

Vol. 5 | May 2024

Official Newsletter



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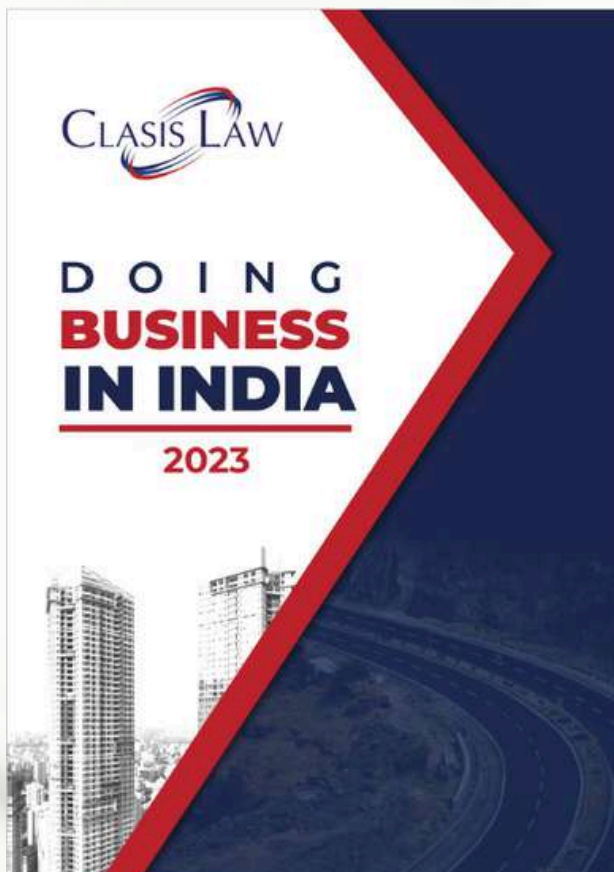
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DOING BUSINESS IN INDIA

We are pleased to share the **Fifth Edition** of our e-book titled ***"Doing Business in India"***.

The book 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.



Please scan the **QR code** above or [Click Here](#) to download the e-book. Alternatively, you may write to us at info@clasislaw.com for the copy.

GUEST ARTICLE



Ease of Doing Business (EoDB) in India

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The buzzword “*Ease of Doing Business*” (**EoDB**) is a global ranking system developed by World Bank in 2003 with the help of three American economists. In simple parlance EoDB means time taken to set up a business in a country and how well an entrepreneur is able to carry out his business operations easily thereby saving time, money and effort. Ranking in EoDB index is assessed by the World Bank based on following parameters:

- Starting a Business
- Getting Construction Permits & Electricity
- Registration of Property
- Credit from Financial Institutions/Banks
- Taxation
- International Trade
- Enforceability of Contracts
- Protection of Minority Rights
- Resolving Insolvency

Business being a major contributor to the Indian economy, Government of India (**GOI**) realized in the year 2016 that business enterprises in India should be able to carry on their operations with efficiency & ease. In order to achieve this the GOI launched its ambitious policy to make regulatory reforms for simplifying business operations in India. With great effort the GOI was able to secure a ranking of 63rd position among 190 countries. The initiatives taken by the GOI are illustrated below:

A. Streamlining Regulatory Framework

The Jan Vishwas (Amendment of Provisions) Act, 2023 was implemented from 11th August 2023. It rationalized criminal punishment for 183 minor offences across 42 central laws governed by 19 Central Ministries ranging from Intellectual Property, information technology, environment, food safety standards, legal metrology, motor vehicles etc. The decriminalization is a great relief to the business community as the corporate sector can focus on business activities rather than compliance. The JV Act, 2023 has removed unnecessary blockages so that the judiciary is not overburdened with petty litigation. This has encouraged many young entrepreneurs to take to business as a means of livelihood and rationalization of the regulatory framework in favour of the industry has set stage.

B. EoDB and Company Law

Over the last decade the Companies Act, 2013 has been amended drastically to create a conducive

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atmosphere for the corporate sector and simplifying compliance requirement. To encourage the Start Ups to set up a Private Company SPICE + e-forms have been introduced. This e-form serves as a single window clearance system to enable a new Company to obtain most of the necessary central and state governments approval in one shot. At present Companies can be incorporated with “zero” capital that will help knowledge rich start ups to incorporate private Companies. The requirement to obtain Certificate of Commencement of Business for Public Companies has been done away with. This will enable the promoters of newly incorporated public companies to start business operations immediately on incorporation.

For ease of compliance, One Person Companies (OPC) & small companies are now required to conduct only 2 Board Meetings in a financial year instead of 4. Such companies are no longer required to get their e-forms attested from a Practising Company Secretary and their reporting requirement to the Ministry of Corporate Affairs (MCA) has been substantially reduced. In the evolving global scenario, the Companies Act 2013 has enabled Board Meetings to be held via audio-visual means without physical presence of Directors for discussing all types of matters. This has enabled the Directors to conduct their Board Meetings from any part of the world without the need to physically travel to the meeting venue. Remote e-voting for listed Companies & unlisted public Companies having 1000 or more members has been mandated by the Companies Act, 2013 to ensure active participation of shareholders in Company affairs. To reduce compliance cost for private Companies the need to circulate Offer Documents for accepting deposits from members and filing Board Resolution with the Registrar of Companies (RoC) has been done away with. Companies having Charitable Objects are now exempted from appointing Independent Directors and constituting Nomination & Remuneration Committee. Listed Companies are no longer required to report change in their top 10 shareholders with the RoC, this has reduced duplication in compliance. Private Companies/Unlisted public companies who only list their debt securities on the stock exchange are exempted from the definition of Listed Company under the Companies Act, 2013. The Companies Act, 2013 now prescribes only monetary penalty for Related Party Transactions violations as against imprisonment.

In a path breaking move the Companies Act, 2013 has introduced new provisions for remuneration of Independent Directors & Non-Executive Directors in case of inadequacy of profits. This new amendment encourages value addition and transparency brought in by Independent and Non-Executive Directors to Company Boards. Now unlisted public Companies can list their equity shares on NSE International Exchange and other international stock exchanges to raise capital from overseas sources.

C. EoDB and Judicial Infrastructure

A robust dispute resolution infrastructure is the benchmark of a civilised society. In view of the international best practices the GOI has created a new class of “**Commercial Courts**” to reduce the growing pendency of commercial disputes. With the enactment of Commercial Courts Act, 2015 presently 35 Commercial Courts have been set up in Delhi, Mumbai, Kolkata and Bangalore. Such courts dispose of disputes arising out of joint ventures, IPRs, management consultancy, insurance/re-insurance, franchise business, export-import of goods/ services, exploitation of oil, natural gas, subscription of shares of the value of Rs.1 Crore or more. For promoting ease of business 23 High Courts in India have set up Special Courts to decide disputes w.r.t Infrastructure Projects. The High Court of Delhi, Karnataka & Allahabad have dedicated days in a week/month for hearing infrastructure

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related disputes. For speedy disposal of high value commercial disputes above Rs.500 crores special Judge Bench have been set up by High Courts of Delhi, Orissa, Allahabad & Andhra Pradesh. These improvements in judicial infrastructure will instill greater confidence in Indian economy.

D. EoDB and Securities Law

During the COVID pandemic various amendments have been introduced to streamline SEBI Regulations for Initial Public Offering (IPO). SEBI has mandated appointment of Independent Directors on the board of all listed Companies, it has also issued many clarifications w.r.t to disclosure requirements for listed Companies. All this has instilled investor confidence in the Indian capital market. Measures such as dematerialisation of securities for all private Companies, electronic trading, Unified Market Platform enables investors to easily trade in securities market. Introduction of the SME platform for listing of small/start up companies has enabled small business to access the capital market, thereby promoting entrepreneurship. SEBI has embraced technology in its functioning to streamline regulatory processes such as online filing systems, electronic reporting, use of data analytics in surveillance activities has improved the efficiency of the capital market and has reduced the compliance burden on market participants.

SEBI in collaboration with CDSL has launched a multi lingual initiative for convenience of the investors. This facility offers investors a consolidated view of their securities held in Demat account in language of their choice. This multi-lingual chatbot on CDSL website will simplify investor processes. The CDSL has also brought in an upgraded version of “Apka CAS- Apki Zubaani” that enables all investors to receive their demat statements in 23 Indian languages of their choices. SEBI is also working to revise the framework for fund raising by issuance of debt securities by large listed Companies.

Conclusion

The above reformatory initiatives have certainly improved Indian’s global ranking in the Ease of Doing Business Index. However, striking an equilibrium between governance and ease of business operations is crucial for building trust in public policy and fostering entrepreneurship.

Disclaimer

This article is not intended to be a comprehensive review of all developments in the law and practice, or to cover all aspects of those referred to herein. This publication has been prepared for information purposes only and should not be construed as legal advice. The views expressed in the article is of the author alone and does not represent any organization.

LEGAL UPDATE



Can Competent Authority under MOFA examine inter se dispute between Promoter and Owner of Land while granting certificate of Unilateral Deemed Conveyance?

Introduction

In a recent judgement⁽¹⁾, the Bombay High Court has *inter alia* held that Competent Authority appointed under Maharashtra Ownership of Flats Act, 1963 (**'MOFA'**) has no authority to divulge into details of dispute of title between a promoter and other persons *inter se* while granting certificate of unilateral Deemed Conveyance under Section 11(3) of MOFA.

Facts

One Manoramabai and Uday (**'Promoters'**), the heirs the deceased Mr. Madhavrao Jagtap constructed a building on a part of the larger plot owned by the deceased. Sometime during the construction, one Alice claimed to be the widow of the deceased and Nalini Ramakant Jadhav (**'Nalini'**) as their daughter. Nalini filed a suit against the Promoters, and other heirs of the deceased (**'Suit'**). During the pendency of the Suit, the construction of building continued and the flats therein were sold to various flat purchasers by execution of agreements as per MOFA (**'MOFA Agreements'**). The building was completed in 1978 and the flat purchasers formed their Co-operative Housing Society (**'Society'**) in 1988. In spite of the building being complete and the Society being formed, the Promoters failed to convey the land in terms of S. 11 of MOFA. Sometime in 2012, the Society applied to the Competent Authority (**'Authority'**) for grant of Certificate of Unilateral Deemed Conveyance (**'Deemed Conveyance'**) for the larger plot.

It was rejected by the Authority on the ground that Nalini, who was the owner of the larger plot had not entered into MOFA Agreements with the flat purchasers. The rejection by Authority was challenged by way of a Writ Petition before the High Court which was disposed of with the direction to the Society to file a fresh application before the Authority and claiming the actual area under their occupation. Upon review of the order in Writ, the same was disposed recording that the Society had filed a fresh application for Deemed Conveyance, a direction in the fresh application was awaited. However, the fresh application for Deemed Conveyance was also rejected by the Authority due to pendency of the Suit. The Society preferred a Writ Petition against the rejection of the fresh application.

Submissions

It was submitted on behalf of the Society that pendency of Suit cannot be a reason for the Authority to reject the application for Deemed Conveyance. To buttress their submission, reliance was placed on the judgement in *Om Shakuntal Co-op Housing Society*⁽²⁾ case. It was further submitted that the Suit cannot affect the obligation of the promoter to convey the land under S. 11 of MOFA as the MOFA Agreements themselves were not challenged. It was submitted that in absence of the challenge to MOFA Agreements, the statutory right of the flat purchasers to seek unilateral deemed conveyance cannot kept in abeyance for the pending Suit. Thereafter, the Court consolidated its findings and laid down a two-pronged test to be

LEGAL UPDATE

employed by courts while considering the issue of limitation in relation to Section 11(6) of the Act:- first whether the Section 11(6) petition is barred. It was further submitted by the Society that an order granting Deemed Conveyance does not conclude issue of right, title and interest in the land and that the same is always subject decision of a civil suit. It was finally submitted that the scope of Authority u/s 11 of MOFA is very limited, to the extent that it can only verify the documents on record and convey the land in accordance with the agreements executed with the flat purchasers. The heirs of the deceased Nalini opposed the Writ primarily on the ground that Promoters did not have any right, title or interest in any portion of the larger plot and that the building was illegally constructed. It was further submitted that since the construction of building and sale of flats was undertaken with the notice of Suit, no equities can be claimed by the Promoters or the flat purchasers of the building through the Society. It was further submitted that since the relief sought by the heirs of the deceased Nalini was title to the entire larger plot, the part of the larger plot, on which the building stood could not be conveyed to the Society and hence, the rejection by Authority was correct. The other Respondents, i.e., the daughters of deceased Mr. Madhavrao Jagtap, also resisted the Society's petition on the ground that the Promoters had sold the flats in the building behind their back and being the heirs of the deceased Mr. Madhavrao Jagtap, they had right, title and interest in the larger plot, including the part on which the building stood.

Adjudication and Judgement

The Court noted that although the Suit contained a prayer for injunction against continuing construction of building and selling of any flats in the building, no order for such injunction was passed by the City Civil Court. The Court observed that although the building's construction as well as registration of the Society were done during the

pendency of Suit, no action was taken by the heirs of the deceased Nalini, the Plaintiffs in the Suit till 2012. The Court further observed that while the first application for Deemed Conveyance was rejected for the reason that Nalini hadn't entered into MOFA Agreements, the second application for Deemed Conveyance was rejected merely on the ground of pendency of Suit. The Court held that while a dispute to the title of a promoter to a land on which construction is being erected lies in a Civil Court, such a dispute cannot be an impediment to the power of the Authority acting u/s 11 of MOFA to grant Deemed Conveyance certificate in absence of an injunction to that effect by the Civil Court. The Court opined that under S. 11 of MOFA, the jurisdiction of the Authority is very limited and the Authority is only required to convey what the promoter fails to convey as per the MOFA Agreements. The Court further opined that u/s 11 of MOFA, the Authority is only vested with the power to do an act which the promoter is required to do and while doing so, is not supposed to delve in to the disputes of title of the promoter to the land. The Court also opined that if a MOFA Agreement contains obligations that the promoter is required to convey the land to the society of the flat purchasers, the Authority has no option but to grant a certificate of Deemed Conveyance to such a society. Relying on the cases decided in *Mazda Construction Company*(3), *Vasundhara Dhananjay Dongre*(4) and *Om Shakuntal CHS Ltd.*(5) the Court held that mere pendency of title suit between promoter and other persons claiming right or share in the land to be conveyed to the society of flat purchasers cannot be a ground for avoiding performance of statutory duty by the competent authority u/s 11(3) of MOFA. In view thereof, the Court finally ordered that since the act of the Authority to go in the details the Suit was beyond the powers and authority prescribed under the law, the order refusing Deemed Conveyance was set aside and the Writ was disposed of.

Footnotes

- New Manoday Co-operative Housing Society Limited vs Uday Madhavrao Jagtap and Ors., WP No. 1421 of 2024
- WP No. 2578 of 2020
- 2012 SCC Online 1266
- WP(L) 23095 of 2021
- Supra

INTELLECTUAL PROPERTY UPDATE




Delhi High Court Passes '*John Doe Order*' to protect well-known Trademark

Brief Facts

In a recent legal battle, a hospitality chain confronted a case of trademark and copyright infringement, fraud, and passing off wherein the perpetrators used its brand name to operate unauthorized websites and other digital channels to conspire financial fraud on unsuspecting customers. The Hon'ble High Court of Delhi ("**Court**") not only addressed the immediate infringement issues but also provided crucial insights into the risks and repercussions of online fraud involving well-known trademarks.

In the present case(1) the Plaintiff, i.e., The Indian Hotels Company Limited, a part of the TATA group of companies, filed a suit for permanent injunction to protect its brand named "GINGER". The Plaintiff is in the hospitality industry and owns trademarks viz. "GINGER," **GINGER GINGER** *ginger*

 in Class 43(2) in respect of temporary accommodation and related services for providing food and beverages. The marks have been exclusively and extensively used by the Plaintiff, and thus, have acquired a distinctive character and are associated solely with the Plaintiff. The Plaintiff also claims rights in the original professional photographs of its GINGER hotels under Section 2(c)(3) read with Section 14(c)(4) of the Copyrights Act, 1957. It also owns the domain "gingerhotels.com" and operates a dedicated website "www.gingerhotels.com" for promoting its hotels, services, and booking. As such, the Plaintiff claims statutory as well as common law rights in its

trademarks and copyrights. The Plaintiff filed a suit seeking a permanent injunction to restrain Defendant No. 1 (unknown individuals using the alias "John Doe") from infringing on its trademarks and copyrights, and from passing off their services as those of the Plaintiff. The Plaintiff also filed an interim application seeking urgent relief under Order 39(5) Rules 1 and 2, read with Section 151(6) of the Civil Procedure Code.

The Plaintiff alleged that Defendant No. 1 is perpetrating fraud by creating a false association with the Plaintiff, resulting in financial losses for the general public and smearing of the Plaintiff's reputation and goodwill. As per the Plaintiff, the fraudulent activities include operating multiple unauthorized websites using the Plaintiff's trademarks, social media handles, and phone numbers, all engineered to mislead customers into believing they are associated with the Plaintiff's hotel business.

The Plaintiff claimed that Defendant No. 1's fraudulent activities have caused harm to its trademarks and copyrights, leading to tarnishing of its brand's reputation. The Plaintiff received complaints from customers who were defrauded by these activities, leading to financial losses. Hence, the Plaintiff approached the Court for relief.

Contentions of the Parties

Plaintiff's contention in brief:

- The Plaintiff contended that Defendant No. 1 had been infringing on its trademarks and

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- copyrights by using them without authorization. That Defendant No. 1 was also passing off their services as those of the Plaintiff, leading to confusion among customers and financial fraud.
- The Plaintiff emphasized that Defendant No. 1 was operating unauthorized websites using domain names that include "GINGER," (7) similar to the Plaintiff's official website. The fraudulent websites used the Plaintiff's trademarks, copyrighted photographs, and other identifiers to create a false association with the Plaintiff.
- In view of the above, the Plaintiff sought permanent injunction to restrain Defendant No. 1 from using its trademarks and copyrighted photographs, an order to suspend and block the unauthorized domain names and websites, and to freeze associated bank accounts and UPI IDs of the perpetrators. They also requested temporary blocking of phone numbers used in the fraudulent activities.
- It was further observed that by systematically misappropriating the Plaintiff's trademark on the impugned websites, social media user details, UPI IDs, etc., Defendant No. 1 attempted to appear to be authentically associated with the Plaintiff, in order to defraud the general public of their hard-earned money, and thereby causing substantial harm to the Plaintiff's reputation and goodwill.
- Thus, the Court inferred that the Plaintiff presented a prima facie case of trademark and copyright infringement, as well as passing off. The evidence showed that Defendant No. 1 had been using the Plaintiff's trademarks without authorization and perpetrating financial fraud on the general public.
- The Court concluded that the Plaintiff would suffer irreparable harm if the ex-parte injunction was not granted, given the potential damage to its reputation and goodwill. The balance of convenience also favoured the Plaintiff, warranting immediate relief.

Analysis and Finding of the Court

The Court provided the following observations and conclusions:

- The Court opined that the Plaintiff had sufficiently demonstrated that Defendant No. 1 was perpetuating serious financial fraud on unsuspecting victims by misrepresenting themselves to be associated with the Plaintiff and offering services related to the Plaintiff's hotels, with the mala fide intent to siphon off the customer's money. The Court indulged into the contents of some illustrative screenshots of the communications and transactions between the victims and Defendant No. 1 which revealed the modus operandi of Defendant No. 1.
- Therefore, the Court granted an ex-parte interim injunction in favour of the Plaintiff, restraining Defendant No. 1 from using the Plaintiff's trademarks, copyrighted photographs, and from passing off their services as those of the Plaintiff.
- The Court further directed the domain name registrars to suspend and block the unauthorized domain names and ordered telecom service providers to block the associated phone numbers used for fraudulent activities. It also ordered bank account suspension and freezing of UPI IDs associated with the fraudulent activities.

INTELLECTUAL PROPERTY UPDATE

Footnotes

1. The Indian Hotels Company Limited v. John Doe & Ors., I.A. 10303/2024 in CS(COMM) 370/2024, decided on May 7, 2024 by the Hon'ble High Court of Delhi.
2. Class 43 includes mainly:
 - a. Services provided by persons or establishments whose aim is to prepare food and drink for consumption and services provided to obtain bed and board in hotels, boarding houses or other establishments providing temporary accommodation.
 - b. Reservation services for travellers' accommodation, particularly through travel agencies or brokers.
3. "Artistic work" means - (i) a painting, a sculpture, a drawing (including a diagram, map, chart or plan), an engraving or a photograph, whether or not any such work possesses artistic quality.
4. Meaning of copyright - For the purposes of this Act, "copyright" means the exclusive right subject to the provisions of this Act, to do or authorise the doing of any of the following acts in respect of a work or any substantial part thereof, namely— (c) in the case of an artistic work - 5 [(i) to reproduce the work in any material form including— (A) the storing of it in any medium by electronic or other means; or (B) depiction in three-dimensions of a two-dimensional work; or (C) depiction in two-dimensions of a three-dimensional work.
5. Rule-1. Cases in which temporary injunction may be granted & Rule-2. Injunction to restrain repetition or continuance of breach.
6. Saving of inherent powers of Court - Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court.
7. "www.gingertreeresortsuite.com", "www.gingershotel.com", "www.gingershotel.online", "www.gingerhotels.site", "www.gingershotels.online" "www.gingerhotel.website3.me", "www.gingerhotelsbooking.in", "www.gingerhotelsindia.in", "www.gingerresorthotel.online" and "www.mayfairheritagehotel.online"

JUDGEMENTS

In the matter of Hermes I Tickets Private Limited (“Company”) for violation of Section 134 of the Companies Act, 2013 (“Act”)

During the course of inquiry of the Company under section 206 of the Act, it was observed that the Company had not prepared the financial statement for the financial year 2014-15 and 2015-16 as per the applicable accounting standards and the financial statements comprised of several discrepancies, such as:

- i. Regrouping of trade payables and other current liabilities in financial statement of 2015-16 without giving proper disclosure in the notes to accounts which resulted into mismatch of the figures shown in previous and current year’s financial statement.
- ii. The loans and advances mentioned in the notes to account reflected that loans and advances were paid back to the Company which should have been shown under cash flow from investing activities. However, it was shown under cash flow from operating activities.
- iii. Non-disclosure of amount of trade payable due to related parties and trade receivables due from related parties under the head related party disclosure.

Accordingly, the provisions of section 134 (5) were violated. The Registrar of Companies, Chennai (“ROC”), served show cause notices to the Company and its officers in default and subsequently the authorized representatives of Directors attended the hearing. After considering the facts, ROC imposed a penalty of INR 3,00,000/- on the Company and INR 50,000 each on officers in default for the financial year 2014-15. Similarly, for the financial year 2015-16, penalty of INR 3,00,000/- on the Company and INR 50,000 each on officers in default was imposed.

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In the matter of Premier Energies Limited (“Company”) for violation of Section 29 of the Companies Act, 2013 (“Act”)

The Registrar of Companies, Telangana (“ROC”) received suo-moto adjudication application wherein the Company and its key managerial personnels admitted that the existing shareholders of the Company had not dematerialized their shareholding in the Company prior to fresh allotment of securities by the Company. Further, the Company had approved and recorded transfer of shares in physical form.

As per the provisions of section 29 of the Act, being a public Company, the promoters were required to convert their shares from physical form into demat form prior to fresh issuance of securities by the Company and the transfer of securities should have been in demat form only. As a result, this was a violation of section 29 of the Act. Accordingly, ROC levied a penalty of INR 90,000/- on the Company and an aggregate penalty of INR 3,40,000/- on the officers in default.

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In the matter of Spendflo India Private Limited (“Company”) for violation of Section 56 of the Companies Act, 2013 (“Act”)

The Company suo moto filed an adjudication application with the Registrar of Companies, Chennai (“ROC”) for adjudication of non-compliance of section 56 of the Act. The Company had received the executed share transfer deed in form SH-4 but adequate stamp duty was not paid on it. The board of directors approved the transfer of shares in a board meeting and the stamp duty was paid after the transfer of shares was approved by the board. This resulted in violation of section 56 of the Act.

JUDGEMENTS

Consequently, ROC imposed a penalty of Rs. 50,000/- each on the Company and its officers in default for the violation.

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In the matter of Mayasheel Retail India Limited (“Company”) for violation of Section 42(7) of the Companies Act, 2013 (“Act”)

It was noted that the Company had used a website/platform named ‘Planify’ to raise funds by selling its shares. On the aforesaid website, it reflected that the Company had total 1806 number of subscribers /investors and had raised an amount of INR 40,00,00,000.

In this regard, the Registrar of Companies, NCT of Delhi & Haryana (“ROC”) issued a Show Cause Notice (“SCN”) to the Company regarding exceeding the permissible limit of 200 subscribers for private placement in the financial year, publication of advertisement regarding private placement and failure to file the form PAS-3 within the stipulated time with ROC.

The Company responded to the SCN, refuting all allegations and claiming to have conducted a private placement of equity shares with M/s Planify Capital Limited (“Planify”) in accordance with the provisions of the Act and hence complied with the relevant provisions of the Act. In light of the Company's response, the ROC scheduled a hearing. During this hearing, it was observed that a Fundraising Agreement was executed between the Company and Planify, granting the authority to Planify to further seek potential investors for the Company on the Planify platform. Further scrutiny revealed that Planify had published the misleading advertorial on December 31, 2021, via ANI and other news portals such as Business Standard, in an effort to stimulate interest among individuals to transact shares through the Planify Platform. In light of the aforementioned, it became evident that the purpose behind selling shares to Planify was solely to identify potential investors for the company through the Planify Platform. The true intention was to offer shares to the general public. Thus, this action violated the provisions of section 42 of the Act. Consequently, ROC levied a penalty of INR 48,15,000/- on the Company and each director of the Company for violation of section 42(7) of the Act.

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CORPORATE REGULATORY UPDATES

IFSCA Mandates FIU-IND FINNET 2.0 Registration

To comply with the relevant provisions of the International Financial Services Centres Authority (*Anti Money Laundering, Counter-Terrorist Financing and Know Your Customer*) Guidelines, 2022, Prevention of Money-laundering Act, 2002 and the Prevention of Money laundering (Maintenance of Records) Rules, 2005, IFSCA issued a circular, on March 14, 2024, directing all the regulated entities to immediately complete their registration on FIU-IND FINNET 2.0 portal. The motive behind this exercise is to curb the anti-money laundering activities.

Ease of doing business: Settlement of Client's Funds lying with Broker-Dealer

With an objective to promote ease of doing business in IFSCA in exercise of the powers conferred under the International Financial Services Centres Authority Act, 2019, has allowed the settlement of funds as per the agreement/consent letter between the broker-dealer and its client. As per the circular, such an agreement/consent letter needs to be executed between the broker-dealer and the client at the time of onboarding itself.

Draft rules for the refund process from Investor Education and Protection Fund Authority

On March 14, 2024, Investor Education and Protection Fund Authority (**'IEPF Authority'**) issued a notice inviting the comments from various stakeholders on the draft rules for refund process from IEPF Authority. The purpose of the draft rules is to simplify and expedite the existing process of claim refund from IEPF Authority under the provisions of Companies Act, 2013. Stakeholders can submit their comments by April 15, 2024.

Insurance Regulatory and Development Authority of India (Actuarial, Finance and Investment Functions of Insurers) Regulations, 2024

The Insurance Regulatory and Development Authority of India (**'IRDAI'**), on March 28, 2024 issued the Insurance Regulatory and Development Authority of India (Actuarial, Finance and Investment Functions of Insurers) Regulations, 2024 (**'Regulations'**). The Regulations is applicable on insurers and those exclusively involved in reinsurance business. The objective is to ensure the protection of policyholders' interests, to facilitate ease of doing business, regulatory returns are prepared and reported in accordance with the applicable standards, principles and to have sound and responsive management practices.

These Regulations shall take effect upon publication in the official gazette or by April 1, 2024.

Amendment to the IFSCA (Vault Manager) Circular, 2021

On April 1, 2024, the International Financial Services Centres Authority ("IFSCA") issued an amendment to the IFSCA (Vault Manager) Circular, 2021, dated August 25, 2021. The amendment aims to streamline procedures and requirements for vault managers operating within International Financial Services Centres. The key modifications include provisions for registering additional vaults under existing registrations without the need for an additional security deposit. This circular has been issued under the authority of Section 12 of the International Financial Services Centres Authority Act, 2019, read with Regulation 58 of the IFSCA (Bullion Exchange) Regulations, 2020.

CORPORATE REGULATORY UPDATES

IFSCA Issues Clarification on Permissible Activities Under Ship Leasing Framework

On April 02, 2024, the IFSCA issued a circular providing clarification in relation to the permissible activities specified under the framework for ship leasing (SL Framework). As per the said SL Framework, a lessor, which has obtained a Certificate of Registration (CoR) under regulation 3 of the IFSCA (Finance Company) Regulations 2021, may undertake the permissible activities specified in sub-clause E and H of clause 3 of the SL Framework.

Please note that paragraph (ii) of sub-clause E of clause 3 of the SL Framework states that a lessor in IFSC shall be permitted to undertake asset management support services for assets owned or leased out by the entity or by its wholly owned subsidiary(ies) or by a branch of its wholly owned subsidiary set up in IFSCs in India. In furtherance of this, the IFSCA has clarified that a lessor may undertake the activities specified at the said paragraph (ii), only if such lessor has absolute or lease hold right over the ship/ocean vessel.

FSSAI advises E-Commerce Platforms to ensure appropriate categorization of food products sold on their websites

The Food Safety Standards Authority of India (FSSAI) on April 02, 2024, notified that the e-commerce platforms should ensure appropriate categorization of food products sold on their websites. FSSAI has noted instances of food products licensed under 'Proprietary Food' with the nearest category - Dairy Based Beverage Mix or Cereal Based Beverage Mix or Malt Based Beverage - being sold on e-commerce websites under the category 'Health Drink', 'Energy Drink' etc. Further, the FSSAI has observed instances where food products licensed under 'Proprietary Food' are

being sold on e-commerce platforms under misleading categories such as 'Health Drink' or 'Energy Drink'. However, the term 'Health Drink' is not defined or standardized under the FSS Act 2006 or its regulations. Therefore, the FSSAI has instructed e-commerce Food Business Operators to rectify this misclassification promptly by placing such products in the appropriate category as provided by law.

Remote Trading Participants on Stock Exchanges in the IFSC

The IFSCA issued a circular on April 3, 2024 to permit foreign entities which do not have a physical presence in IFSC to trade directly on the stock exchanges without a broker-dealer. The trading on will be done on a proprietary basis. To be onboarded as remote trading participant by a stock exchange, an entity would need to fulfil certain conditions as detailed in the circular.

Regulation of Payment Aggregators

On April 16, 2024, the RBI issued draft directions on the Regulation of Payment Aggregators ("**Draft PA Directions**") for public comments:

- (i) **New draft directions on regulation of Payment Aggregators – Physical Point of Sale** ("*New Directions*")
- (ii) **Amendments to the existing directions on Payment Aggregators** ("*Amendment Directions*")

The New Directions released by the RBI are aimed at regulating physical point of sale payment aggregators (termed "PA-Ps") which are engaged in handling face to face payments or proximity transactions in offline settings. For banks providing PA-P services, compliance with the New Directions is mandated within a three-month window from their enactment. Non-bank entities offering PA-P services must notify the RBI within 60 days of the issuance of these directives about

CORPORATE REGULATORY UPDATES

their intent to seek authorization, which must be obtained by May 31, 2025. Additionally, the RBI has introduced new net worth criteria that non-bank PA-Ps must meet to sustain their current operations or to commence new operations in this domain. Failure to adhere to these requirements will necessitate the winding down of operations for existing non-bank PA-Ps.

The Amendment Directions proposed by the RBI address amendments to the existing guidelines on regulation of payment aggregator and payment gateways in light of the growing digital transactions and the roles that PAs play in this space. These amendments introduce various new requirements concerning KYC procedures, merchant due diligence, operations within escrow accounts, among others, along with specified timelines for their implementation. Notably, the Amendment Directions mandate that all non-bank PAs register themselves with the Financial Intelligence Unit-India ("FIU-IND") and furnish requested information to the FIU-IND. The RBI has invited feedback on the draft directions until May 31, 2024.

Ministry of Corporate Affairs seeks inputs from shareholders to revamp IBC rules

Ministry of Corporate Affairs ('MCA') is inviting comments from stakeholders to review the following rules prescribed under the Insolvency and Bankruptcy Code, 2016:

- a) The Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016
- b) The IBBI (Form of Annual Statement of Accounts) Rules, 2018
- c) The IBBI (Annual Report) Rules, 2018
- d) The Insolvency and Bankruptcy (Insolvency and Liquidation Proceedings of Financial Service

Providers and Application to Adjudicating Authority) Rules, 2019.

e) The Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019

f) The Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantor to Corporate Debtor) Rules, 2019

g) The Insolvency and Bankruptcy (Pre-packaged Insolvency Resolution Process) Rules, 2021.

Internet banking services to clients of IFSC Banking Units

IFSCA has issued a circular titled 'Internet banking services to clients of IFSC Banking Units' (IBUs), on 22 April 2024. The said circular is applicable to all the IFSC Banking Units and is meant as an instruction for all such banking units to provide information on its website/ separate webpage, pertaining to the products and services being offered by them and the rate of interest and associated terms and conditions being updated and provided periodically to the general public. The said circular also mandates the internet banking services to establish an interactive information exchange services and provide transactional services namely transfer of funds, payment of bills etc. The circular also provides a general direction to the IBUs following which they need to operate and run their business. A time period of 45 days from the date of publication of the circular has been given to the IBUs, to submit an implementation plan to the IFSCA defining how the IBUs wish to implement the circular. IBUs have been given 6 months' time from the date of the issuance of this circular to establish internet banking services, failing which restrictions on the operations of IBU shall be handed out by IFSCA, so as it deems fit.

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Foreign Exchange Management (Mode of Payment and Reporting of Non-Debt Instruments) (Amendment) Regulations, 2024

RBI (Foreign Exchange Department) notified the Foreign Exchange Management (Mode of Payment and Reporting of Non-Debt Instruments) (Amendment) Regulations, 2024 to further amend the Foreign Exchange Management (Mode of Payment and Reporting of Non-Debt Instruments) Regulations, 2019 (“Principal Regulations”). The amended regulations are applicable from the date of their publication in the Official Gazette i.e., April 23, 2024. Provisions pertaining to mode of payment and remittance of sale proceeds for purchase or subscription of equity shares of companies incorporated in India on International Exchanges Scheme has been inserted. Further, the Principal Regulations has been amended to mandate reporting of purchase or subscription of equity shares (classified as Foreign Portfolio Investment) by permissible holders on international exchange. The said reporting is to be done by investee Indian company.

Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) (Amendment) Regulations, 2024

RBI (Foreign Exchange Department) notified the Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) (Amendment) Regulations, 2024 to further amend the Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) Regulations, 2015. The amended regulations are applicable from the date of their publication in the Official Gazette i.e., April 23, 2024. As per the amended regulations, the funds raised through external commercial borrowing, American depository receipts or global depository receipts or through direct listing of equity shares of companies

incorporated in India on international exchanges, pending their utilization or repatriation to India, may be held in foreign currency accounts with a bank outside India.

International Financial Services Centres Authority (Payment Services) Regulations, 2024

On April 23, 2024, the IFSCA released the International Financial Services Centres Authority (Payment Services) Regulations, 2024 (“PS Regulations”) with the intention of governing and regulating payment services in IFSC. The PS Regulations have paved way for setting up entities that can undertake payment services within the IFSC, especially payment system provider entities that have been/ propose to be part of the IFSCA Fintech sandbox. The PS Regulations offer a robust operational and compliance framework, including governance and risk management framework, redressal of grievances, and know your customer norms. Given that the PS Regulations provides an opportunity for payment service providers registered with the RBI to set up their presence in IFSC through its subsidiary/ group company, it becomes imperative for proposed applicants to assess pertinent provisions of foreign exchange regulations during the structuring phase.

Master Direction - Reserve Bank of India (Asset Reconstruction Companies) Directions, 2024

RBI issued “Master Direction - Reserve Bank of India (Asset Reconstruction Companies) Directions, 2024” on April 24, 2024. The provisions of the master directions are applicable to every asset reconstruction company (“ARC”) registered with RBI under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The master directions have been issued to ensure efficient working of ARCs and to protect the interest of the investors by consolidating the

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existing regulatory guidelines issued to ARCs vide master circular on ARCs and Master Direction – Fit and Proper Criteria for Sponsors – Asset Reconstruction Companies (Reserve Bank) Directions, 2018.

Ease of Doing Business: Text on Contract Note with respect to Fit and Proper status of shareholders

SEBI issued circular “*Ease of Doing Business: Text on Contract Note with respect to Fit and Proper status of shareholders*” on April 24, 2024. With this circular, the requirement to publish the text of Regulation 19 of the SEBI (Securities Contract (Regulation) (Stock Exchanges and Clearing Corporation) Regulations, 2018 on the contract notes is done away with and Clause 2.4.2.2.2 under Chapter 6 of the Master Circular (Stock Exchanges and Clearing Corporations) dated October 16, 2023 has been amended. SEBI has advised the stock exchanges to make the necessary amendments in their bye-laws, rules and regulations, disseminate the information on their website and report to it on the status of implementation of the circular in the monthly development report.

Fair Practices Code for Lenders – Charging of Interest

Reserve Bank of India (RBI) has issued a circular titled ‘Fair Practices Code for Lenders – Charging of Interest to all Commercial Banks, all Primary Urban and State Co-operative banks, District Central Co-operative Banks and all Non-Banking Financial Companies’. The Circular has been sent in light of the guidelines on Fair Practices Code and in view of the findings of an onsite examination of regulated entities (RE) by RBI, which indicated that

i. Certain entities are charging interest from date of sanctioning of the loan or execution of the loan

agreement as against the established norm of charging of interest from the date of the actual disbursement of the loan to the customer. In cases of loan disbursement through cheque, RBI noticed that the interest is being charged from the date of the issuance of the cheque, as against the norm of the date when the cheque has been delivered to the customer, which is usually several days after the date of the issuance of the cheque.

ii. Certain RE were found to be charging interest for the whole month as against the period of time in a month during which such loan is found to be outstanding.

iii. Certain RE were found to be charging interest on the full loan amount despite having collected one or more instalment in advance.

The RBI has flagged such non-standard and unethical practices of charging the interest which are inconsistent with the spirit of fairness and transparency needed with the customers and has accordingly issued the circular to instruct the REs’ involved in such wrongdoing for a course correction. The circular comes into force with immediate effect.

Relaxation in requirement of intimation of changes in the terms of Private Placement Memorandum of Alternative Investment Funds through Merchant Banker

Securities and Exchange Board of India (SEBI) through this circular has changed the process of filing of certain private placement memorandum (PPM) to SEBI directly without involving the merchant banker. Vide the said circular, SEBI has also eased the process of filing the change in terms of filing of the PPM with large value fund for accredited investors, and has allowed to make the filing with SEBI directly, along with a duly signed and stamped undertaking by CEO of the manager of the AIF (or person holding equivalent role or position depending on the legal structure of manager) and compliance officer of manager of the AIF.

RECENT EVENTS



Glimpse of the three events - Launch of the Arbitration Bar of India, Inter-Pacific Bar Association meeting and the International Conference on Construction Arbitration

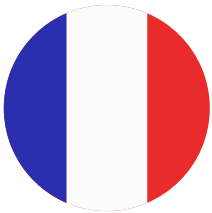
- Mustafa attended the historic **Arbitration Bar of India** launch on 11th May 2024 at the Bharat Mandapam, New Delhi. External Affairs Minister of India, Minister of Railways - India, Communications and Electronics and Information Technology Minister of India, Attorney General for India, Solicitor General of India and ABI President graced the occasion.
- Mustafa attended a one-day **International Conference on Construction Arbitration** on 4th May 2024, in Mumbai, organized in collaboration with SCL-Mumbai, a regional chapter of SCL-India. The theme for the conference was “*Catalysing a Robust Ecosystem for Construction Dispute Resolution*”.
- Mustafa participated in the inaugural meeting of the organizing committee for the 2026 **Inter-Pacific Bar Association (IPBA)** Annual Conference, held at the IPBA headquarters in Tokyo.

Off Beat Section



Celebrations of Mother's Day Around the World

Mother's Day, is a cherished occasion celebrated across the globe & a heartfelt tribute to the unconditional love, care, and sacrifices of mothers. While its essence remains universal, how cultures express their appreciation for mothers varies greatly, resulting in a fascinating tapestry of traditions and celebrations. Let's read about Mother's Day traditions in different countries around the globe.



In France, Mother's Day takes place on the last Sunday of May. It's a day for families to attend church together and for children to give small gifts like flowers or simnel cake to their mothers.



In the United States of America, Mother's Day is celebrated on the second Sunday of May. The families gather for special meals, children present handmade cards and gifts, and flowers, especially carnations to their mothers.



In India, Mother's Day is observed on the second Sunday of May. On this day, children and other family members show their love and gratitude to their mother by giving them gifts, cards and other nice things.



In France, Mother's Day is celebrated on the second Sunday of May. It's a day to show appreciation for mothers and is symbolized by eggs, roses, and carnations.



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