023.

Consequent to the amendment, SEBI decided on the following matters in relation to Trustees and board of directors of Asset Management Companies (AMCs) of Mutual Funds- (a) core responsibilities of the trustees, (b) third party assurances, (c) unit holder protection committee, (d) appointment of the Trustee company, and (e) meetings between the Trustee company and AMC.

Master circular for compliance with the provisions of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 by listed entities

On 11 July 2023, SEBI issued the Master Circular for compliance with the provisions of the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 by listed entities.

SEBI notified the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 (hereinafter referred to as **"LODR Regulations"**) which came into effect from 1 December 2015, replacing the erstwhile listing agreement regime. SEBI, from time to time, has also been issuing circulars pertaining to the compliance requirements specified in the LODR Regulations.

This Master Circular has been prepared in order to enable the users to have access to the provisions of the applicable circulars, issued till 30 June 2023, at one place. The Master Circular provides a chapter-wise framework for compliance with various obligations under the LODR Regulations which inter-alia include – (a) uniform listing agreement, (b) periodic disclosures (non-financial), (c) financial disclosures, (d) annual disclosures, (e) event-based disclosures, (f) other obligations and disclosure requirements, (g) penal actions for non-compliance.

The circulars issued by SEBI listed out in the Appendix to this Master Circular shall stand rescinded with the issuance of this Master Circular. Notwithstanding such rescission, a) anything done or any action taken or purported to have been done or taken under the rescinded circulars, prior to such rescission, shall be deemed to have been done or taken under the corresponding provisions of this Master Circular; b) any reference in the other circulars/guidelines issued by SEBI containing reference to the said repealed circulars, shall be construed to be a reference to the corresponding provisions of this Master Circular; c) the previous operation of the rescinded circulars or anything duly done or suffered thereunder, any right, privilege, obligation or liability acquired, accrued or incurred under the rescinded circulars, any penalty, incurred in respect of any violation committed against the rescinded circulars or any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty as aforesaid, shall remain unaffected as if the rescinded circulars have never been rescinded.

BRSR Core – Framework for assurance and ESG disclosures for value chain

On 12 July 2023, SEBI issued a circular on BRSR Core – Framework for assurance and ESG disclosures for value chain. SEBI vide circular dated 10 May 2021 had prescribed the Business Responsibility and Sustainability Report (BRSR) which was subsequently incorporated in the Master Circular dated 11 July 2023. Based on the recommendations of the ESG Advisory Committee and pursuant to public consultation, the Board decided to introduce the BRSR Core for assurance by listed entities. The Board further decided to introduce disclosures and assurance for the value chain of listed entities, as per the BRSR Core.

The BRSR Core is a sub-set of the BRSR, consisting of a set of Key Performance Indicators (KPIs)/metrics under 9 ESG attributes. Keeping in view the relevance to the Indian/Emerging market context, few new KPIs have been identified for assurance such as job creation in small towns, open-ness of business, gross wages paid to women etc. Further, for better global comparability intensity ratios based on revenue adjusted for Purchasing Power Parity (PPP) have been included. The format of BRSR Core for reasonable assurance is prescribed and the BRSR format after incorporating new KPIs of BRSR Core is also prescribed. Accordingly, the BRSR format as prescribed in Annexure 16 of the aforementioned Master Circular stands revised. In order to facilitate the verification process, the BRSR Core specifies the data and approach for reporting and assurance. It is however clarified that the approach specified is only a base methodology. Any changes or industry specific adjustments/estimations shall be disclosed. For ease of reference, the BRSR Core contains a cross-reference to the disclosures contained in the BRSR.

Applicability:

(a) From FY 2023 –2024, the top 1000 listed entities (by market capitalization) shall make disclosures as per the updated BRSR format, as part of their Annual Reports.

(b) Listed entities shall mandatorily undertake reasonable assurance of the BRSR Core, as per the glide path specified in the following table:

Financial Year	Applicability of BRSR Core to top listed entities (by market capitalization)
2023 –24	Top 150 listed entities
2024 –25	Top 250 listed entities
2025 –26	Top 500 listed entities
2026 –27	Top 1000 listed entities

ESG Disclosures for value chain: Disclosures for value chain shall be made by the listed company as per BRSR Core, as part of its Annual Report. For this purpose, value chain shall encompass the top upstream and downstream partners of a listed entity, cumulatively comprising 75% of its purchases/sales (by value) respectively. Listed entities shall report the KPIs in the BRSR Core for their value chain to the extent it is attributable to their business with that value chain partner. Such reporting may be segregated for upstream and downstream partners or can be reported on an aggregate basis. The scope of reporting and any assumptions or estimates, if any, shall be clearly disclosed.

Applicability:

(a) ESG disclosures for the value chain shall be applicable to the top 250 listed entities (by market capitalization), on a comply-or-explain basis from FY 2024-25.

(b) The limited assurance of the above shall be applicable on a comply-or-explain basis from FY 2025-26.

The Board of the listed entity shall ensure that the assurance provider of the BRSR Core has the necessary expertise, for undertaking reasonable assurance. The listed entity shall ensure that there is no conflict of interest with the assurance provider appointed for assuring the BRSR Core. For instance, it shall be ensured that the assurance provider or any of its associates do not sell its products or provide any non-audit/non-assurance related service including consulting services, to the listed entity or its group entities.

Master Circular for ESG Rating Providers (ERPs)

On 12 July 2023, SEBI issued a circular for ESG Rating Providers. ESG Rating Providers are regulated under the provisions of Securities and Exchange Board of India (Credit Rating Agencies) Regulations, 1999 (**"CRA Regulations"** as amended with effect from 4 July 2023) that inter-alia prescribe guidelines for registration of ERPs, general obligations of ERPs, manner of inspection and code of conduct applicable to ERPs. While the broad framework for ERPs has been laid down in the CRA Regulations, the procedural/disclosure requirements and obligations are being specified through this master circular, which will enable the industry and other users to have access to all the applicable directions to ERPs at one place. ERPs are directed to comply with the conditions laid down in this master circular. Also, ERPs shall have necessary systems and infrastructure in place for implementation of this circular. The Board of Directors of the ERP shall be responsible for ensuring compliance with these provisions. This circular is issued in exercise of the powers conferred by Section 11 (1) of Securities and Exchange Board of India Act, 1992 read with the provisions of Regulation 28H of CRA Regulations, to protect the interest of investors in securities, to promote the development of, and to regulate, the securities market.

Applicability: The provisions of the Master Circular shall come into force with immediate effect from the date of notification of this Master Circular. For the purpose of this Circular, "listed entity" shall have the same meaning as provided in

Regulation 2(1)(p) of Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015.

Monitoring: Monitoring of provisions of this circular shall be done in terms of the yearly internal audit for ERPs, mandated under Regulation 28S of the CRA Regulations and this master circular issued thereunder.

Disclosure of material events/information by listed entities under Regulations 30 and 30A of Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015

On 13 July 2023, SEBI issued a circular on Disclosure of material events/information by listed entities under Regulations 30 and 30A of Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015. SEBI vide circular dated 9 September 2015 specified the details that need to be provided while disclosing events given in Part A of Schedule III of Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 ("LODR Regulations") and guidance on when an event/information can be said to have occurred. The aforesaid circular has now become part of Section V-A of Chapter V of Master Circular issued vide circular dated 11 July 2023 ("Master Circular"). In order to bring more transparency and to ensure timely disclosure of material events /information by listed entities, the proposal to amend LODR Regulations was deliberated by the Primary Market Advisory Committee (PMAC) of SEBI and subsequently placed for public consultation for comment. Based on the above, pursuant to approval by the Board, amendments to the LODR Regulations were notified. Accordingly, this circular consists of four annexures with respect to disclosure requirements under regulations 30 and 30A (inserted by the aforesaid amendment) of the LODR Regulations which are given below:

(a) ANNEXURE I specifies the details that need to be provided while disclosing events given in Part A of Schedule III (Annexure 18 to the Master Circular).

(b) ANNEXURE II specifies the timeline for disclosing events given in Part A of Schedule III.

(c) ANNEXURE III provides guidance on when an event/information can be said to have occurred (Annexure 19 to the Master Circular).

(d) ANNEXURE IV provides guidance on the criteria for determination of materiality of events/information.

The Master Circular stands partially modified by this circular as specified above. This circular shall come into force from 15 July 2023.

Streamlining the procedure for grant of industrial licenses

On 21 July 2023, the Department for Promotion of Industry and Internal Trade (DPIIT) issued a circular on streamlining the procedure for grant of industrial licenses.

In supersession of all earlier Press Notes, the period of validity of Industrial License is being extended from three years to fifteen years for all kind of Licenses henceforth to be granted under the Industries (Development and Regulation) Amendment. Act, 1953 in line with the validity of Licenses being issued for Defence items as a measure for ease of doing business. An extension of three years may be granted by concerned Administrative Ministry/Explosive Section (DPIIT) as per guidelines given below.

Guidelines for Extension of validity of Industrial License

Note:-These guidelines are applicable for extension of validity of Industrial license in cases where the existing license holder has not commenced production of the items within 15 years of issue of license.

(i) The application for extension of license should be submitted to the concerned Administrative Ministry/Explosive Section (DPI IT), prior to the expiry of 15 years period or otherwise specified for commencement of commercial production.

(ii) At the time of applying for grant of extension of validity of license the condition and status of the firm should be same as mentioned in the Industrial License issued to the firm. Thus, any amendment, viz. change in the name of the company, change in Board of Director, increases/changes in license capacity, alteration or change in the premises, part shifting etc. should have been endorsed in the License.

(iii) Applicant's request should be forwarded to the concerned Central/State Government, as the case may be, and after obtaining comments of the Central/State Government, the case should be considered for extension of validity. Comments of MHA should also be sought for only if there is change in Board of Directors/key personnel.

(iv) Applicant should meet following conditions at the time of applying of extension/reconsideration:

(a) Land should have been acquired, either under ownership or on lease for minimum period of 30 years (as per registration/lease documents).

(b) The construction on the project should have been completed (as per report of State Government).

(c) Plant and machinery for the project should have been installed/commissioned (as per invoice and installation/commissioning certificate).

(v) Cases involving transfer, suspension or cancellation of license in the intervening period shall not be considered for extension.

(vi) Extension of validity of existing license would be allowed on receipt of application from license holder within 15 years period from issuance of Press Note 5 (2014 series) i.e. 2 July 2014.

(vii) Extension of validity of new licenses, to be issued as per this Press Note, would be allowed for a further period of three years (upto maximum of 18 years of validity).

(viii) Any Industrial License, wherein commercial production has not started even within the extended period (15+3 i.e. a maximum period of 18 years from the date of issue of license), shall be treated as automatically lapsed.

(ix) The applicants fulfilling the above guidelines may be granted extension of Industrial License with the approval of concerned Additional Secretary/Joint Secretary of the Administrative Ministry/Explosive Section (DPIIT) without referring the application to Licensing Committee. x. All cases in which License has been issued/closed/lapsed/regretted after issuance of Press Note 5 (2014 series) i.e. 2 July 2014 may also be reconsidered, as per this Press Note, on receipt of application from the licensee, by Administrative Ministry/Explosive Section (DPIIT).

E-Waste (Management) Second Amendment Rules, 2023

On 24 July 2023, the Ministry of Environment, Forest and Climate Change issued a gazette notification notifying the E-Waste (Management)

Second Amendment Rules, 2023 to further amend the E-Waste (Management) Rules, 2022. This will come into effect from the date of its publication in the gazette.

The key amendments are as follows:

(a) In the E-Waste (Management) Rules, 2022 (hereinafter referred to as the said rules), in rule 5, after clause (3), the following clause shall be inserted, namely: -

"(4) ensure secure, accountable and sustainable management of refrigerant generated during the manufacture of refrigeration and air-conditioning equipment by adopting approved destruction technologies as per the guidelines issued by the Central Pollution Control Board.".

(b) In rule 7 of the said rules, after clause (4), the following clause shall be inserted, namely: -

"(5) ensure secure, accountable and sustainable management of refrigerant generated from the end-of-life refrigeration and air-conditioning equipment by adopting approved destruction technologies as per the guidelines issued by the Central Pollution Control Board.".

(c) In rule 9 of the said rules, after clause (10), the following clause shall be inserted, namely: -

"(11) ensure secure, accountable and sustainable management of refrigerant generated from the end-of life refrigeration and air-conditioning equipment by adopting approved destruction technologies as per the guidelines issued by the Central Pollution Control Board.".

(d) In rule 14 of the said rules, in sub-rule (1), in clause (ii), after sub-clause (b), the following sub-clause shall be inserted, namely:-

"(c) In case of multiple end products of recycling, the conversion factor for generation of extended producer responsibility certificate shall be determined as per the guidelines issued by the Central Pollution Control Board with the approval of the Steering Committee.". A new schedule after Schedule II has been inserted per these Rules as follows:

"Schedule-II A - Applications exempted from the provisions of sub-rule 1 of rule 16 specific to medical devices and monitoring and control instruments including laboratory equipment as listed in Schedule – I."

Resources for Trustees of Mutual Funds

On 26 July 2023, SEBI issued a circular on resources for Trustees of Mutual Funds. As per para 6.8.2 of the Master Circular on Mutual Funds No. SEBI/HO/IMD/IMD-PoD-1/P/CIR/2023/74 dated 19 May 2023 ("Master Circular"), the Trustees shall have standing arrangements with independent firms for special purpose audit and/or to seek legal advice in case of any requirement as identified and whenever considered necessary. Since the aforesaid standing arrangement with independent firms has to be available on a continuous basis, a confirmation to this effect shall be provided by Trustees in the Half Yearly Trustee Reports submitted to SEBI. Accordingly, the format for Half Yearly Trustee Report, as provided under Chapter 2 of Formats in the Master Circular, shall stand modified as under:

"72. Compliance with the requirement of standing arrangements with independent firms for special purpose audit and/or to seek legal advice.
73. Any other matter the trustees would like to report to SEBI."

The provisions of this circular shall be applicable with immediate effect.

CORPORATE REGULATORY UPDATES

Mandating Legal Entity Identifier (LEI) for all non –individual Foreign Portfolio Investors (FPIs)

On 26 July 2023, SEBI issued a circular on mandating Legal Entity Identifier (LEI) for all non–individual Foreign Portfolio Investors (FPIs). The Legal Entity Identifier (LEI) code is a unique global 20-character code to identify legally distinct entities that engage in financial transactions. LEI is conceived as a key measure to improve the quality and accuracy of financial data systems for better risk management post the Global Financial Crisis. RBI directions, inter-alia, mandate non-individual borrowers having aggregate exposure of above INR 25 crore, to obtain LEI code. Presently, FPIs are required to provide their LEI details in the Common Application Form **("CAF")**, used for registration, KYC and account opening of FPIs on a voluntary basis. SEBI has now decided to mandate the requirement of providing LEI details for all non-individual FPIs. Depositories shall carry out the necessary modifications to the CAF in their Portals. All existing FPIs (including those applying for renewal) that have not already provided their LEIs to their DDPs shall do so within 180 days from the date of issuance of this circular, failing which their account shall be blocked for further purchases until LEI is provided to their DDPs. All fresh registration, subsequent to issuance of this circular, shall be carried out upon receipt of the FPIs' respective LEI details.

FPIs are required to ensure that their LEI is active at all times. Accounts of FPIs whose LEI code has expired/lapsed shall be blocked for further purchases in the securities market till the time the LEI code is renewed by such FPIs. This circular shall come into force with immediate effect.

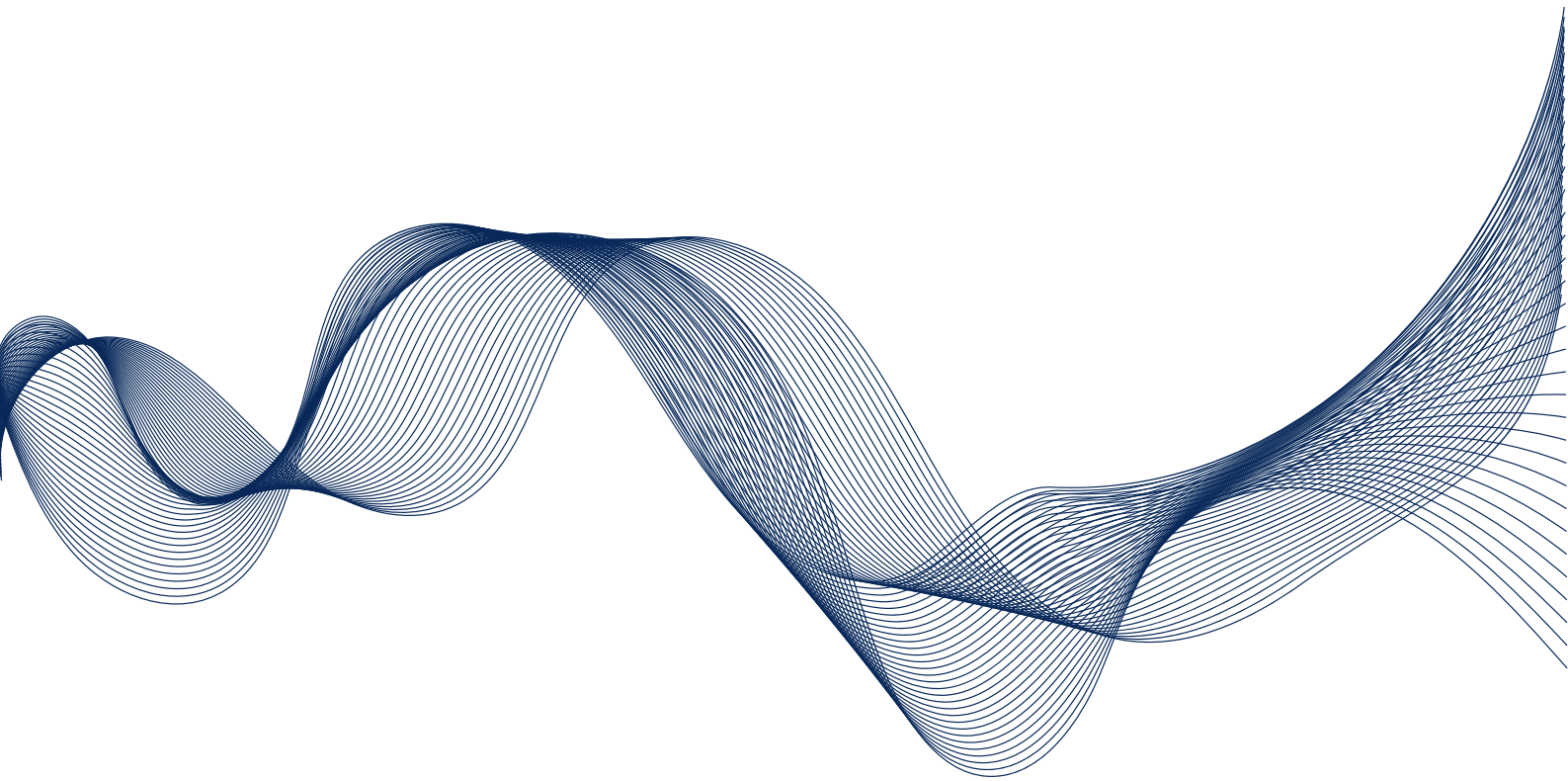
Online Resolution of Disputes in the Indian Securities Market

On 31 July 2023, SEBI issued a circular on Online Resolution of Disputes in the Indian Securities Market. After extensive public consultations and in furtherance of the interests of investors and consequent to the gazette notification of the SEBI (Alternative Dispute Resolution Mechanism) (Amendment) Regulations, 2023 the existing dispute resolution mechanism in the Indian securities market is being streamlined under the aegis of Stock Exchanges and Depositories (collectively referred to as Market Infrastructure Institutions **("MIIs"))**, by expanding their scope and by establishing a common Online Dispute Resolution Portal **("ODR Portal")** which harnesses online conciliation and online arbitration for resolution of disputes arising in the Indian Securities Market.

Introduction of the common ODR Portal -

The MIIs shall, in consultation with their empaneled ODR Institutions, establish and operate a common ODR Portal. The MIIs will make joint efforts to develop and operationalize the ODR Platform. For the purposes of implementation of this circular, the MIIs shall enter into an agreement amongst themselves, which will, inter alia, outline the nature of their responsibilities, the cost of development, operating, upgradation, maintenance (including security of data of investors and intermediaries as specified by the Board from time to time) and for inspection and/or audit of the ODR Platform. The Board may, from time to time, undertake inspection in order to ensure proper functioning of ODR Portal and MIIs shall provide complete cooperation to the Board in this regard. It is clarified that MIIs which are initially excluded from the round robin system (as described below) are not required to incur any costs for development and maintenance of the ODR Portal during the period of such exclusion. Each MIIs will identify and empanel one or more independent

ODR Institutions which are capable of undertaking time-bound online conciliation and/or online arbitration (in accordance with the Arbitration and Conciliation Act, 1996 and any other applicable laws) that harness online/audio-video technologies and have duly qualified conciliators and arbitrators. The norms for empanelment of ODR Institutions are specified in Schedule C of this circular as also the continuing obligations of the ODR Institutions. The ODR Portal shall have due connectivity with each such ODR Institution as is required for undertaking the role and activities envisaged in this circular. Such ODR Portal shall establish due connectivity with the SEBI SCORES portal/SEBI Intermediary portal. All the MIIs shall participate on the ODR Portal and provide investors/clients and listed companies (including their registrar and share transfer agents) and the specified intermediaries/regulated entities in the securities market access to the ODR Portal for resolution of disputes between an investor/client and listed companies (including their registrar and share transfer agents) and the specified intermediaries/regulated entities in the securities market, through time bound online conciliation and/or online arbitration. All listed companies/specified intermediaries/regulated entities in the securities market (collectively referred to as "Market Participant/s") shall enroll on the ODR Portal within the timelines as specified in this circular. The enrollment process shall also include executing electronic terms/agreements with MIIs and the ODR Institutions. Facility to register Market Participants into the ODR Portal by utilising the credentials used for SEBI SCORES portal/SEBI Intermediary portal may be also provided. All market participants and MIIs are advised to display a link to the ODR Portal on the home page of their websites and mobile apps. The modalities of the ODR Portal along with the relevant operational guidelines and instructions may be specified by the Board from time to time.



RECENT EVENTS

We successfully concluded the first episode of our webinar series titled **"Employers Do You Know"** on 3 August 2023. In this webinar, **Vineet Aneja**, Managing Partner and **Raveena Verma**, Senior Associate at Clasis Law shared their valuable insights on ways to practically deal with aspects of employment laws in India that employers commonly struggle with. They also touched upon the four new labour codes, for which India is gearing up and which shall be notified soon.

Independence Day Special: A look at India's top achievements in sports

India celebrated its 77th Independence Day on *Tuesday, August 15, 2023*. This day is celebrated with pomp across the nation and Indians around the globe. In the last few decades, India has evolved as a sporting super power with numerous magnificent moments that are worth remembering and will be remembered for a long time. Let's take a look at the top sporting achievements after August 15, 1947.

Men's Hockey team won gold in London Olympics 1948

Abhinav Bindra Shoots Gold in Beijing Olympics 2008

Indian cricket team winning the 1983, 2007 and 2011 World Cups

Neeraj Chopra's historic gold medal in Javelin Throw, Tokyo Olympics 2020

Men's Hockey Team won Bronze medal at the Tokyo Games 2022

Source - https://www.freepressjournal.in/sports/independence-day-2023-a-look-at-indias-top-5-achievements-in-sports-since-august-15-1947

Notable Recognitions & Accolades

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