Swift e-Bulletin
Edition 01/21-22
Week – April 05th to April 09th

Quote for the week:

"Remember, today is the tomorrow you worried about yesterday."

- Dale Carnegie

Introduction

We welcome you to our weekly newsletter!

The 'Swift e-Bulletin' - weekly newsletter, covers all regulatory updates and critical judgements passed during the week. We hope that you liked our previous editions and found it to be of great value in its content. We want this newsletter to be valuable for you so, please share your feedback and suggestions to help us improve.

In the wake of COVID-19, the various regulatory authorities have been granting many relaxations, exemptions and amendments to the various legislations by regulatory authorities to ease out the operations during this time of crisis.

Further, various regulatory authorities have been proactive in bringing significant regulatory changes in recent challenging times. This week's newsletter covers various Circulars/notifications issued by certain regulatory authorities such as the Securities and Exchange Board of India **("SEBI"),** the Reserve Bank of India ("**RBI**") and Insolvency and Bankruptcy Board of India **("IBBI")** and critical judgements and orders passed by the National Company Law Tribunal **("NCLT")**, National Company Law Appellate Tribunal **("NCLAT")** SEBI, Supreme Court and High Court.

We have prepared a comprehensive summary for quick reference of the aforesaid updates and Judgements / orders issued during the week of April 05, 2021 to April 09, 2021.

Thank you,
Swift Team

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REGULATORY UPDATES

SEBI UPDATES

1. **SEBI modifies criteria for contribution of Asset Management Companies ("AMCs") towards share capital of Limited Purpose Clearing Corporation ("LPCC") prescribed in its earlier circular vide Circular dated April 06, 2021**

- SEBI vide its Circular dated February 02, 2021 prescribed the modalities for contribution of Asset Management Companies ("**AMCs**") towards share capital of Limited Purpose Clearing Corporation ("**LPCC**"). Accordingly, it was prescribed that the contribution from AMCs would be in proportion to the Average Assets under management ("**AUM**") of open ended debt oriented mutual fund schemes (excluding overnight, gilt fund and gilt fund with 10-year constant duration but including conservative hybrid schemes) managed by them for the Financial Year (FY) 2019-20.

- Keeping in view the representation received from Association of Mutual Funds in India ("**AMFI**"), paragraph 4 of SEBI Circular dated February 2, 2021 relating to criteria for contribution of Asset Management Companies (**"AMCs"**) towards share capital of Limited Purpose Clearing Corporation (**"LPCC"**) has been modified to the effect that the contribution of AMCs shall be based on Average AUM of debt oriented schemes, as detailed above, for the Financial Year (FY) 2020-21.

- All the other terms and conditions stated in the SEBI circular dated February 2, 2021 shall remain the same.

  To read the Circular in detail, please click here.

2. **SEBI reviews and rationalizes the existing regulatory reporting requirements for Alternative Investment Funds (AIFs) in terms of AIF Regulations vide Circular dated April 07, 2021**

- According to the Alternative Investment Funds ("**AIF**") Regulations and paragraph 3.2 relating to reporting requirements of Circular dated July 29, 2013 AIFs are required to submit periodical reports to SEBI relating to their activity. To provide ease of compliance, SEBI has decided to review and rationalize the existing regulatory reporting requirements.

- In line with consultation with various stakeholders and recommendation of Alternative Investment Policy Advisory Committee, SEBI has decided that all AIFs shall submit report on their activity as an AIF to SEBI on quarterly basis within 10 calendar days from the end of each quarter in the revised formats as specified in ***Annexure I*** to the circular. Further, Category III AIFs shall also submit report on leverage undertaken, on quarterly basis in the revised formats as specified in ***Annexure II*** to the circular. AIFs shall submit these reports online through SEBI intermediary Portal.

- Further, in partial modification to paragraph 3 of Circular dated July 18, 2014 relating to intimation of changes in terms or documents of the fund/scheme to investors, any changes in terms of private placement memorandum and in the documents of the fund/scheme shall be intimated to investors and SEBI on a consolidated basis, within 1 month of the end of each financial year. Such intimation shall specifically mention the changes carried-out in the private placement memorandum and the documents of the fund/scheme, along with the relevant pages of revised sections/clauses.

- The modified reporting requirements, as mentioned at paragraph 2 of this Circular, shall be applicable for quarter ending December 31, 2021 onwards. However, the provisions of paragraph 4 of this Circular shall come into effect immediately.

To read the Circular in detail, please click here.

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RBI UPDATES

1. **RBI provides relaxes the period of parking of unutilized proceeds of External Commercial Borrowings ("ECB") in term deposits vide Circular dated April 07, 2021**

- According to the Master Direction issued by the RBI, External Commercial Borrowings ("**ECB**") borrowers were allowed to park ECB proceeds in term deposits with AD Category-I banks in India for a maximum period of 12 months only.

- However, based on request from various stakeholders and with a view of providing relief to ECB borrowers affected by the Covid-19 pandemic, RBI provides a onetime relaxation from the above condition and accordingly allows unutilized ECB proceeds drawn down on or before March 01, 2020 to be parked in term deposits with AD Category-I banks in India prospectively for an additional period up to March 01, 2022.

- All other provisions of the ECB policy remain unchanged. AD Category-I banks have been directed to bring the contents of this circular to the notice of their constituents/ customers.

To read the Circular in detail, please click here.

2. **RBI specifies Category I Alternative Investment Funds (AIFs) set up as trust and registered with SEBI under SEBI (Alternative Investment Fund) Regulations, 2012, as 'qualified buyers'**

- The Reserve Bank of India, in exercise of the powers conferred by the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, has specified Category I Alternative Investment Funds ("**AIFs**") set up as trust and registered with Securities and Exchange Board of India under Securities and Exchange Board of India (Alternative Investment Fund) Regulations, 2012, as 'qualified buyers', subject to the following conditions:
  - The AIF which has invested in an asset reconstruction company ("**ARC**") shall not invest in the security receipts issued by that ARC;

- The AIF shall not invest in the security receipts issued on the underlying loans of any of its associate or group company;
- The AIF shall not invest in the security receipts backed by non-performing assets of banks which hold equity of more than 10% in that AIF.

To read the Notification in detail, please click, here.

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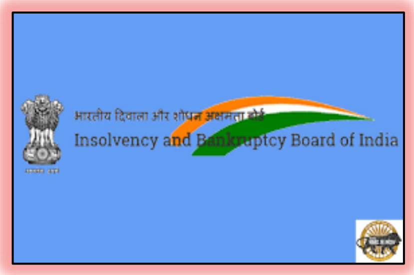
IBBI UPDATES

1. **Ministry of Law and Justice issues The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2021**



- The President promulgated The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2021 which further amends The Insolvency and Bankruptcy Code, 2016(“**IBC**”) vide Gazette Notification dated April 04, 2021.

- The amendment Ordinance seeks to amend sections such as 4 relating to matters relating to the insolvency and liquidation of corporate debtors where the minimum amount of the default is one lakh rupees, section 5 relating to definitions, section 11 relating to Persons not entitled to make CIRP application, 33 relating to initiation of liquidation proceedings, 34 relating to appointment of liquidator and fees to be paid, 61 relating to appeals and appellate authority, 65 relating to fraudulent and malicious intent of proceedings, 77 relating to punishment for providing false information in application made by a corporate Debtor, 208 relating to functions and obligations of Insolvency professionals, 239 relating to powers of central government to make rules, 240 relating to powers of central government to make regulations & inserts new sections such as 11A, 67A, 77A and a new chapter as IIIA on **Pre-Packaged insolvency resolution process** for micro, small or medium enterprises (“**MSMEs**”) in the Code based on recommendations made by the Insolvency Law Committee (“**ILC**”).

- Highlights of some of the amendments that have been brought by way of this Ordinance are:

  - *Section 5 of the code which covers various definitions is amended to take into consideration amendments to various definitions and insertion of new definition pertaining to pre-packaged insolvency resolution process.*
  - *Insertion of a new section 11A which provides manner of disposal of applications against a corporate debtor (“**CD**”) against whom both pre-packaged insolvency resolution process and corporate insolvency resolution process are pending.*

- *Introduction of a new Chapter III-A which provides for conditions that have to be meet for initialization of pre-packaged insolvency resolution a gist of which has been mentioned below:*

  - *The pre-packaged insolvency resolution process shall be available only for Micro, Small and Medium enterprises (“**MSMEs”)** subject to fulfillment of certain conditions;*
  - *Majority of the directors or partners of the corporate debtor (“**CD**”) have to make declarations for initiating pre-packaged insolvency resolution process and the members or partners shall also have to pass a resolution for the same;*
  - *Not less than 66% of Unrelated financial creditors shall have to approve the pre-packaged insolvency resolution process;*
  - *This chapter also provides for duties of the resolution professional appointed under this chapter;*
  - *The pre-packaged insolvency resolution process shall be completed within 120 days out of which 90 days shall be given to the resolution professional to file the resolution plan with the Adjudicating Authority, however if no resolution plan has been approved by the committee of creditors then the pre-packaged insolvency resolution process shall stand terminated.*
  - *The committee of creditors may approve the base resolution plan submitted by the corporate debtor if it provides for the full payment of the claims of operational creditors. If the base resolution plan does not provide for such full payment or is not approved by the committee of creditors, prospective resolution applicants shall be invited to submit resolution plans;*
  - *The Adjudicating Authority shall pass an order terminating the pre-packaged insolvency resolution process if the committee of creditors approves such termination by a vote of 66% of its voting share.*

- Insertion of Section 67A which provides for penalty for officers of the CD if the CD affairs are managed with the intent to defraud its creditors or for any fraudulent purpose during pendency of the pre-packaged insolvency resolution process.
- Section 77A has been inserted after section 77 of the principal Act relating to Punishment for offences related to pre-packaged insolvency resolution process.

To read the Gazette Notification/Ordinance in detail, please click here.

JUDGEMENTS/ ORDERS

NCLT

1. **National Company Law Tribunal dismissed the petition and did not allowed to initiate Corporate Insolvency Resolution Process (CIRP) against the Respondent Corporate Debtor**

The Company Petition was filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 (the Code) seeking initiation of Corporate Insolvency Resolution Process (CIRP) against the Respondent Corporate Debtor alleging default in making payment of a financial debt.

Previously Petitioner had filed a Petition under Section 7 against the Corporate Debtor in National Company Law Tribunal, Mumbai Bench ('Tribunal'). The parties entered into a settlement and executed consent terms and agreed that incase of default is made then fresh petition shall be filed against the petitioner.

It was further agreed that the postdated cheques **("PDCs")** shall be presented for payment by the Financial Creditor, only after giving advance-notice in writing to the Corporate Debtor of his intention to do so. After obtaining the express written consent of the Corporate Debtor, the Financial Creditor may proceed to deposit the PDCs with the bank. The Corporate Debtor agreed to provide its written consent within 3 days of receipt of such notice from the Financial Creditor. In case Corporate Debtor fails to make payments within the stipulated time or fails to provide its written consent, then the Corporate Debtor shall be entitled to a grace period of 3 (three) months **("grace period")** from the date of such PDC and shall issue a fresh cheque / PDCs, as may be mutually agreed between the Parties.

Further, In the event the Corporate Debtor fails to make payment of the said Amount on or before March 31, 2020, the Corporate Debtor shall be held to be in breach of Consent Terms and the Financial Creditor shall be at liberty to initiate any legal proceedings as it deems fit and necessary against the Corporate Debtor.

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Counsel for the Petitioner submits that the Corporate Debtor issued the cheque in terms of the Consent Terms. However, requested the Petitioner ("Financial Creditor") not to deposit the cheque as it had not been able to arrange funds **and** requested three months' grace period as provided in the Consent Terms.

The Petitioner requested the Corporate Debtor to take back the three PDCs and issue replacement cheques. Accordingly, the Corporate Debtor replaced them with three new cheques, in favour of the Petitioner.

NCLT submits that Since the replacement cheques were issued by the Corporate Debtor and were also accepted by the Petitioner. When the Corporate Debtor issued fresh cheques and they were accepted, the due date also got extended. Therefore, the contention of the Petitioner that the fresh cheques would not extend the date of default.

Further as per the notifications issued by the Ministry of Corporate Affairs, a Petition under section 7 of the Code cannot be filed for the default occurring between March 25, 2020 and March 24, 2021. The Counsel for the Corporate Debtor submits that; the Consent terms clearly mention that the Corporate Debtor is required to make payment of the sum agreed on or before March 31, 2020. Thus, the default has taken place only on March 31, 2020 and hence Petitioner could not initiate CIRP against the Corporate Debtor and the default in the instant case having occurred after March 25, 2020, this Petition presently would not be maintainable.

To read the order in detail please click here.

NCLAT

1. **NCLAT set aside the order of the NCLT, Ahmedabad Bench and dispensed with the meetings of the Equity shareholder, Secured and Unsecured Creditors of the Appellant Company**

In the matter of Ambuja Cements Limited (Appellant) an appeal was filed against the order passed by the National Company Law Tribunal ('NCLT'), Ahmedabad Bench, Court – whereby the NCLT did not allow dispensation of the meeting of the Equity Shareholders and Creditors of the Appellant Company.

The appellant submitted that scheme of merger between DIRK India Private Limited (Transferor) and the Appellant Company under Section 230 of the Companies Act, 2013 was approved by the Board of Directors. Learned council submitted that the Equity Shares of the Transferor Company are not listed on any Stock Exchange, the entire Share Capital of the Transferor Company is held by the Appellant Company. The Transferor Company is a 100% a subsidiary of the Appellant Company. The Share Capital of the Transferor Company reflected in the Appellant Company's Balance Sheet, on this basis transferor filed Application under Section 230-232 of the Companies Act,2013 seeking dispensation of the meeting of Equity Shareholders and Creditors of the Transferor Company before the Learned NCLT, Mumbai.

The NCLT rejected the dispensation of the meeting of the Equity Shareholder and the Creditors of the Company stating that the Transferor Company has large number of shareholders and creditors and none of them have filed their consent and no objection towards the scheme of merger/amalgamation.

The Learned Counsel also relied upon the Judgment of Mahaamba Investments Limited Vs. IDI Limited Wherein the Hon'ble High Court of Bombay held that filing of separate Petition by the transferee company is not necessary. The Learned Counsel for the Appellant relied upon the Judgment and submitted that since the Transferor Company had already filed an Application before the Hon'ble NCLT, Mumbai and the Hon'ble NCLT, Mumbai allowed the Application by dispensing with the meeting of shareholders and creditors.

The Learned Counsel for the Appellant submitted that the quorum which passed the order in Vodafone Idea Limited.' is the same quorum which passed the impugned order. It is apparent that, the facts are similar in both the cases, but the NCLT Ahmedabad Bench did not follow its own order passed in Vodafone Idea Limited and it is contrary to the Principles of Judicial Discipline.

Upon consideration of the facts of both cases National Company Law Appellate Tribunal, Principal Bench, New Delhi (‘**NCLAT’**) is of view that NCLT Ahmedabad Bench should have taken into consideration its own order passed in ‘Vodafone Idea Limited.’, Wherein similar facts are involved in both the cases.

Therefore, NCLAT set aside the order of the NCLT, Ahmedabad Bench and dispensed with the meetings of the Equity shareholder, Secured and Unsecured Creditors of the Appellant Company. The matter is remanded back to the NCLT for further Consideration.

To read the judgement in details please click here.

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SEBI

1. **SEBI imposess penalty on promoters of Reliance Industries Limited RIL for not making public announcement under takeover regulations**

Securities and Exchange Board of India ('**SEBI'**), conducted an investigation against the irregularities in compliance with Substantial Acquisition of Shares and Takeover) Regulations,1997 ("**Takeover Regulations**") relating to issuance of 12 crore equity shares in January 2000 by Reliance Industries Limited ("**RIL**") pursuant to the exercise of option on warrants attached with certain Non - Convertible Secured Redeemable Debentures ("**NCD**").

It was alleged that RIL promoters together with Person Acting in Concert (PACs) have violated the provisions regulation 11(1) of Takeover Regulations. SEBI appointed Adjudicating Officer (AO) to inquire into aforesaid alleged violations against the RIL and PACs ('**Noticees'**) and issued Show Cause Notice (SCN). In response to the SCN, Noticee submitted that the initiation of adjudication proceedings by the SEBI, is unreasonable, time barred and the show-cause notice ought to be set aside; the principal charge against the Noticee is ex-facie patently erroneous as Section 15H of the SEBI Act does not apply; the SCN seeks to impose greater penalties than those applicable on the date of the alleged violation; and requested not to pass any order in relation to this interim application or on the merits of the SCN or otherwise proceed in the captioned matter without granting an opportunity of personal hearing.

SEBI noted that the violation is a disobedience of the statutory provisions by which the acquisition of securities giving the Noticees enhanced control by the exercise of voting rights, etc. and these are violations which are continuing so long as the voting rights are acquired in violation of the letter and spirit of the law. Since the promoters and PACs have not made any public announcement for acquiring the impugned shares, hence the Noticees have not been complied with Regulation 11(1) of the Takeover Regulations.

SEBI further note that Noticees deprived the shareholders of their statutory rights/opportunity to exit from the company by not making public announcement and impose penalty of INR 25,00,00,000/- (INR Twenty-Five Crore Only) on Mr. Mukesh Ambani, Anil Ambani, Nita Ambani, Tina Ambani and other family members.
To the order in detail please click here.

HIGH COURT

1. **The Court dismissed the petition filed by MX Media and Entertainment Pte. Ltd on the grounds of Consensus *ad idem*, the foremost, and most indispensable, prerequisite for any concluded contract, is totally absent in the present case.**

MX Media and Entertainment Pte. Ltd	**Petitioner**
M/s. Contagious Online Media Networks Private Limited	**Respondent**

<u>Date of Judgement</u>: April 05, 2021

MX Media and Entertainment Pte. Ltd, being the petitioner is incorporated and located in Singapore, which is engaged in the production, development, marketing and distribution of media entertainment content, over its platform 'MX Player'. Whereas, the respondent - M/s. Contagious Online Media Networks Private Limited who is engaged to produce and develops audio-visual content under the brand names "The Viral Fever ("TVF")", "The Screen Patti (TSP)" and "The Timeliners", among others.

Programs of the respondent were being distributed and shown on the petitioner's Platform, sometime earlier and in the year February 2020, the respondent, under the brand name "The Viral Fever (TVF)" confirmed that it would provide six shows, to be hosted on the petitioner's Platform in 2020-2021. In this respect, consequent to an "understanding" arrived at, an Agreement duly signed by respondent and forwarded to the petitioner for signing. However, due to COVID-2019 pandemic, the petitioner at Singapore was not in a position to countersign the Agreement and send it back. Due to this, undisputed factual position remains, however, that the Agreement was signed only by the respondent.

The Count in this case concluded that, Consensus ad idem, the foremost, and most indispensable, prerequisite for any concluded contract, is totally absent in the present case. No contract, which the Court could, in exercise of its jurisdiction under Section 9 of the 1996 Act, specifically enforce, or the specific performance of which the Court could protect, even pending arbitration, can be said to exist. The present judgment adjudicates only the prayer of the petitioner for interim protection under Section 9 of the 1996 Act, and the views expressed herein are prima facie, towards such adjudication.

To read the Judgement in detail, please click here.

2. Petition filed by Innovision Limited stands disposed and the dispute was jointly referred to the Delhi International Arbitration Centre (DIAC), which would appoint an arbitrator to arbitrate on the disputes between the parties.

Innovision Limited	**Petitioner**
Nayati Healthcare Research Private Limited	**Respondent**

Date of Judgement: April 05, 2021

The present petition filed by Innovision Limited had preferred to seek appointment of an arbitrator to arbitrate on the disputes between the parties under Section 11(6) of the Arbitration and Conciliation Act, 1996, which as per Clause 44 of the Securities Agreement, executed between the parties, provides for resolution of the dispute by arbitration. The said Clause 44 of the Agreement states as:

44. "Any claims, dispute and or difference (including a dispute regarding the existence, validity or termination of this Agreement) arising out of, or relating to this Agreement including interpretation of its terms will be resolved through joint discussions of the authorised representative of the Parties. However, if any such claim, dispute or difference cannot be resolved through such joint discussions within thirty (30) days of the date of the notice then the matter shall be referred for adjudication to the arbitration of a sole Arbitrator to be appointed solely by the Client in accordance with the provisions of the Arbitration and Conciliation Act 1996 and rules made thereunder including any modifications, amendments and future enactments thereto. The venue/seat for the arbitration will be New Delhi. The decision of the arbitrator shall be final and binding on the Parties. The arbitrator shall pronounce its final award within ninety (90) days from the date of his appointment"

The Court concluded that, the mutual efforts for appointment of an arbitrator did not fructify. Hence, the parties to the dispute jointly request their matter may be referred to the Delhi International Arbitration Centre (DIAC), accordingly the petition was disposed of by referring the disputes to the DIAC, which would appoint an arbitrator to arbitrate on the disputes between the parties.

To read the Judgement in detail, please click here.

SUPREME COURT

1. Supreme Court held that, financial creditor has not only the right to recover the outstanding dues by filing a suit, but also has a right to initiate Corporate Insolvency Resolution Process against the corporate person (being a corporate debtor) under Section 7 of the Insolvency and Bankruptcy Code, 2016

Laxmi Pat Surana	Appellant
Union Bank of India & ANR.	Respondents

<u>Date of Judgement</u>: March 26, 2021

In the present appeal, two Central issues have arisen for the determination by the Supreme Court:

i. Whether an action under Section 7 of the Insolvency and Bankruptcy Code, 2016 can be initiated by the financial creditor (Bank) against a corporate person (being a corporate debtor) concerning guarantee offered by it in respect of a loan account of the principal borrower, who had committed default and is not a “corporate person” within the meaning of the Code?

ii. Whether an application under Section 7 of the Code filed after three years from the date of declaration of the loan account as Nonperforming Asset, being the date of default, is not barred by limitation?

Considering the facts and circumstance of the case, the Supreme Court held that, the financial creditor has not only the right to recover the outstanding dues by filing a suit, but also has a right to initiate resolution process against the corporate person (being a corporate debtor) whose liability is co-extensive with that of the principal borrower and more

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so when it activates from the written acknowledgement of liability and failure of both to discharge that liability.

The Supreme Court suffices it to conclude that there is no substance even in the second ground urged by the appellant regarding the maintainability of the application filed by the respondent financial creditor under Section 7 of the Code on the ground of being barred by limitation. Instead the Supreme Court was of the view taken by the NCLT and which commended to the NCLAT — that a fresh period of limitation is required to be computed from the date of acknowledgment of debt by the principal borrower from time to time and in particular the (corporate) guarantor/corporate debtor. Thus, the application under Section 7 of the Code filed was within limitation.

Further, the Supreme Court held that as no other issue arises for consideration — except the two grounds urged by the appellant regarding the maintainability of the application for initiating Corporate Insolvency Resolution Process (CIRP) by the financial creditor (Bank) under Section 7 of the Code, the Supreme Court disposes of this appeal leaving all "other grounds" and contentions available to both the sides open to be decided in the pending proceedings before the NCLT and the same be decided uninfluenced by any observation(s) made in the impugned judgment or in the present judgment.

To read the Judgement in detail, please click here.

2. **Supreme Court in the case of constitutional validity of the third proviso to Section 254(2A) of the Income Tax Act, 1961 under question, held that any order of stay shall stand vacated after the expiry of the period(s) mentioned in the Section only if the delay in disposing of the appeal is attributable to the assessee**

Deputy Commissioner of Income Tax & ANR	**Appellants**
M/S. Pepsi Foods Limited (Now Pepsico India Holdings Private Limited)	**Respondents**

<u>Date of Judgement</u>: April 06, 2021

Appeal was filed by the Deputy Commissioner of Income Tax against M/s. Pepsi Foods Limited (Now Pepsico India Holdings Private Limited), an Indian Company incorporated and engaged in the business of manufacture and sale of concentrates, fruit juices, processing of rice and trading of goods for exports. The respondent Company is the assesse-company of the multi-national Pepsico Inc., a company incorporated and registered in the USA.

Further, the assesse-company merged with Pepsico India Holdings Private Limited in terms of a Scheme of arrangement.

In this respect, the assesse-company filed a return of income for the Assessment Year 2008-2009 declaring the total income and final order was passed which was adverse to the assesse. The assesse-company being aggrieved by the aforesaid order, filed an appeal before the Income Tax Appellate Tribunal. A stay of operation of the order of the assessing officer was granted by the Tribunal for a period of six months and further extended as well, which crossed 365 days.

Since the period of 365 days as provided in Section 254(2A) of the Income Tax Act, 1961, beyond which no further extension could be granted, the assesse, apprehending coercive action from the Revenue, file a Writ Petition before the Delhi High Court.

This raised an important question as to the constitutional validity of the third proviso to Section 254(2A) of the Income Tax Act, 1961, which the Delhi High Court by its judgement struck down that part of the third proviso to Section 254(2A) of the Income Tax Act, which did not permit the extension of the stay order beyond 365 days, even if the assess is not responsible for delay in hearing the appeal.

The Supreme Court, dismissed the appeals of the revenue and held that the law laid down by the impugned judgement of the Delhi High Court in the present case is correct. Resultantly, the judgments of the various High Courts which follow the aforesaid declaration of law are also correct. Consequently, the third proviso to Section 254(2A) of the Income Tax Act will now be read without the word "even" and the words "is not" after the words "delay in disposing of the appeal". Any order of stay shall stand vacated after the expiry of the period or periods mentioned in the Section only if the delay in disposing of the appeal is attributable to the assessee.

To read the Judgement in detail, please click here.

3. **Supreme Court dismissed the appeal made by Shital Fibers Limited on the grounds of no merit and observed that the defence of the appellant could not be said to be bona fide, in good faith and of substance.**

Shital Fibers Limited	**Appellant(s)**
Indian Acrylics Limited	**Respondent(s)**

Date of Judgement: April 06, 2021

Shital Fibers Limited had filed the present appeal challenging the judgement and order passed by the Division Bench of Punjab and Haryana High Court, against the respondent – Indian Acrylics Limited, which is manufacturer of acrylic yarn having its manufacturing unit in village Harkrishanpura, District Sangrur.

Both, Shital Fibers Limited and Indian Acrylics Limited had entered into a transaction, under which the respondent – Indian Acrylics Limited was to supply acrylin yarn to the appellant – Shital Fibers Limited on credit basis. The arrangement of supply of raw material took place and the appellant raised issues related to the quality of the material. In this respect the material was returned and sum was also credited by the respondent and also issued a credit note on account of some defect in quality.

Supreme Court on the basis of the facts of the present case and held that the learned Company Judge as well as the Division Bench have found that the defence of the appellant could not be said to be bona fide, in good faith and of substance.

This being the case, the Supreme Court dismissed the appeal on having a considered view and held that there is no merit in the appeal.

To read the Judgement in detail, please click here.
