Swift e-Bulletin

Swift e-Bulletin
Edition 31/21-22
Week – November 01st to November 05th

<u>Quote for the week:</u>

"I always thought the idea of education was to learn to think for yourself"

- Robin Williams

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.

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**"), and the International Financial Services Centre Authority ("**IFSCA**"), and critical judgements and orders passed by the National Company Law Tribunal **("NCLT")**.

The Regulatory authorities provided various updates/relaxations, some of which being:

- **SEBI issues clarification on dealing in unregulated products by SEBI registered Debenture Trustees;**

- **IFSCA notifies International Financial Services Centres Authority (Operations of International Financial Services Centres Insurance Intermediary Offices) Guidelines, 2021**

We have prepared a comprehensive summary for quick reference of the aforesaid updates and Judgements / orders issued during the week of November 01, 2021 to November 05, 2021.

Thank you,
Swift team

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REGULATORY UPDATES

SEBI UPDATES

1. **SEBI issues clarification on dealing in unregulated products by SEBI registered Debenture Trustees vide Press Release dated November 03, 2021**

- SEBI had been notified that certain registered Debenture Trustees were undertaking activities related to unregulated products such as acting as a trustee for digital gold.

- However, under provisions of Section 12(1) of the SEBI Act, 1992 read with the SEBI (Debenture Trustees) Regulations, 1993 undertaking activities related to unregulated products such as digital gold is not permissible.

- Hence SEBI has notified and advised Debenture Trustees to disassociate themselves from undertaking activities related to unregulated products such as digital gold.

To read the Press Release in detail, please click here.

2. **SEBI issues common and simplified norms for processing investor's service request by RTAs and norms for furnishing PAN, KYC details and Nomination vide Circular dated November 03, 2021.**

- With an aim to enhance the ease of doing business for investors in the securities market, SEBI has issued the following norms for simplification for processing of investor service requested by Registrars to an Issue and Share Transfer Agents ("**RTA**"):

  - *Common and simplified norms for processing any service request from the holder, pertaining to the captioned items, by the RTAs;*
  - *Electronic interface for processing investor's queries, complaints and service request*;
  - *Mandatory furnishing of PAN, KYC details and Nomination by holders of physical securities;*
  - *Freezing of folios without valid PAN, KYC details and Nomination; and*
  - *Compulsory linking of PAN and Aadhaar by all holders of physical securities.*

To read the Circular in detail, please click here.

IFSCA UPDATES

1. **IFSCA notifies International Financial Services Centres Authority (Operations of International Financial Services Centres Insurance Intermediary Offices) Guidelines, 2021. vide Circular dated November 01, 2021**

- The Authority had notified the **(Insurance Intermediary) Regulations, 2021** on October 20, 2021. Under the said regulations, the Authority was required to specify certain Guidelines, forms etc. for compliance by international Financial Services Centres Insurance Office ("**IIOs**") / the Applicants of IIO. Hence in pursuance of the above said Regulation, these Guidelines has been notified.

- These Guidelines aim to put in place a framework to address operational issues of such IIOs.

- The broad areas that the new Regulation cover are:

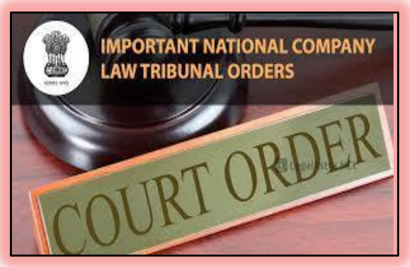
  - *Chapter I - Applicability and legal provisions;*
  - *Chapter II - Fee Structure;*
  - *Chapter III – Fit and Proper Criteria ;*
  - *Chapter IV - Qualification, Training and Examination Requirements;*
  - *Chapter V - Format for Maintenance of Records;*
  - *Chapter VI – Manner of Change in Beneficial Ownership of Shares or Contribution and Control;*
  - *Chapter VII – Payment of Remuneration, Reward, Fee or any other Payment to an IIIO;*
  - *Chapter VIII – Segregation of Insurance Money;*
  - *Chapter IX - Outsourcing of Activities;*
  - *Chapter X - Amalgamation, Merger & Acquisition and Transfer of Business; and*
  - *Chapter XI - Sale of Insurance Business through Digital Modes.*

To read the Guidelines in detail, please click here.

JUDGEMENTS/ ORDERS

NCLT

1. **National Company Law Tribunal allows the Restoration of M/s Hilltop Plaza Private Limited**



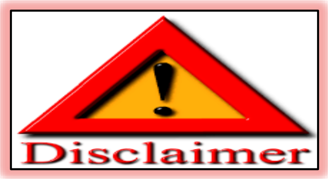
National Company Law Tribunal, **("Tribunal")** accepts the appeal filed by shareholder of the M/s. Hilltop Plaza Private Limited **("Appellant Company")** under section 252 of the Companies Act, 2013 **("the Act")** and allows the restoration of the Appellant Company.

The Registrar of Companies **("RoC")** West Bengal, had struck off the name of Appellant Company from the register of companies due to default in statutory compliances namely non-filing of financial statements and annual returns from financial year 2014-2015 onwards thereby giving rise to the surmise that the business of the company was not in operation, in accordance with section 248 of the Act. Further, the Appellant Company had not filed application under section 455 of the Act for obtaining status of Dormant Company.

The learned counsel of Appellant Company submitted that the default in statutory compliance and non-filing of statutory returns was due to inadvertence mistake and lack of knowledge of the person authorized to look after the filing of the same. Further, the Appellant Company did not receive any show cause notice from the Respondent nor any opportunity of being heard was given to explain the reason of said default in statutory compliance and non-filing of statutory returns. In support of the said plea, the learned counsel of Appellant Company had placed before the Tribunal, the copies of audited financial statements, copies of ITR Acknowledgements and copies of bank statement as an evidence that the Appellant Company was acting as a going concern during the relevant period. He further affirmed that the Appellant Company shall file all necessary document as may be required by the RoC.

Based on facts presented, the Tribunal was satisfied that during the relevant period the Appellant Company was in fact in operation and passed the restoration order subject to their filing of all statutory returns for the defaulting years as required by law and completion of all formalities and on payment INR 60,000 /- towards cost for revival of Appellant company.

To read the order in detail, please click here.



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About Swift

Swift India Corporate Services LLP ("Swift") (Formerly known as SwiftIndiaInc Corporate Services Private Limited) established in the year 2005, is an associate entity of Nishith Desai Associates — Legal & Tax Counseling Worldwide (legal and tax consulting firm).

We are a team of professionals with rich corporate, legal and secretarial backgrounds. We are a premier corporate compliance firm that caters to the needs and demands of our global clients. Swift aims to provide quick and pragmatic corporate solutions alongside high-quality compliances.

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