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Official Newsletter



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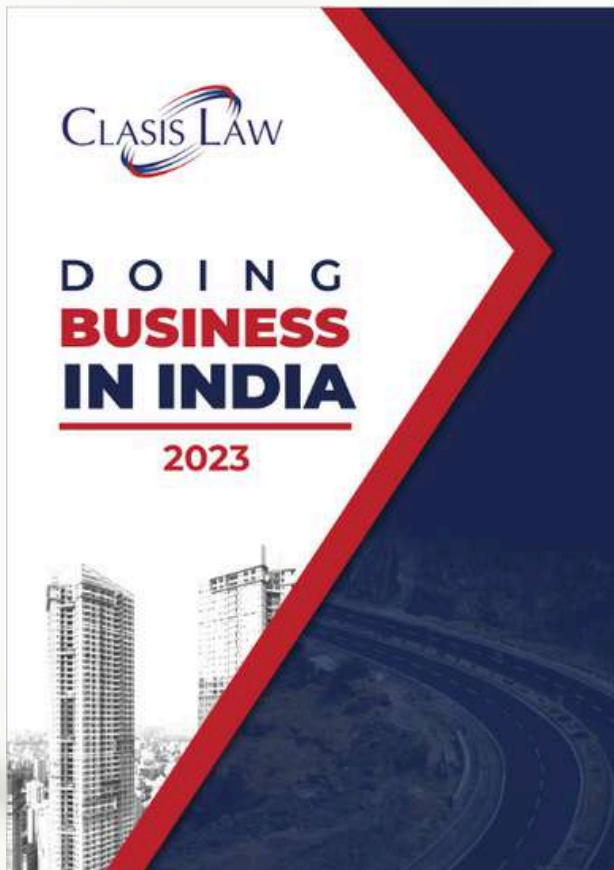
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DOING BUSINESS IN INDIA

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.



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FEATURED ARTICLE



Court Grants Injunction to Arijit Singh Over AI Infringement of Personality Rights

Authors

Mr Mustafa Motiwala, Partner
Mr Dev Motta, Associate

Introduction

In a recent landmark judgment, the Hon'ble Bombay High Court granted an ex-parte ad-interim injunction in favour of renowned singer Arijit Singh. Arijit Singh had approached the Hon'ble Court to seek protection of his personality and publicity rights under Section 38-B of the Copyright Act, 1957.

Facts

Arijit Singh is a prominent playback singer in the Indian music industry. He initiated an intellectual property suit⁽¹⁾ against multiple defendants, including one Codible Ventures LLP alleging the exploitation of his personality traits through various mediums like Youtube, including AI-generated content like voice modulation, deepfake videos, etc., printing and selling of merchandise on various third party apps, etc.

Arijit Singh claimed that his name, image, voice, mannerism, signature and other personality attributes were being used for commercial purposes without his consent. This was done by hosting websites which directed its user to use AI platforms where any text/ speech could be converted into the Arijit Singh's AI voice, create music in his voice, convert user's own voice and/or any sound recording and / or song of their choice to the voice of their desired celebrity including Arijit Singh's voice.

It was contended that some of the Defendants were exploiting the Plaintiff's publicity rights, goodwill and reputation by advertising, promoting and offering for sale various merchandise such as clothing, guitar, phone cases, sweatshirts, greeting cards, mugs, magnets, spiral notebook, etc. on e-commerce website. Whereas, some of the Defendants were providing its users to create, store, search and share GIFs comprising of short video recordings of the Arijit's performances. In light of these infringements, Arijit Singh filed an interim application⁽²⁾ for seeking injunction against multiple Defendants who were causing harm to his personality and publicity rights.

Observation

The Hon'ble Court observed that the exploitation of technology undermines the ability to prevent commercial and deceptive use of their identity whilst infringing upon the individual's right to control and protect their own likeness. By allowing Defendants to continue to allow using name, voice, likeness, etc. in the form of an AI content, without consent of the Plaintiff, would risks economic harm to the Plaintiff's life/career and additionally it shall provide opportunity to public at large to mis-utilize such tools for nefarious purposes.

FEATURED ARTICLE

The Hon'ble Court noted that Arijit Singh had intentionally refrained from brand endorsements and the commercialization of his persona for several years. The Hon'ble Court considered that due to the various activities of the Defendants as elaborated in the Plaint, irreparable harm was caused to Arijit Singh's reputation and career.

The Hon'ble Court relied on the judgment passed in case of Karan Johar vs Indian Pride Advisory Pvt. Ltd. & Ors.(3) and Anil Kapoor vs Simply Life India(4) and observed that the personality/publicity rights are vested in the celebrities and it is in fact their livelihood. Unauthorised usage of their name, voice, or other persona amounts to violation of their personality and publicity rights.

On pleading for ex-parte reliefs, the Hon'ble Court was convinced that by issuing notice to the defendants would undermine the relief sought by Arijit Singh. The Hon'ble Court held that it is settled position of law that in case for protecting personality rights and right to publicity, the primary ingredient is establishing the status of the celebrity and that the defendant's unauthorised use is for commercial gains.

Decision

The Hon'ble Court granted an ex-parte ad-interim injunction in favour of Arijit Singh by prohibiting the defendants from violating personality and publicity rights of Arijit Singh by using or exploiting his name, voice, mannerism, personality traits on virtual medium such as websites, metaverse, social media, etc. Further, the Hon'ble Court also locked/suspended the domain names which were created in the name of Arijit Singh. A direction was given to remove/delete all references to the Plaintiff's name, voice, personality traits in the videos which blatantly violated Plaintiff's personality and publicity rights.

Conclusion

This judgment gives importance to protecting personality and publicity rights in an era of rapid technological advancements such as AI. It highlights the role of the judiciary in preventing the unauthorized exploitation of a celebrity's persona for commercial gains. This case sets a crucial precedent for future disputes involving the misuse of personal attributes and safeguards individual's rights in this digital age.

Disclaimer: *This publication 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. Although reasonable care has been taken to ensure that the information in this publication is true and accurate, such information is provided 'as is', without any warranty, express or implied, as to the accuracy or completeness of any such information.*

Footnotes

1. Com IRP Suit (L) No. 23443 of 2024
2. Interim Application (L) No. 23560 of 2024
3. Order dated June 13, 2024 in Interim Application (L) No. 17865 of 2024 in Comm. IPR Suit (L)No. 17863 of 2024
4. 2023 SCC OnLine Del 6914

JUDGEMENTS

In the matter of Bluemax Capital Solution Private Limited (“Company”) for violation of section 134(3)(i) of the Companies Act, 2013 (“Act”)

During inspection, it was observed from the Director’s report that the Company had not disclosed the state of Company’s affairs for the financial year 2015-16, 2016-17, and 2017-18. Hence, it had violated the provision of section 134(3)(i) of the Act.

A show cause notice was issued to the Company and its Directors by the Registrar of Companies, Chennai (“ROC”). The Company admitted the default and requested for adjudication.

Consequently, ROC levied a penalty of INR 300,000/- on the Company and every officer in default was levied a penalty of INR 50,000/- for each default section 134(3)(i) of the Act.

[Read More](#)

In the matter of Janaki Ram Steel & Power Private Limited (“Company”) for violation of section 77 of the Companies Act, 2013 (“Act”)

During inspection it was observed from the financial statement that the Company had received a secured vehicle loan during the financial year 2017-18 which was reported as long-term borrowings of INR 2,407,227/-. Additionally, the Company had failed to register the charge in form CHG-1 with the Registrar of Companies, Chennai (“ROC”). Hence, the Company had violated the provisions of section 77 of the Act. The Company filed an adjudication application in response to the adjudication notice against it. The authorised representative of the Company stated that the Company had purchased a vehicle of the aforesaid amount and had disclosed the same in the financial statement under the head “Term loan-from others”, vehicle loan secured.

Further, it was submitted that the loan was taken for purchase of vehicle and not against the vehicle. No assets were secured or charged with the bank in this regard. It was also submitted that, in case as per the ROC, the loan was covered under the ambit of “creating the charge”, the Company did not have any professional guidance in advising and making compliances under the Act. After considering the facts and circumstances, ROC levied a penalty of INR 5,00,000/- on the Company and INR 50,000/- on each officer in default for violation of provisions of section 77 of the Act.

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In the matter of Shivom Minerals Limited (“Company”) for violation of section 29 of the Companies Act, 2013 (“Act”)

A complaint was received against the Company for non-compliance of various provisions of the Act, including non-transfer of shares in dematerialised format, thereby violating provisions of section 29 of the Act. A formal notice was issued by the Registrar of Companies cum Official Liquidator, Odisha, (“ROC”). In its response, the Company admitted the default. Thereafter, a show cause notice was issued by the ROC to the Company and its officers in default. However, no reply was received to the show cause notice. Consequently, ROC levied a penalty of INR 200,000/- on the Company and INR 50,000/- on each officer in default for violation of provisions of section 29 of the Act.

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In the matter of Interblue Gems (India) Private Limited (“Company”) for violation of section 90(4) of the Companies Act, 2013 (“Act”)

As per the details available in form MGT-7 of the Company submitted with the Registrar of Companies, Gujarat and Dadra Nagar Haveli (ROC)

JUDGEMENTS

for the financial years 2019-20 to 2022-23, it was observed that 99.99% of the shares of the Company were held by Interblue Diamonds DMCC. Accordingly, ROC issued a notice under section 206 of the Act, to call for information pertaining to applicability of the Companies (Significant Beneficial Owners) Rules, 2018 and non-filing of e-form BEN-2, as required under section 90 of the Act. However, no reply was received from the Company in this regard. ROC issued another 3 notices to the Company and its officers in default.

Thereafter, the Company submitted that it had filed e-form BEN-2 and had made the requisite payment. It was observed that the Company had received form BEN-1 on July 15, 2019 and had filed e-form BEN-2 with a delay of 1,680 days i.e., on March 21, 2024.

Consequently, ROC levied a penalty of INR 500,000/- on the Company and INR 100,000/- on each officer in default for violation of section 90(4) of the Act.

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In the matter of CMB India Nidhi Limited (“Company”) for violation of section 12 of Companies Act, 2013 (“Act”)

The Regional Directors were directed by the Secretary of Corporate Affairs to conduct an in-depth examination and submit a report on the surge of Nidhi Companies in Kanpur, Jaipur and Patna. Accordingly, the Company was identified by the Registrar of Companies, Kanpur (“ROC”) basis the discussions in the Registrar of Companies Review workshops with reference to Nidhi companies.

Subsequently, it was observed by the Inquiry Officer that in the photograph attached in form INC-22A, the address of registered office was neither painted nor affixed, as mandated under section 12(3)(c) of the Act. Hence, the Company had violated the provisions of section 12(3)(c). Accordingly, a show cause notice was issued by the ROC to the Company and its officers in default. The submissions made by the authorized representative of the Company were not found satisfactory. Consequently, ROC levied a penalty of INR 50,000/- on the Company and INR 50,000/- on each officer in default for violation of section 12(3)(c) of the Act.

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CORPORATE REGULATORY UPDATES

SEBI's endeavour to encourage participation of more non-institutional investors in corporate bond market and enhancement of liquidity

SEBI issued a circular on July 3, 2024 regarding reduction in denomination of debt securities and non-convertible redeemable preference shares. Accordingly, the face value of debt securities has been reduced from INR 100,000 to INR 10,000 to boost the participation. However, certain restrictions have also been imposed such as appointment of Merchant Banker and the debt security or non-convertible redeemable preference share should be interest or dividend bearing.

e-form MGT-6 and e-form BEN-2

As per the circular issued by the Ministry of Corporate Affairs ('MCA') on July 4, 2024, MCA is launching e- form MGT-6 [Form of return to be filed with the registrar under section 89 of the Companies Act, 2013 ('the Act')] and e-form BEN-2 [Return to the registrar in respect of declaration under section 90 of the Act] in MCA- 21 version 3.0 on July 15, 2024. These e-forms will not be available in MCA 21 version 2.0 from July 4, 2024 to July 12, 2024. Therefore, MCA allows an additional time of 15 days, without levying additional fees, to the stakeholders, in case where the due dates for filing of these 2 e-forms fall during the period between July 4, 2024 and July 12, 2024.

SEBI issued the Master Circular on surveillance of the securities market

On 9 July 2024, the Securities and Exchange Board of India ("SEBI") has issued a Master Circular consolidating various guidelines for effective "surveillance of the securities market". This circular supersedes previous ones and will be effective from the date of issuance. Key points include:

- A. Trading Rules and Dematerialized Shareholding
- B. Monitoring of Unauthenticated News
- C. Disclosure Reporting under Insider Trading Regulations

Reporting Violations:

- D. Trading Window Closure

The Master Circular aims to centralize and streamline surveillance-related provisions for easier reference and compliance. It rescinds previous circulars, ensuring ongoing actions under them continue unaffected. This consolidated circular ensures that market intermediaries and listed companies adhere to best practices, promoting market integrity and protecting investor interests.

SEBI issued the Circular on Information to be Filed by AIF Schemes for Dissolution and Additional Liquidation Periods, and Conditions for In-Specie Distribution

On 9 July 2024, SEBI has issued a circular regarding "Information to be Filed by AIF Schemes for Dissolution and Additional Liquidation Periods, and Conditions for In-Specie Distribution". Key points include:

A. Information Memorandum for Schemes Entering Dissolution Period:

- Amendment Regulations 2024: SEBI allows AIF schemes to enter a dissolution period for unsold investments due to lack of liquidity.
- SEBI Circular: Issued on April 26, 2024, detailing modalities for schemes entering the dissolution period.
- Filing Requirement: AIF schemes entering the dissolution period must file an information memorandum with SEBI through a merchant banker.
- Submission Details:
- Timing: Submit before the expiry of the liquidation or additional liquidation period.
- Formats: Provided in Annexure I (Information Memorandum) and Annexure II (Due Diligence Certificate by Merchant Banker).

CORPORATE REGULATORY UPDATES

B. Information for Schemes Availing Additional Liquidation Period:

- Regulation 29(9A): Schemes whose liquidation period expires by July 24, 2024, can request an additional liquidation period, subject to SEBI conditions.
- Submission Requirement: Schemes seeking an additional liquidation period must submit information in the format specified in Annexure III.

C. In-Specie Distribution of Investments:

- Regulations and Master Circular: Conditions for in-specie distribution of unliquidated investments during the liquidation period.
- Approval Requirement: In-specie distribution requires approval from at least 75% of investors by value.
- Compliance Responsibility: The manager, trustee, and key management personnel must ensure compliance.
- Compliance Test Report: Trustee/sponsor must ensure the Compliance Test Report includes compliance with this circular.

RBI permits remittances by resident individual for permissible purposes to IFSC

RBI issued a circular on July 10, 2024 on remittances to IFSCs in India under the Liberalised Remittance Scheme (“LRS”) for permitting authorised persons to facilitate remittances for all permissible purposes under LRS to IFSCs for (i) availing financial services or financial products as per the International Financial Services Centres Authority Act, 2019 within IFSCs; and (ii) all current or capital account transactions, in any other foreign jurisdiction (other than IFSCs) through Foreign Currency Account (“FCA”) held in IFSCs. Resident individuals can open FCA in IFSCs for the aforesaid permissible purposes.

Consultation paper by IFSCA for introduction of Single Window IT System (“SWITS”)

IFSCA released a consultation paper on July 10, 2024 to seek public comments/ suggestions on proposed amendments to the International Financial Services Authority (Registration of Insurance Business) Regulations, 2021. Through the proposed amendment IFSCA is proposing to introduce SWITS that would contain a common application form, which would be made applicable for all the entities who wish to apply for registration in the IFSC, including IFSC Insurance Offices. Similarly, a system generated Certificate of Registration (“CoR”) is proposed to be issued. Further, it is proposed to omit specified templates of application forms and CoR formats from these regulations, once SWITS becomes operational.

SEBI amends LODR Regulations

SEBI notified the SEBI (Listing Obligations and Disclosure Requirements) (Second Amendment) Regulations, 2024 on July 8, 2024 to further amend the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (“Regulations”). As per the amendment, a listed entity may now publish only a window advertisement in the newspapers that refers to a Quick Response Code and the link of the website of the listed entity and stock exchange(s), where the financial results are available and capable of being accessed by the investors subject to the following conditions:

- (i) For non-convertible securities outstanding as on the date of notification of this proviso, the listed entity has obtained the prior approval from the debenture trustee; (ii) In case of any issuances after the date of notification of this proviso, the listed entity is required to either make a disclosure in the offer document regarding the window advertisement in the newspapers or obtain prior approval from the debenture trustee.

CORPORATE REGULATORY UPDATES

SEBI amends NCS Regulations

SEBI notified the SEBI (Issue and Listing of Non-Convertible Securities) (Amendment) Regulations, 2024 on July 8, 2024 to further amend the SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021. The key amendments are as follows:

(a) Insertion of regulation 23(7): The issuer is now required to fix a record date for the purposes of payment of interest, dividend and payment of redemption or repayment amount or for such other purposes as specified by SEBI. Further, such record date is to be fixed at 15 days prior to the due date of payment interest or dividend, repayment of principal or any other corporate actions.

(b) Substitution of regulation 40: Earlier, the debenture trustee was only required to furnish a due diligence certificate to SEBI and stock exchange(s) at the time of filing the draft offer document with the stock exchange(s) and prior to opening of the public issue of secured or unsecured debt securities. Now, the debenture trustee is required to furnish due diligence certificate to SEBI and stock exchange(s) at the time of filing the draft offer document with the stock exchange(s), prior to opening of the public issue of secured or unsecured debt securities and at the time of filing of the listing application by the issuer for secured or unsecured debt securities in a newly specified format. Further, the stock exchange is required to disclose the offer document and due diligence certificates provided by the debenture trustee on its website.

(c) Substitution of regulation 44(3): The debenture trustee is required to submit a due diligence certificate to the stock exchange in newly specified format. Further, the stock exchange is required to disclose the placement memorandum and the due diligence certificates provided by the debenture trustee for secured or unsecured debt securities on its website.

Remittances to International Financial Services Centres under the Liberalised Remittance Scheme

International Financial Services Centres Authority ('IFSCA') issued a circular, according to which Authorised Persons may facilitate remittances for all permissible purposes under Liberalised Remittance Scheme ('LRS') to IFSCs for (i) availing financial services or financial products as per the International Financial Services Centres Authority Act, 2019 within IFSCs; and (ii) All current or capital account transactions, in any other foreign jurisdiction (other than IFSCs) through an FCA held in IFSCs. For these permissible purposes, resident individuals can open Foreign Currency Account (FCA) in IFSCs. Earlier, remittances under LRS to IFSCs could be made only for (i) making investments in IFSCs in securities except those issued by entities/ companies' resident in India (outside IFSC); and (ii) payment of fees for education to foreign universities or foreign institutions in IFSCs for pursuing courses mentioned in the gazette notification no. SO 2374(E) dated May 23, 2022, issued by the Central Government. For these permissible purposes, resident individuals can open Foreign Currency Account in IFSCs.

SEBI Consultation paper on Introduction of New Asset Class/ Product Category

SEBI has released a consultation paper on Introduction of New Asset Class/Product Category. The objective of this Consultation Paper is to solicit comments on the proposed introduction of new asset class/product category aimed at bridging the gap between Mutual Funds and Portfolio Management Services in terms of flexibility of portfolio construction. The proposed New Asset Class seeks to provide investors with a regulated investment product featuring higher risk-taking capabilities and a higher ticket size, aimed at curbing the proliferation of unregistered and unauthorized investment products.

CORPORATE REGULATORY UPDATES

Report of the Expert Committee for drafting institutional arbitral rules for the proposed International Arbitration Centre at GIFT IFSC submitted to IFSCA

International Financial Services Centers Authority (“**IFSCA**”) has released report of the Expert Committee for drafting institutional arbitral rules for the proposed International Arbitration Center at GIFT IFSC. The committee recommendations include:

- Emulating the international best practices from major jurisdictions, such as use of technology, third party funding, representation by foreign lawyers, etc.
- Regulatory architecture for the ADRC, wherein amendments are proposed under IFSCA Act, 2019; Arbitration and Conciliation Act, 1996 and the Mediation Act, 2023 to provide choice of governing law for the parties, recognizing third party funding, dedicated bench for hearing the appeals and application for arbitration seated at IFSC, etc.
- Institutional framework for ADRC wherein committee has recommended legal structure, administrative structure, governing framework for ADRC, etc.; and
- A judicial framework for the IFSC wherein a dedicated court structure in various phases has been amended.

Amendment to Specified Companies (Furnishing of Information about Payment to Micro and Small Enterprise Suppliers) Order, 2019

The Ministry of Corporate Affairs (“**MCA**”) on July 15, 2024 issued the Specified Companies (Furnishing of Information about Payment to Micro and Small Enterprise Suppliers) Amendment Order, 2024 (“**Amendment Order**”) to amend the Specified Companies (Furnishing of Information about Payment to Micro and Small Enterprise Suppliers) Order, 2019 (“**Principal Order**”).

As per the Amendment Order, a new proviso has been inserted in paragraph 3 of the Principal Order. The proviso specifies that all amount due to MSME for more than 45 days or paid after 45 days from the date of acceptance or the date of deemed acceptance of the goods or services during April – September and October – March period shall be reported in form MSME-I.

Previously, the MSME – I return was required to be filed to report only such amount which is due for more than 45 days from the date of acceptance or the date of deemed acceptance of goods or services as on March 31 or September 30. The MCA has revised form MSME-I accordingly.

Amendment in Companies (Appointment and Qualification of Directors) Rules, 2014

The Ministry of Corporate Affairs (“**MCA**”) on July 16, 2024, amended Rule 12A of the Companies (Appointment and Qualification of Directors) Rules, 2014. A new proviso has been inserted according to which, directors can now update their personal mobile number and email id at any time during a financial year, by filing the form DIR-3 KYC. A nominal fee of INR 500 would need to be paid while filing form DIR-3 KYC if the updation is done post September 30 of such financial year.

The amendment is effective from August 1, 2024.

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CORPORATE REGULATORY UPDATES

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- A judicial framework for the IFSC wherein a dedicated court structure in various phases has been amended.

Draft rules for Telecommunications (Adjudication and Appeal) Rules, 2024

The Department of Telecommunication (DoT) on 18 July 2024 has issued draft rules for Telecommunications (Adjudication and Appeal) Rules, 2024 (Rules). The Rules, proposed under sections 35, 36 and 37 of the Telecommunication Act, 2023 outline procedures for adjudicating officers and designated appeals committees to address breaches of telecom licences, radio frequency assignments and other contraventions. The Rules states that breaches of telecom licenses and radio frequency assignments. Public consultation is open for 30 days.

IFSCA Publishes FAQs on "Additional requirements for carrying out the permissible activities by Finance Company as a Lessor under Ship Leasing Framework " Circular (May 8, 2024)

On July 23, 2024, the International Financial Services Centres Authority (IFSCA)

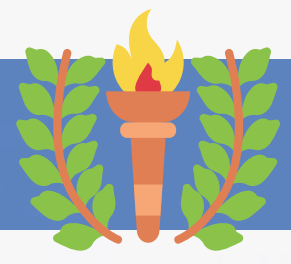
published a comprehensive FAQ document to provide certain clarity on the IFSCA circular titled "Additional requirements for carrying out the permissible activities by Finance Company as a Lessor under Ship Leasing Framework ", dated May 8, 2024 (SL Circular). The said circular specified that an applicant under the Ship Leasing Framework or a lessor who has obtained a Certificate of Registration (CoR) under regulation 3 of the FC Regulations, shall not undertake transactions involving the transfer, in any form, of the ownership and/or leasehold right of a ship or ocean vessel from a person resident in India to an entity set up in the International Financial Services Centre (IFSC) for the purpose of providing services solely to persons resident in India. In light of the above these FAQs aim to elucidate the permissible activities for Finance Companies acting as Ship Lessors under the SL framework. The FAQs also clarify that if a ship lessor in IFSC leases-in, charters-in, or acquires a ship or ocean vessel from an Indian entity (excluding newly built ships from Indian shipyards), the vessel cannot be used solely for Indian clients within a single financial year. However, it can serve both foreign and Indian residents.

Shifting Existing Business to GIFT IFSC

The FAQs further addresses whether existing business or contracts with Indian residents can be shifted to GIFT IFSC for ship leasing activities. It states that such existing contracts cannot be moved to IFSC. However, after the conclusion of existing contracts, new contracts that comply with the requirements outlined in the FAQ can be handled by an IFSCA-registered ship lessor.



Off Beat Section



Around the World with the Olympics: Interesting Facts About Host Nations

The Olympic Games stand as the pinnacle of international sporting events, showcasing the talents of thousands of athletes from across the globe as they compete in a diverse array of summer and winter disciplines. This quadrennial spectacle alternates between the Summer and Winter Olympics, each held two years apart. Transcending mere competition, the Olympics embody a celebration of human achievement, resilience, and the unifying power of sport. They ignite inspiration in millions worldwide and champion the ideals of peace and international cooperation. Let's delve into the captivating and surprising facts of the nations that have had the honor of hosting this grand event.



The **United States of America** has hosted the most Olympic Games, with a total of eight (four Summer and four Winter).



Paris is hosting the 2024 Summer Olympics exactly 100 years after its last hosting in 1924, marking a significant historical moment.



Several countries have made history as the first Olympic hosts on their continents: Australia (Oceania, 1956), Brazil (South America, 2016), and South Korea (Asia, 1988).



Several countries are set to make their Olympic hosting debut in the coming years. Italy will host its first Winter Games in 2026, and Australia will host its second Summer Games in Brisbane in 2032.



Notable Recognitions & Accolades



CLASIS LAW



Tolstoy House,
4th Floor, Tolstoy Marg,
New Delhi – 110 001, India
Tel : +91 11 4213 0000
Fax : +91 11 4213 0099

Bajaj Bhawan,
1st Floor, 226, Nariman Point,
Mumbai – 400 021, India
Tel : +91 22 4910 0000
Fax : +91 22 4910 0099

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