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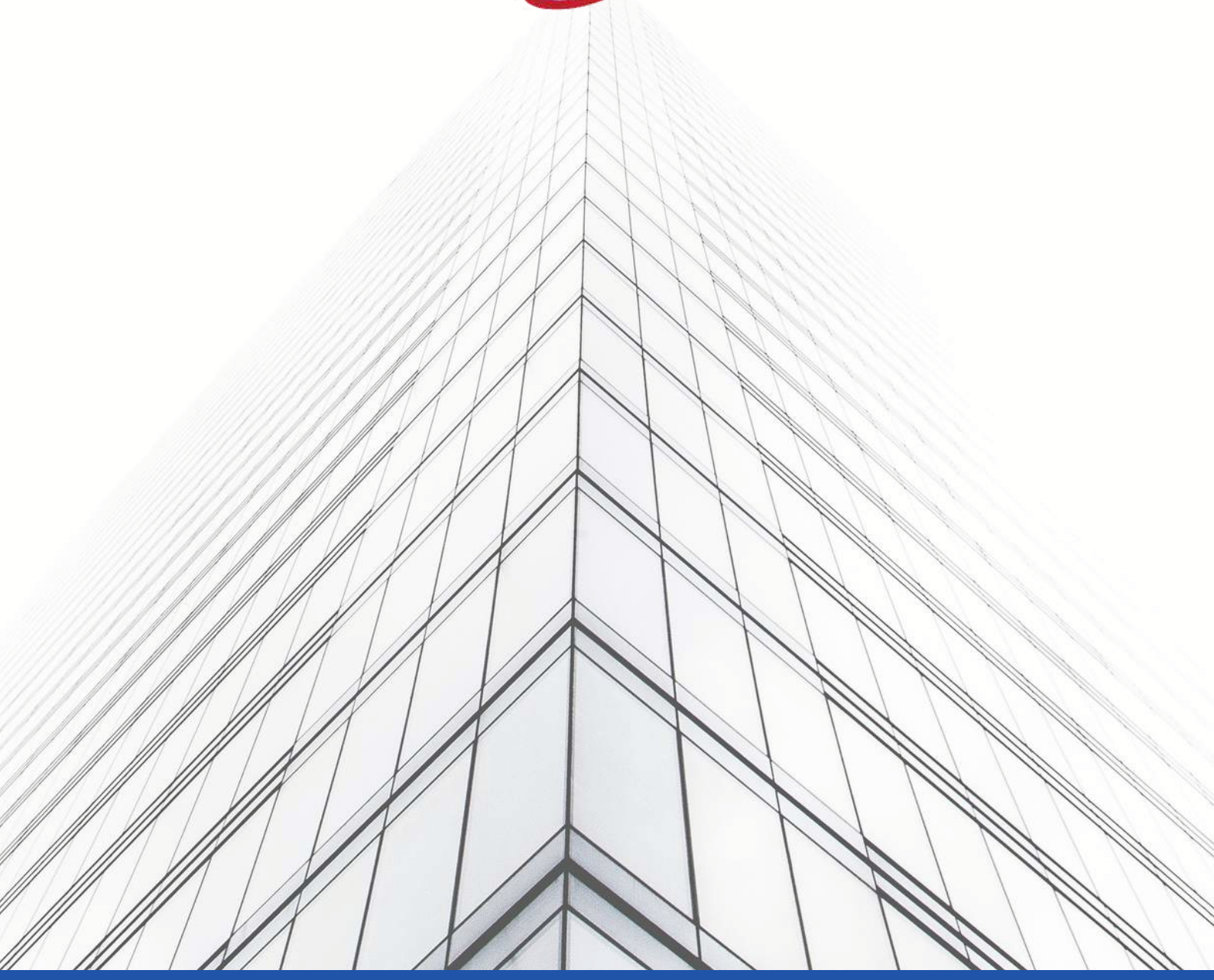
# Official Newsletter

CLASIS LAW



# Table of Content

CLASIS LAW

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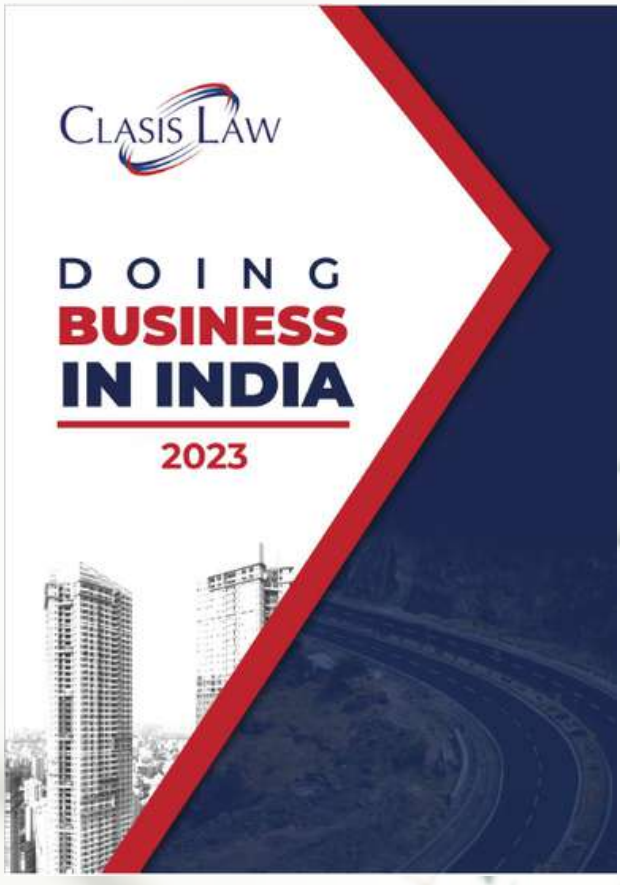
We are pleased to share the **Fifth Edition** of our e-book titled

***"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.

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# FEATURED ARTICLE

## Reserve Bank of India framework for cross-border payment aggregators: A shift in regulatory approach

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In 2020, the Reserve Bank of India **(RBI)** issued the guidelines to regulate the activities of the domestic payment aggregators **(Domestic PA Framework)*(1)*** and mandated the payment aggregators **(PAs)*(2)*** to seek authorisation from the RBI for their payment aggregation business. However, the Domestic PA Framework did not apply to the cross-border payments for import-export transactions.

With the rapid development in e-commerce space in the last few years, resulting in an increase in cross-border payments for import-export transactions, the RBI decided to bring the activities of cross-border payment aggregators under its direct regulation and issued a framework on 31 October 2023***(3)*** to regulate the activities of the entities facilitating cross-border payment transactions for import and export of goods and services **(PA-CB Framework)**.

We have set out herein below a summary of the key provisions of the PA-CB Framework:

**Applicability of the PA-CB Framework**

The PA-CB Framework applies to the entities facilitating cross-border payment transactions for import and export of permissible goods and services in online mode (PA-CBs). Thus, the entities, including AD-banks, PAs and PA-CBs, involved in the processing and settlement of cross-border payment transactions for import-export of goods and services, shall comply with the PA-CB Framework.

(a) The PAs who have either RBI authorisation or applied to the RBI for an authorisation pursuant to the Domestic PA Framework and are engaged in the PA-CB activities would need to (i) intimate the RBI on or before 30 December 2023 as to whether or not such PA wishes to continue with the PA-CB activities, and (ii) seek RBI approval in case such PA decides to continue with the PA-CB activities.

(b) An authorised PA or PA-CB would not require a separate authorisation under the PA-CB Framework or Domestic PA Framework for undertaking PA-CB activities or domestic PA activities, as the case may be. However, such entities would simply seek approval from the RBI to commence PA-CB or PA activities, as the case may be.

(c) Non-bank (and non-PA) entities engaged in PA-CB activities **(Non-Bank PA-CB)** as on 31 October 2023 (i) would need to apply to the RBI latest by 30 April 2024 for an authorisation. However, such entities can continue to provide PA-CB services until they receive communication from the RBI on their applications.

(d) The existing Non-Bank PA-CB would need to wind-up their PA-CB activities by 31 July 2024 if such entity fails to apply to the RBI for the authorisation on or before 30 April 2024. Further, if an existing Non-bank PA-CB does not submit to the banks the evidence of application for RBI authorisation by 31 July 2024, then the banks shall close the accounts of such entities used for PA-CB activities.

(e) A new non-bank entity cannot engage in PA-CB activities unless the RBI has granted authorisation to such entity under the PA-CB Framework.

**Net Worth Criteria**

(a) Non-Bank PA-CBs (whether existing entity or a new applicant) would need to have a net worth of at least INR 150 million at the time of submitting an application to the RBI for authorisation.

(b) The existing Non-Bank PA-CBs will have to achieve a net worth of INR 250 million by 31 March 2026, while the new applicants will be required to have a net worth of INR 250 million by the end of the third financial year of the grant of authorisation.

(c) Along with the application, the applicant would need to submit an auditor certificate along with the latest audited financial statements evidencing the net worth of INR 150 million. The newly incorporated entities can submit the provisional balance sheet along with the auditor certificate.

(d) If an existing Non-Bank PA-CB is not able to meet the net worth of INR 150 million, then such entity would need to wind up its PA-CB activity by 31 July 2024.

**Categories of PA-CB and collection accounts**

(a) An entity may seek PA-CB authorisation for (i) Import only PA-CB (Import PA-CB), (ii) Export only PA-CB (Export CB), and (iii) Export-Import PA-CB (Exim PA-CB). RBI approval will be required for any change in category of PA-CB.

(b) An Import PA-CB is required to maintain an import collection account (ICA) which shall be used to transfer payments to foreign merchants.

An Export PA-CB is required to maintain an export collection account (ECA). ECA can be denominated in INR and/or in foreign currency. An ECA for each non-INR currency shall be maintained and all export proceeds shall be credited to the relevant currency ECA. An Exim PA-CB shall be required to maintain separate collection accounts - ICA and ECA - for facilitating import and export transactions.

(c) PA-CB engaged in domestic PA activities will keep ICA/ECA separate from the escrow account.

**Other key aspects**

(a) For import and export transactions processed by PA-CBs, the maximum transaction value per unit of goods or services sold/purchased is capped at INR 2.5 million.

(b) The Import PA-CB would need to undertake due diligence of buyer in case the per unit goods/services imported exceeds INR 250,000.

(c) The Import PA-CB would need to undertake customer due diligence on directly onboarded overseas merchants, or e-commerce marketplaces or payment aggregation service providers.

(d) The Export PA-CB to undertake customer due diligence of directly onboarded Indian merchants, e-commerce marketplaces or entities providing PA services.

(e) All other instructions issued by the RBI for domestic PAs would apply mutatis mutandis to the PA-CBs.

(f) All non-bank PA-CBs (existing as on 31 October 2023) will have to register themselves with the Financial Intelligence Unit-India (FIU-IND) as a pre-requisite for seeking RBI authorisation.

**Our Comments**

Prior to the PA-CB Framework, the RBI had adopted a light touch approach for the cross-border payment aggregators, formerly known as online payment gateway service providers (OPGSPs). Such entities were not required to obtain any license or authorisation from the RBI. OPGSPs were simply required to open accounts with the AD-banks to facilitate cross border payments for import/export transactions. However, with the issuance of the PA-CB Framework, the PA-CBs would not only require RBI authorisation but they would also be required to maintain a net worth of INR 250 million. This might prompt a few entities to scout for equity investment from interested investors. Additionally, the operations of the PA-CBs shall be deemed to be "designated payment systems" under section 23A of the Payment and Settlement Systems Act, 2007, which will require the PA-CBs to comply with the directions/instructions issued by the RBI to protect the funds of customers. PA-CBs would also be required to adhere to the guidelines on governance, merchant on-boarding, customer grievance redressal and dispute management framework, baseline technology recommendations, security, fraud prevention and risk management as set forth in the Domestic PA Framework. This will enhance security, efficiency, and transparency in cross-border payment transactions. While the Domestic PA Framework provides different set of regulations for the payment aggregators (requiring RBI's authorisation) and payment gateways (not requiring RBI's authorisation) based on the nature of their service offerings, the PA-CB Framework does not provide any such different treatment.

The PA-CB Framework appears to bring within its fold all entities (including payment gateways as well as collection agent arrangement) facilitating cross border payments. Unlike the Domestic PA Framework which clearly provides that the PA has to be a company incorporated in India, the PA-CB Framework does not deal with the aspect of what should be the constitution of the non-bank PA-CB. The earlier regime as well as the draft framework released by the RBI in April 2022 provided that a foreign company desirous to operate as OPGSP would simply need to open a liaison office in India. The PA-CB Framework is silent on whether a foreign entity would need to set up a company in India. Therefore, it appears that the foreign companies having liaison office(s) and operating as OPGSP in India can also apply to the RBI for authorisation under the PA-CB Framework, however, an explicit clarification from the RBI on this aspect would clarify the regulatory position.

For further information on this topic please write to **Mr. Dinesh Gupta** (dinesh.gupta@clasislaw.com) and **Mr. Shubham Tandon** (shubham.tandon@clasislaw.com).

**Footnotes**

1. 'Guidelines on Regulation of Payment Aggregators and Payment Gateways' dated 17 March 2020 issued by the Reserve Bank of India

2. PAs are entities that facilitate e-commerce sites and merchants to accept various payment instruments from the customers for completion of their payment obligations without the need for merchants to create a separate payment integration system of their own. PAs facilitate merchants to connect with acquirers. In the process, they receive payments from customers, pool and transfer them on to the merchants after a time period.

3. https://rbi.org.in/Scripts/NotificationUser.aspx?Id=12561&Mode=0

***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 a legal advice. The views expressed in the article is of the author alone and does not represent any organization.*

# LEGAL UPDATE

## Apex Court analysed the applicability of the Limitation Act to the Petitions filed under Section 11(6) of Arbitration and Conciliation Act

### Introduction

The Supreme Court of India, in its recent ruling in *Arif Azim Co. Ltd. v/s Aptech Ltd*, considered the issue of applicability of the law of limitation to a petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 **("Arbitration Act")**.

### Facts

The Petitioner and the Respondent, were both engaged in the business of providing training and education in computer education, information technology etc., and had entered into three separate franchise agreements on 21.03.2013. Thereafter, disputes had arisen between the parties in relation to the renewal and payment of royalties arising out of the said franchise agreements. After several rounds of failed communications as well as mediation, the Petitioner on 24.11.2022 issued a notice for invocation of arbitration to the Respondent. The Respondent replied to the said notice vide letter dated 05.04.2023 denying all the claims raised by the Petitioner on various grounds including that the same were barred by limitation. Hence, the Petitioner moved this Court for the appointment of an arbitrator.

### Issue & Observation

In the light of the facts of the matter, the Court had framed the following issues:

1) Whether the Limitation Act, 1963 **("Limitation Act")** is applicable to an application for appointment of arbitrator under Section 11(6) of the Arbitration Act?

2) Whether the court may refuse to make a reference under Section 11 of the Arbitration Act where the claims are ex-facie time barred?

While answering the first issue in the affirmative, the Court observed that a plain reading of the Section 11(6) of the Arbitration Act indicates that no time limit has been prescribed for filing an application under it, however, Section 43 of the Arbitration Act categorically provides that the Limitation Act would apply to arbitrations as it applies to proceedings in courts. Further, the Court also observed that since none of the Articles in the Schedule of the Limitation Act provide a time period for filing a Section 11 petition, the same would be covered by Article 137, i.e. a residual provision that prescribes a time period of three years starting from the date when the "right to apply accrues".

Moving forward, the Court observed that in order to decide the issue of limitation, it is crucial to ascertain when the right to file an application under Section 11(6) accrued in favor of the applicant. In this regard, the Court issued a word of caution and stated that the limitation period for making an application seeking appointment of an arbitrator must not be confused with the limitation period for raising the substantive claims which are

sought to be referred to an arbitral tribunal. It clarified that the limitation for filing an application seeking appointment of arbitrator commences *only after a valid notice invoking arbitration has been issued by one of the parties to the other party and there has been either a failure or refusal on part of the other party to make an appointment as per the procedure agreed upon between the parties*

Before adverting to the aforementioned second issue, the Court explained that "jurisdictional" issues and "admissibility" issues, may be raised against an application for appointment of arbitrator. While jurisdictional issues pertain to the power and authority of the arbitrators to decide cases, existence of valid agreement, dispute falling outside scope of agreement etc., issues which are related to the nature of the claim and challenges to procedural requirements fall in the category of admissibility issues. Recognizing that limitation is an admissibility issue, the Court held:

*"Although, limitation is an admissibility issue, yet it is the duty of the courts to prima facie examine and reject non-arbitrable or dead claims, so as to protect the other party from being drawn into a time-consuming and costly arbitration process."*

Thereafter, the Court consolidated its findings and laid down a two-pronged test to be 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 by limitation; and secondly, whether the claims sought to be arbitrated are ex-facie dead claims and thus barred by limitation on the date of commencement of arbitration proceedings. If either of the two issues are answered in the negative, the court may refuse to appoint an arbitral tribunal.

## Conclusion

Applying the aforesaid tests to the facts and circumstances of the case in hand, the Apex Court held that the arbitration petition/ appliation was not hit by the law of limitation as the same was filed within a period of 3 years from the date of refusal of the Respondent (28.12.2022) to comply with the Petitioners notice of invocation of arbitration. Further, the Court also held that as the notice of invocation of arbitration was also issued within a period of three years from the date of accrual of cause of action, the claims cannot be said to be ex-facie dead or time barred on the date of commencement of arbitration proceedings.

As a parting conclusion, the Court observed that the courts reliance on Article 137 of the Limitation Act while deciding applications under Section 11(6) is a result of a legislative vacuum. It observed that a three-year period is unduly long for filing an application under Section 11 and therefore the Parliament should step in and make suitable amendments to the Arbitration Act so as to ensure that arbitration proceedings are concluded expeditiously.


# Declaration of 'HALDIRAM' as a Well-Known Trademark

## *Brief Facts*

In the present case*(1)* the Plaintiff, Haldiram India Pvt. Ltd. **("Haldiram")**, filed a suit seeking protection for its mark 'HALDIRAM' and its variations, alleging that the mark is well-known under the Trade Marks Act, 1999 **("Act")**. The Defendants included various entities and individuals associated with 'Haldiram Restro Pvt. Ltd.'. Haldiram claims to have coined the mark 'HALDIRAM BHUJIAWALA' in 1941 and that it has been using it extensively ever since for its myriad food products. Haldiram emphasized its global presence and numerous awards for quality.

The 'HALDIRAM' mark is used with two logos: a V-shaped logo and an oval-shaped logo both registered trademarks. The Defendants, however, registered similar marks in Class 43 for food and drink services. Additionally, the Defendants not only launched a website, but also social media pages promoting products under the 'HALDIRAM BHUJIAWALA' mark. A Local Commissioner's Report confirmed the sale of infringing products bearing Haldiram's mark. The Defendants failed to contest the matter despite filing their respective written statements. Thus, the Hon'ble High Court of Delhi **("Court")** proceeded *ex-parte* against them.

## Contentions of the Parties

Defendant's contention in brief:

- It was alleged that Haldiram failed to disclose that its 'HALDIRAM' marks were subject to opposition and rectification petitions by various entities. They claimed that these marks are already disputed, questioning Haldiram's exclusive proprietorship.
- The Defendants argued that Haldiram did not provide a clear trail of ownership of the marks from the original owner to Haldiram. They also accused Haldiram of removing a co-owner's name from the mark without proper consent.
- The Defendants pointed out discrepancies in the claimed date of use of the 'HALDIRAM' marks, alleging that the marks were used since 1965, not 1941.
- They contested that the marks lack distinctive character and questioned Haldiram's claim of exclusivity.
- The Defendants argued that Haldiram failed to establish that its marks had acquired secondary meaning or that they qualified as a well-known mark.

Plaintiff's contention in brief:

- Haldiram argued that the opposition and rectification petitions against their marks did not invalidate their rights. These disputes concerned territorial rights and did not challenge the Plaintiff's use of the marks.
- Haldiram clarified that the acquisition history of the marks is publicly available, and the Defendants themselves acknowledged it.
- Haldiram denied any wrongful removal of the co-owner's name and presented evidence of withdrawal of allegations regarding the

- Dissolution Deed by way of which predecessors of Haldiram were given exclusive rights to use the said mark in all of India.
- Haldiram alleged that the Defendants' adoption of identical marks was malafide and intended to exploit the Plaintiff's goodwill.

## Analysis and Finding of the Court

The Court provided the following observations and conclusions:

- The Court noted that despite completing pleadings, the Defendants chose not to appear in the proceedings. As a result, the Court proceeded under Order IX Rule 6 CPC read with Order XVII Rule 3 CPC***(3)***. This allowed the Court to consider the evidence and pleadings presented by Haldiram and proceed with judgment.***(4)***
- The Court found that the Defendants' use of marks such as 'HALDIRAM BHUJIAWALA' and 'HALDIRAM RESTRO PVT. LTD.' infringed upon the its rights.
- It emphasized the importance of protecting the Haldiram's established marks and goodwill, especially considering the extensive use and recognition of the 'HALDIRAM' brand over the years. Based on this, the Court granted a permanent injunction against the Defendants, restraining them from using the infringing marks.
- Further, the Court dismissed the Defendants' claim that Haldiram failed to disclose rectification petitions filed against their trademark registrations. It found that Haldiram had provided all necessary details regarding the applications filed by the Defendants for identical marks, demonstrating transparency in the legal proceedings.
- The Court acknowledged Haldiram's submission of Legal Proceeding Certificates issued by the Trade Marks Registry, which established Haldiram's rights to the relevant marks.
- This evidence strengthened Haldiram's case and undermined the credibility of the Defendants' defence, which lacked a solid foundation.
- The Court awarded substantial damages of INR 50 Lakhs to Haldiram, considering the extensive infringement by the Defendants. It justified the award of exemplary damages, highlighting the Defendants' deliberate avoidance of proceedings and the need to deter such misconduct.***(5)*** The Court also emphasized the importance of cost awards in commercial matters to discourage frivolous litigation and ensure fairness in legal proceedings.
- Importantly, based on the evidence provided by Haldiram, including sales figures, awards, and Court decisions***(6)***, the Court declared the mark 'HALDIRAM' as well-known across India, including West Bengal. It recognized the brand's extensive reputation and influence, both nationally and internationally, as grounds for the well-known declaration.
- Lastly, all trademark applications filed by the Defendants seeking registration of 'HALDIRAM' and 'HALDIRAM BHUJIYAWALA' were ordered to be rejected by the Registrar of Trademarks, aligning with the Court's decision to protect the Haldiram's rights.

In summary, the Court's analysis and findings reaffirm its commitment to upholding intellectual property rights, protecting established brands, and ensuring fair legal proceedings in matters of trademark infringement.

**Footnotes**

1. *Haldiram India Pvt. Ltd. v. Berachah Sales Corporation & Ors.*, CS(COMM) 495/2019, decided on April 2, 2024 by the Hon'ble High Court of Delhi.
2. Order IX, Rule 6 of the Civil Procedure Code (CPC) states that if the plaintiff appears on the day set for the defendant to appear and answer, and the defendant does not appear, the court may order the suit to be heard *ex-parte*.
3. Order 17 Rule 3 of the Code of Civil Procedure (CPC) states that a court can decide a suit on merit if there is some material for deciding on merit. The court can base its decision on: Pleadings, Documents, and Burden of proof.
4. *G. Ratna Raj v. Sri. Muthukumarasamy Permanent Fund Ltd. [2019] 1 S.C.R. 845.*
5. *Committee of Management Anjuman Intezamia Masajid, Varanasi v. Rakhi Singh (2023: INSC:702).*
6. *Hermes International v. Crimzon Fashion Accessories Pvt. Ltd., (2023 SCC Online Del 883, paras 5 & 6); Chapter 4 Corp v. Dhanpreet Singh Trading as Punjabi Adda, (2023 SCC Online Del 4454, paras 10-15); Red Bull Ag v. C. Eswari & Ors., (2018 SCC Online Del 13145, paras 5,11 & 13); ITC Limited v. Central Park Estates Private Ltd., (2022 SCC OnLine Del 4132, paras 22-37); Tata Sons Ltd. v. Manoj Dodia, 2011 (46) PTC 244 (Del).*

# JUDGEMENTS

**In the matter of La Villa Hotel Private Limited ("Company") for the violation of Section 42 of the Companies Act, 2013 ("Act")**

The Company had made a private placement under Section 42 of the Act and filed a return of allotment in Form PAS-3. Subsequently, it had filed Form GNL-2 along with Form PAS-4 and Form PAS-5. However, on perusal of the Form GNL-2 it was prima facie found that the Company had been carrying share application money pending allotment in its books for more than 7 years. On technical scrutiny, it was observed that a sum of Rs. 63,84,800/- was shown towards "Shares application money pending allotment" and a sum of Rs. 2,97,45,111,.50/- was shown towards "Application money received for allotment of Securities" under the heading "Other Current Liabilities" in the financial statement for the FY 2013-14. Further, as per the financial statement for the FY 2014-15, the Company had collected a sum of Rs. 39,94,812/- for allotment of securities as shown under "Other Current Liabilities".

Additionally, the Company in its reply dated August 1, 2018 admitted that it had accepted subscriptions on 7 occasions against which the shares were issued on October 27, 2017. The aforesaid was also reflected in the financial statement for the FY 2014-15, 2015-16 and 2017-18.

The Registrar of Companies, Puducherry **("ROC")** issued a Show Cause Notice for violation of Section 42(3) of the Act to the Company and its officers in default. The Company submitted that it had received Rs. 39.44 lakhs after 2014 and the shares were allotted on October 27, 2017 to 11 allottees. Furthermore, the allotment had been delayed on account of non-receipt of Foreign Inward Remittance Certificate and KYC (Know Your Customer) from the Reserve Bank of India within 60 days of remittance.

After considering the facts and circumstances of the case, ROC imposed a penalty of Rs. 13,05,000/- each on the Company and its officers in default.

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**In the matter of Luminous Power Technologies Private Limited ("Company") for the violation of Section 173 of the Companies Act, 2013 ("Act")**

The Registrar of Companies, NCT of Delhi & Haryana **("ROC")** received an application in Form GNL-1 on May 8, 2023, wherein the Company had admitted it had not held 4 Board meetings in a calendar year. The Company was required to hold the 4th meeting of the Board of Directors on or before December 31, 2022 but due to some reasons it had failed to do so. Hence, it had violated the provision of Section 173(1) of the Act. Pursuant to the hearing, ROC imposed a penalty of Rs. 10,000/- each on the Company and its officers in default for the violation.

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**In the matter of Mr. B. Kannan for the violation of Section 165 of the Companies Act, 2013 ("Act")**

As per the records of Registrar of Companies, Chennai **("ROC")**, it was observed that Mr. B. Kannan held directorship in more than 20 companies w.e.f. July 18, 2013. Consequently, ROC issued a Show Cause Notice on February 23, 2016 to Mr. B. Kannan in this regard and also filed a complaint before the Court of Additional Chief Metropolitan Magistrate Economic Offences, Egmore, Chennai **("EOCC")**.

Mr. B. Kannan filed a petition before the Hon'ble High Court of Madras **("HC")** to quash the complaint filed with EOCC. As the penal provisions under Section 165 had been amended, the HC transferred the case to ROC for adjudication.

# JUDGEMENTS

Upon hearing it was observed that Mr. B. Kannan had reduced his directorship to 20 or below 20 companies on June 28, 2017. Subsequently, ROC imposed a penalty of Rs. 2,00,000/- on Mr. B. Kannan for violation of Section 165 of the Act.

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**In the matter of Lions Co-ordination Committee of India Association ("Company") for violation of Section 134(3)(h) of the Companies Act, 2013 ("Act")**

The Central Government authorised the inquiry of the Company and the Registrar of Companies, Chennai **("ROC")** issued a Show Cause Notice for violation of Section 134(3)(h) of the Act.

The Company in its Board report for the FY 2018-19 and 2019-20 stated that all the transactions with related parties were in compliance with Section 188 of the Act. However, it was observed that the Form AOC-2 relating to the particulars of contracts or arrangements with related parties was not annexed to aforesaid Board reports. Therefore, the Company had violated the provision of Section 134(3)(h) of the Act read with Rule 8 of the Companies (Accounts) Rules, 2014. The Company admitted the aforesaid violations and also filed Form GNL-1 for adjudication of offence. Consequently, ROC imposed a penalty of Rs. 50,000/- for each violation on the officer in default.

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# CORPORATE REGULATORY UPDATES

**Repeal of circular(s) outlining procedure to deal with cases where securities are issued prior to April 1, 2014, involving offer/allotment of securities to more than 49 but up to 200 investors in a financial year**

The Securities Exchange Board of India (SEBI) has issued a circular to all recognized Stock Exchanges regarding repeal of circular(s) outlining procedure to deal with cases where securities are issued prior to April 1, 2014, involving offer/allotment of securities to more than 49 but up to 200 investors in a financial year. The circular stated SEBI had issued Circular No. CIR/CFD/DIL3/18/2015 dated December 31, 2015 and Circular No. CFD/DIL3/CIR/ P/2016/53 dated May 03, 2016, stating that in respect of cases under the Companies Act, 1956, involving issuance of securities to more than 49 persons but up to 200 persons in a financial year, the companies may avoid penal action if they provide the investors with an option to surrender the securities and receive the refund amount at a price not less than the amount of subscription money paid along with 15% interest p.a. thereon or such higher return as promised to the investors. This opportunity to avoid penal action was provided to the issuer companies considering the higher cap for private placement provided in the Companies Act, 2013.

The considerable time has elapsed since the repeal of the Companies Act, 1956, in exercise of the powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 to protect the interests of investors in securities and to promote the development of, and to regulate the securities markets, it has now been decided to repeal the aforesaid circulars and the same shall stand rescinded with effect from 6 months from the date of issue of this circular, without prejudice to the operation of anything done or any action taken under the said circulars. This option shall be available under the circular only to those companies who have completed the entire procedure and submitted the certificate in terms of circular No. CIR/CFD/DIL3/18/2015 dated December 31, 2015 and Circular No. CFD/DIL3/CIR/P/2016/53/dated May 03, 2016, within 6 months from the date of issue of this circular.

**Draft Rules for refund process from IEPF 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.

**Registration on FIU-IND FINNET 2.0 portal for compliance with International Financial Services Centres Authority (Anti Money Laundering, Counter-Terrorist Financing and Know Your Customer) Guidelines, 2022**

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, International Financial Services Centres Authority *('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.

# CORPORATE REGULATORY UPDATES

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

With an objective to promote ease of doing business in International Financial Services Centre, The International Financial Services Centres Authority ('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.

**Audiovisual (AV) representation of disclosures made in the Public Issue Offer Documents**

The Securities and Exchange Board of India **(SEBI)** on March 19, 2024, has sought public comments on the Draft Circular on ***"Audio visual (AV) representation of disclosures made in the Public Issue Offer Documents".*** It has been proposed that the disclosures made in the Draft Red Herring Prospectus **(DRHP)** and Red Herring Prospects **(RHP)** of public issues shall also be made available in Audio Visual **(AV)** format for ease in understanding the salient features of public issues. This move aims to enhance investor awareness, urging caution against relying on unauthorized or unsolicited information about public issues. Such AV must be prepared and placed in public domain by Lead Manager to the public issue on main board which must initially be in bilingual version i.e. English and Hindi. To ensure compliance with SEBI's advertisement code, the content in the AV must adhere to the guidelines outlined in Schedule IX of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018. The AV must be published by Issuer/Lead Manager within 5 working days both at the stage of submission and resubmission of DRHP. It must be made available in digital/social media platforms of the Issuer and Association of Investment Bankers of India **(AIBI)**. Additionally, the web link to the AV must be accessible from the websites of Stock Exchanges and relevant Lead Managers, as well as through QR codes associated with the public issue. Lead Manager(s) to the public issue shall be jointly responsible for the content and information made available in the AV.

**Safeguards to address the concerns of the investors on transfer of securities in dematerialized mode**

The Securities and Exchange Board of India **("SEBI")** had prescribed guidelines under Para 1.12 of SEBI Master circular for Depositories dated October 06, 2023 to address the concerns arising out of transfer of securities from the Beneficial Owner Accounts without proper authorization by the concerned investor. In order to harmonize the classification of inactive/ dormant accounts across Stock Exchanges & Depositories and to further strengthen the measures to prevent fraud/ misappropriation for inoperative demat accounts, SEBI had amended Para 1.12 vide Circular No. SEBI/HO/MRD/MRD-PoD-2/P/CIR/2024/18 dated March 20, 2024. The provisions of the aforesaid circular are effective from April 1, 2024.

**Amendment to Circular for mandating additional disclosures by FPIs that fulfil certain objective criteria**

The Securities and Exchange Board of India **("SEBI")** had issued a circular mandating additional disclosures to be made by Foreign Portfolio Investors ("FPI") that fulfil the objective criteria as specified in the Circular No. SEBI/ HO/ AFD/ AFD-PoD-2/CIR/P/2023/148 dated August 24, 2023. SEBI on March 20, 2024 issued Circular No. SEBI/HO/AFD/AFD-POD-2/P/CIR/2024/19 to amend the former Circular.

Accordingly, an FPI having more than 50% of its Indian equity Assets Under Management in a corporate group is not required to make the additional disclosures as specified in Para 7 of the Circular.

**Report of the Expert Committee for Developing GIFT IFSC as "Global Finance and Accounting Hub"**

The IFSCA on 26th March 2024 released a report on Expert Committee for Developing GIFT IFSC as "Global Finance and Accounting Hub". The primary aim to establish IFSC in GIFT City is to gain global prominence as a global international financial jurisdiction. This report has been released to majorly develop GIFT IFSC as a "global offshore center" for accounting, book-keeping, taxation and financial crimes compliance services and, increase its global competitiveness and attractiveness. The key recommendations of the committee are as under:

- The committee proposed a new regulation, which provides for a comprehensive and inclusive definition for Bookkeeping, Accounting, Taxation and Financial Crime Compliance Services.
- The Committee also recommended that entities set up in IFSC to carry out the abovementioned services, should only be a company or an LLP.
- Further, the Committee has recommended that IFSCA should provide clear and objective conditions/ criteria for setting up business operations in GIFT IFSC. Moreover, the conditions should be tested at the end of the first full year from the date of commencement of the operation and subsequent nine (9) financial years.
- The Committee also recommended that certain entities might already have been authorized by the IFSCA under the Ancillary Services Framework. An appropriate grandfathering of those entities under the new regulations is also suggested.
- New Companies or LLPs that intend to provide services beyond bookkeeping, accounting, taxation and financial crime compliance services can obtain additional registrations/ authorization under other regulations/ frameworks respectively.
- The Committee also proposes long-term strategies for education and skill acquisition, such as developing specialized degree or diploma programs, establishing centers of excellence or research hubs, and encouraging participation and membership in professional bodies or associations.

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

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 Regulation 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, whichever comes later.

# RECENT EVENTS

International Bar Association
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**Vineet Aneja, Managing Partner & Raveena Anand, Senior Associate attented the Annual IBA Employment and Diversity Law Conference 2024 presented by the IBA Employment and Industrial Relations Law Committee and the IBA Diversity and Equality Law Committee in Milan, Italy.**


***"Demystifying Trade Boundaries – The India-US Opportunity" by the Indo-American Chamber of Commerce***

**Vineet Aneja, Managing Partner was one of the speakers at the interactive event *"Demystifying Trade Boundaries – The India-US Opportunity"* in Mumbai & Pune by the Indo-American Chamber of Commerce, India. Vineet shared his valuable insights on the topic *"Connecting Businesses, Crossing Borders: The Legal Landscape of India"* through the expansion of business by way of foreign direct investment and overseas investments. He also gave insights into external commercial borrowings and cross-border contracts between the two jurisdictions.**


# "Planet vs. Plastics"

## Thriving Beyond Plastic: Solutions for a Sustainable Earth

***On April 22nd,*** the world comes together to celebrate ***Earth Day***, a day dedicated to environmental protection. This annual event, which began in the *United States* in *1970*, has become a global movement uniting over a billion participants in more than 193 countries. The theme for Earth Day 2024 is ***"Planet vs. Plastics"***. This theme highlights the fight against plastic pollution and aims to raise awareness about its harmful effects on the environment and human health. Let's read about some of the significant movements and growing awareness surrounding Earth Day over the years.

**1970** The birth year of **Earth Day**, it wasn't just a celebration; it was a movement in itself. With 20 million Americans rallying and demonstrating, it sparked the creation of the Environmental Protection Agency (EPA) in the US.

**1990** *Earth Day goes global!* ***Denis Hayes***, a key organizer in 1970, played a crucial role in taking Earth Day international, raising global awareness about environmental issues.

**2016** The ***Paris Agreement***, a landmark international agreement on climate change, was adopted just before Earth Day 2016. This agreement aimed to reduce greenhouse gas emissions and mitigate the effects of climate change.

**2023** The theme for Earth Day 2023 was ***"Invest In Our Planet"*** The year aimed to encourage investment in sustainable solutions for a healthy planet.

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# Notable Recognitions & Accolades

The LEGAL 500 ASIA PACIFIC LEADING FIRM 2024

INDIA BUSINESS LAW JOURNAL AWARD WINNING LAW FIRM 2023 LAW ASIA

Forbes India Present LEGAL POWERLIST 2022 in association with legitquest

ALB INDIA LAW AWARDS 2023 FINALIST THOMSON REUTERS

ENLISTED AS THE TOP LAW FIRM (ABOVE 10 YEARS EXP.)

LEXOLOGY Legal Influencer Q2 | 2022

NOTABLE FIRM B BENCHMARK LITIGATION

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