Swift e-Bulletin

Swift e-Bulletin
Edition 04/21-22
Week – April 26th to April 30th

Quote for the week:

"Never discourage anyone... who continually makes progress, no matter how slow."

- Plato

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"),** the Reserve Bank of India ("**RBI**"), the International

Financial Services Centres Authority ("**IFSCA**"), and the 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.

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

- SEBI grants relaxations from compliance with the SEBI (Listing Obligations Disclosure Requirements) Regulations, 2015 ("LODR");

- Guidelines by RBI regarding Appointment of Statutory Central Auditors ("SCAs")/Statutory Auditors ("SAs") of Commercial Banks (excluding Regional Rural Banks ("RRBs"), Urban Co-operative Banks ("UCBs") and Non-Banking Financial Company ("NBFCs") (including Housing Finance Companies ("HFCs");

- IFSCA issues fee structure for Finance Company/Unit in the IFSCA;

- IBBI amends the Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016;

We have prepared a comprehensive summary for quick reference of the aforesaid updates and Judgements / orders issued during the week of April 26, 2021 to April 30, 2021.

Thank you,
Swift team

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REGULATORY UPDATES

SEBI UPDATES

1. **SEBI standardizes and strengthens policies on Provisional Rating policies for Debt Instruments by Credit Rating Agencies ("CRAs") vide Circular dated April 27, 2021**

- SEBI, vide Circular dated November 01, 2016, had advised CRAs to frame detailed policy on provisional ratings. It has now issued a new framework in order to strengthen and standardize the policies on provisional rating. Under this framework, all Provisional Ratings ('long term' or 'short term') for debt instruments shall be prefixed as 'Provisional' before the rating symbol in all communications

- In order to strengthen and standardize the policies on provisional rating, subsequent to consultation with various stakeholders, including CRAs, following criteria have been prescribed by SEBI for the CRAs to adhere to:

  - *Rating symbol*
  - *Standardized terms*
  - *Validity period for provisional ratings*
  - *Disclosures in the press release/rating rationale*
  - *Unaccepted provisional rating*

  To read the Circular in detail, please click here.

2. **SEBI aligns the interest of Key Employees of the Asset Management Companies ("AMCs") with the Unitholders of the Mutual Fund schemes vide Circular dated April 28, 2021.**

- The Board in order to align interests of the key employees of the **AMCs** with that of the unitholders of the schemes and for better governance and to protect the right of the unit holders has decided to minimum of 20 per cent of the salary/perks/bonus/non-cash compensation (gross annual cost-to-company) net of income tax and any statutory contributions (Provident fund and National Pension Scheme) of the key employees of the AMCs shall be paid in the form of units of Mutual Funds ("**MF**") schemes in which they have a role and oversight

- Compensation paid in the form of units of MF shall be subject to the following:

  - *MF units will be paid over 12 months.*
  - *Lock in for minimum period of 3 years or tenure of the scheme whichever is less however the board has permitted borrowings against such units during emergencies*
  - *If fund manager manages a single scheme, then 50 % of the units can be of other schemes with a similar risk profile and 50% of the units shall be of scheme which he manages*
  - *Clawback provisions have also been introduced in event of violation of Code of Conduct, fraud, gross negligence. Upon clawback, the units shall be redeemed and amount shall be credited to the scheme*

- Compliance shall be ensured by the AMCs and any non-compliance in this regard shall be reported in the quarterly Compliance Test Report ("**CTR**") and half yearly trustee report.

- The provisions of this Circular shall be applicable with effect from **July 01, 2021**

  To read the Circular in detail, please click here.

3. SEBI amends disclosure requirements for portfolios and performance of the scheme vide Circular dated April 29, 2021.

- SEBI based on the recommendation of Mutual Fund Advisory Committee ("**MFAC**") and to enhance the quality of disclosure with respect to risk and performance and portfolio of the schemes, without creating information overload on the investor, has decided that AMC/MF shall make the below mentioned disclosures only to investors in respect to the scheme in which such unit holders are invested:

  - *Mutual Fund/AMCs shall also disclose risk-o-meter of the scheme and benchmark while disclosing the performance of scheme vis-à-vis benchmark.*
  - *Mutual Funds/ AMCs shall send the details of the scheme portfolio while communicating the fortnightly, monthly and half-yearly statement of scheme portfolio via email.*

- The provisions of this circular shall be applicable with effect from **June 01, 2021.**

  To read the Circular in detail, please click here.

4. **SEBI grants relaxations from compliance with the SEBI (Listing Obligations Disclosure Requirements) Regulations, 2015 ("LODR") due to the CoVID-19 pandemic vide Circular dated April 29, 2021.**

- SEBI hereby grants extension for filing of the below documents:

  - *Filing of Annual Secretarial Compliance report under Regulation 24A (60 days from end of the financial year) has been extended till June 30, 2021 due date of which was May 30, 2021.*
  - *Quarterly financial results / Annual audited financial results under Regulation 33 (3) - (45 days from end of the quarter / 60 days from end of the financial year) has been extended till June 30, 2021 due date of which was May 30, 2021.*
  - *Statement of deviation or variation in use of funds under Regulation 32 (1) (Along with the financial results (within 45 days of end of each quarter / 60 day from end of the financial year) has been extended till June 30, 2021 due date of which was May 30, 2021.*

- SEBI has also permitted Listed entities to use digital signature certifications for authentication/ certification of filings/submissions made to the stock exchanges under the LODR Regulations for all filings until December 31, 2021

  To read the Circular in detail, please click here.

5. **SEBI grants relaxations from compliance with certain provisions of the SEBI ((LODR) Regulations, 2015 / other applicable circulars due to the CoVID-19 pandemic vide Circular dated April 29, 2021**

- SEBI after due consideration post receipt of representations from listed entities, professional bodies, industry associations, market participants etc. requesting extension of timelines for various filings and relaxation from certain compliance obligations under the LODR Regulations inter alia due to ongoing second wave of the CoVID-19 pandemic and restrictions imposed by various state governments has decided to grant the following relaxations from compliance with certain provisions of the LODR Regulations / other applicable circulars:

Sl. No	Regulation	Requirement	Due date	Extended deadline for the quarter /

				half year / year ending March 31, 2021
For entities that have listed their debt securities under the SEBI (Issue and Listing of Debt Securities) Regulations, 2008, SEBI (Issue and Listing of Non-convertible Redeemable Preference Shares Regulations, 2013, and SEBI (Public Offer and Listing of Securitised Debt Instruments) Regulations, 2008				
1.	Regulation 52 (1) - Half-yearly financial results Regulation 52 (2) - Annual audited financial results	Forty-five days from end of the quarter / Sixty days from end of the financial year	May 15, 2021 / May 30, 2021	June 30, 2021
2.	Regulation 52 (7) read with SEBI circular dated January 17, 2020 on Statement of deviation or variation in use of funds	Along with the financial results (within 45 days of end of each quarter / 60 days from the end of the financial year)	May 15, 2021 / May 30, 2021	June 30, 2021
For entities that have listed their bonds under the SEBI (Issue and Listing of Municipal Bonds) Regulations, 2015				
3.	Requirements as per circular dated November 13, 2019 Annual audited financial results	Sixty days from end of the financial year	May 30, 2021	June 30, 2021
For entities that have listed Commercial Paper				
4.	Requirements as per SEBI circular dated October 22, 2019	Forty-five days from end of the Half Year / Sixty days	May 15, 2021 / May 30, 2021	June 30, 2021

	Half Yearly financial results Annual audited financial results	from end of the financial year		

- Listed entities are permitted to use digital signature certifications for authentication/ certification of filings/submissions made to the stock exchanges under the SEBI (LODR) Regulations, 2015 for all filings until December 31, 2021. Entities that have listed their municipal bonds may also opt to use digitally signed documents for making filings with Stock Exchanges in terms of SEBI Circulars dated June 19, 2017 and November 13, 2019. Entities that have listed Commercial Paper may also opt to use digitally signed documents for making filings with Stock Exchanges in terms of SEBI circular dated October 22, 2019.

  To read the Circular in detail, please click here.

6. **SEBI issues addendum to its Circular on "Relaxation in adherence to prescribed timelines issued by SEBI due to COVID 19" dated April 13, 2020 vide Circular dated April 29, 2021**

- SEBI had issued Circular dated April 13, 2020 wherein "Relaxations in adherence to prescribed timelines" for carrying out various shareholder requests and for other regulatory filings were granted to Registrars to an Issue & Share Transfer Agents ("**RTAs**") in view of the Covid-19 pandemic.

- The Annexure to the aforementioned Circular listed out 12 specific items wherein such relaxation in prescribed timelines were granted. SEBI has now decided to add, ***'Processing of the Demat requests'***, to this list as the 13th item.

- Relaxation has been granted to intermediaries / market participants with respect to compliance with the prescribed timelines which has been extended to ***July 31, 2021*** in view of the COVID-19 situation. The aforesaid relaxation shall be applicable for items No. 1-13.

- Additionally, regarding the half-yearly Internal Audit Report ("**IAR**") to be submitted by RTAs within 45 days from the closure of the half year as mandated by NSDL Circular dated November 07, 2016 and CDSL Circular dated July 12, 2016; SEBI has now decided that the timeline of May 15, 2021 for submission of IAR by RTAs for half year ended March 31, 2021 be extended to ***July 31, 2021*** in view of the COVID-19 situation.

To read the Circular in detail, please click here.

7. **SEBI relaxes timelines for compliance with regulatory requirements vide Circular dated April 29, 2021**

- In view of the situation arising due to COVID-19 pandemic, lockdown imposed by the Government and representations received from Stock Exchanges, SEBI had earlier provided relaxations in timelines for compliance with various regulatory requirements by the trading members / clearing member's / depository participants, vide Circulars dated April 16, 2020, April 21, 2020 and April 24, 2020.

- Later, vide Circulars dated May 15, 2020, June 19, 2020, June 30, 2020, July 29, 2020, July 29, 2020, October 01, 2020, December 01, 2020 and December 31, 2020, timelines / period of exclusion were further extended for certain compliance requirements.

- In view of the prevailing situation due to COVID-19 pandemic and representation received from the Association of National Exchanges Members of India ("**ANMI**"), Stock Exchanges and Depositories, SEBI has decided to extend the timelines for regulatory requirements by the Trading Members / Clearing Members / Depository Participants / KYC Registration Agencies, as mentioned in detail in the circular.

To read the Circular in detail, please click here.

8. **SEBI modifies the timelines for updation of Scheme Information Document ("SID") and Key Information Memorandum ("KIM") vide Circular dated April 30, 2021**

- SEBI vide Circular dated March 04, 2021 had prescribed the procedure for updation of SID and KIM of Mutual Fund schemes. With respect to this and based on the feedback received, SEBI has decided to modify paragraph 11 relating to updation of SID and KIM of the aforesaid Circular as follows:

Paragraph 11.1 (i) shall be read as under:

"11.1 (i) For the open ended and interval schemes, the SID shall be updated within next six months from the end of the 1st half or 2nd half of the financial year in which schemes were launched, based on the relevant data and information as at the end of previous month. Subsequently, SID shall be updated within one month from the end of the half-year, based on the relevant data and information as at the end of September and March respectively."

Paragraph 11.1 (iv) shall be read as under:

"11.1 (iv) KIM shall be updated at least once in half-year, within one month from the end of the respective half-year, based on the relevant data and information as at the end of September and March and shall be filed with SEBI forthwith through electronic mode only."

- Keeping in mind the difficulties expressed by the industry in light of continuing COVID 19 scenario, SEBI has decided that the updation of SID and KIM for the half-year ended March, 2021 shall be completed by ***May 31, 2021.***

To read the Circular in detail, Please click here.

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RBI UPDATES

1. **RBI issues guidelines for Appointment of SCAs/SAs of Commercial Banks (excluding RRBs), UCBs and NBFCs (including HFCs) vide Notification dated April 27, 2021**

- The guidelines have been issued under Section 30(1A) of the Banking Regulation Act, 1949, Section 10(1) of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 and Section 41(1) of SBI Act, 1955; and under provisions of Chapter IIIB of RBI Act, 1934 for **NBFCs**.

- These guidelines will be applicable to the Commercial Banks (excluding RRBs), UCBs and NBFCs including HFCs (hereinafter referred to as the Entities) for Financial Year ***2021-22*** and onwards in respect of appointment/reappointment of SCAs/SAs of the Entities. However, non-deposit taking NBFCs with asset size below ***₹1,000 crore*** (Rupees One Thousand Crore only) have the option to continue with their extant procedure. As RBI guidelines regarding appointment of SCAs/SAs shall be implemented for the first time for UCBs and NBFCs from FY 2021-22, they shall have the flexibility to adopt these guidelines from H2 (second half) of FY 2021-22 in order to ensure that there is no disruption

- While NBFCs do not have to take prior approval of RBI for appointment of SCAs/SAs, all NBFCs need to inform RBI about the appointment of SCAs/SAs for each year by way of a certificate in ***Form A*** within ***one month*** of such appointment.

- Guidelines have been issued in the following areas:
  - *Number of SCAs / SAs and Branch Coverage*
  - *Eligibility Criteria of Auditors*
  - *Independence of Auditors*
  - *Professional Standards of SCAs/SAs*
  - *Tenure and Rotation*
  - *Audit Fees and Expenses*
  - *Statutory Audit Policy and Appointment Procedure*

- Eligibility Criteria for Appointment as SCA/SA have been provided in ***Annex I*** to the Notification and guidelines on minimum procedural requirements have been provided in ***Annex II*** to the Notification.

  To read the Notification in detail, please click here.

IFSCA UPDATES

1. **IFSCA prescribes methods/framework for computation of regulatory capital for Finance Company's ("FCs") and Finance Units ("FUs") vide Circular dated April 26, 2021**

- Under the "International Financial Services Centers Authority (Finance Company) Regulation 2020 all Finance Companies ("**FC**") and Finance Units ("**FU**") shall maintain a capital ratio of 8%.

- The International Financial Services Centres Authority (herein referred to as 'IFSCA'), in order to facilitate the undertaking of core and specialized services by an FC / FU in the International Financial Services Centres (herein referred to as "IFSCs") in India, have provided the framework defining the components of regulatory capital and its computation

- The broad framework covers the following areas:

  - *Applicability*
  - *Definition, Classification and Computation of Risk Weighted Assets and Computation of Capital Ratios*
  - *Computation of Risk Weighted Assets ("**RWA**")*
  - *Computation of Capital Ratios*

  To read the Circular in detail, please click here.

2. **IFSCA issues guidelines for Banking Units ("BU") offering Portfolio Management ("PMS") and Investment Advisory Services ("IAS") vide Circular dated April 26, 2021.**

- The IFSC (Banking) (Amendment) Regulation, 2021 permits Banking Units ("**BUs**") to undertake the following activities:

  - *To provide Portfolio Management Services ("**PMS**") to any person whether resident or not*
  - *To provide Investment Advisory Services ("**IAS**") to any person whether resident or not*

- The Operating Guidelines for Portfolio Managers in International Financial Services Centre dated September 09, 2020 (issued by SEBI) shall be applicable mutatis mutandis to BUs. BUs desirous of offering PMS in IFSC may apply for registration to the Authority.

- The BUs that are permitted to offer PMS by the Authority shall maintain a 'Clients' Portfolio Account' in its general ledger, reflecting the funds received by it for portfolio management on a day-to-day basis. The balance lying in this account shall be treated as outside borrowings of the BU. The BU's liability to its clients in respect of funds accepted by it for portfolio management shall be properly reflected in the BU's accounts

- The BUs shall also maintain a clear functional separation of trading and back-office processes relating to its own investment accounts and PMS clients' accounts.

- The BUs that are permitted to offer PMS are also permitted to provide incidental investment advice to their PMS clients, provided that BUs shall comply with the general obligations and responsibilities specified for Investment Advisers as specified in the "Operating Guidelines for Investment Advisers in International Financial Services Centre" dated January 09, 2020.

  To read the Circular in detail, please click here.

3. **IFSCA issues fee structure for Finance Company/Unit in the IFSCA vide Circular dated April 26, 2021**

- In exercise of the powers conferred by Section 12 relating to Powers and Functions of Authority of the International Financial Services Centres Authority Act, 2019, the fee structure for Finance Company/ Units is as follows:

  - ***Application fee:*** *$1000 (USD One Thousand) for new entities (one time)*
  - ***Registration fee:*** *$12,500(USD Twelve Thousand Five Hundred) for new entities (one time)*
  - ***Annual fee:*** *$12,500 (USD Twelve Thousand Five Hundred) for all registered Finance Company/Finance Unit (second year onwards)*

- The fees need to be credited to the account of the IFSCA, details of which are mentioned in the circular.

  To read the Circular in detail, please click here.

IBBI UPDATES

1. **IBBI amends the Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016 vide Gazette Notification dated April 27, 2021**

- These regulations may be called the Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) (Second Amendment) Regulations, 2021.

- In the Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016 (hereinafter referred to as the principal regulations), in the Schedule, in clause 12A relating to Authorization for Assignment in sub-clause (5), after the proviso, the following proviso shall be inserted, namely:

  "Provided further that, for an application received on and from the date of commencement of the Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) (Second Amendment) Regulations, 2021 and ending on the October 31st, 2021, if the authorisation for assignment is not issued, renewed or rejected by the Agency within ***thirty days*** *of the date of receipt of application, the authorisation shall be deemed to have been issued or renewed, as the case may be, by the Agency."*

- In sub-clause (7) relating to filing of an appeal by an aggrieved applicant following changes have been made:

  "(7) An applicant aggrieved of an order of rejection of his application by the Agency may appeal to the Membership Committee within ***Fifteen Days*** *(Earlier this was seven days) from the date of receipt of the order"*

  after the proviso, the following proviso shall be inserted, namely:

  "Provided further that, where an application for issue of authorisation for assignment has been rejected by an insolvency professional agency, on and from the date of commencement of the Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) (Second Amendment) Regulations, 2021 and ending on the October 31st, 2021, the

*applicant aggrieved of an order of rejection may appeal to the Membership Committee within **thirty days** from the date of receipt of order."*

To read the Notification in detail, please click here.

2. **IBBI amends the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 vide Gazette Notification dated April 27, 2021**

- These regulations may be called the Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Amendment) Regulations, 2021.

- In the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 (hereinafter referred to as the principal regulations), in regulation 7 relating to granting of Certificate of registration., in sub-regulation (2), in clause (ca), after the proviso, the following proviso shall be inserted, namely:

  *"Provided further that for the financial year 2020-2021, an insolvency professional shall pay the fee under this clause on or before the **June 30, 2021**"*

- In the principal regulations, in regulation 13 relating to Recognition of Insolvency Professional Entities, in sub-regulation (2):

  - in clause (b), after the proviso, the following proviso shall be inserted, namely:

    *"Provided further that when an individual ceases to be its director or partner, as the case may be, on and from the date of commencement of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Amendment) Regulations, 2021 and ending on the December 31st, 2021, the insolvency professional entity shall inform the Board, within **thirty days** of such cessation;"*

  - in clause (c), after the proviso, the following proviso shall be inserted, namely

    *"Provided further that when an individual joins as its director or partner, as the case may be, on and from the date of commencement of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Amendment) Regulations, 2021 and ending on the December 31st, 2021, the insolvency professional entity shall inform the Board, within **thirty days** of such joining;"*

  - in clause (ca), after the proviso, the following proviso shall be inserted, namely:

*"Provided further that for the financial year 2020-2021, an insolvency professional entity shall pay the fee under this clause on or before the **June 30th, 2021**; and".*

To read the Notification in detail, please click here.

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JUDGEMENTS/ ORDERS

NCLT

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

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

The Appellant submitted that the Registrar of Companies **("RoC")** Mumbai, struck off the Appellant Company from the Register of Companies due to non-filing of financial statements and annual returns for six financial years from 2013-2014 to 2018-2019, in accordance with section 248 of the Act and 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 non-filing of statutory returns was due to inadvertence and lack of professional advice on the same and the Appellant Company had never been defuncted. 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 non-filing of statutory returns. In order to sustain the said plea, the learned counsel of Appellant Company had placed before the Tribunal the copies of financial statements from financial year 2014-2015 to 2018-2019 and acknowledgement copies of Income Tax returns 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 comply with all pending filings along with the requisite fees and desires to make an application with the Respondent seeking voluntary striking off once it is revived.

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 within two months from the date on which its name is restored in the Register of Companies and on payment INR 30,000/- towards "payment of cost for revival of Company.

To read the order in detail, please click here.

NCLAT

1. **NCLAT set aside the order of the NCLT, Hyderabad Bench and concluded that investigation into the affairs of the Company need to be passed under Section 210 (2) of the Companies Act, 2013**

NCLAT based on the records available and submissions made, investigation into the affairs of the Company was necessary, and such direction, in should be issued to the Central Government and not to the Registrar. Directions of NCLT, Hyderabad Bench appointing the Registrar of companies to investigate into the affairs of Company, violates the provisions of the Section 210 (2) of the Companies Act 2013. such a direction can be given only to the Central Government and not to the Registrar. Hence, set aside the order of the NCLT.

To read the judgement in detail please click here.

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SEBI

1. **SEBI imposesd penalty on Company Seretary and Director of the Company**

The Securities and Exchange Board of India ('**SEBI**'), conducted investigation into the into the Global Depository Receipts **("GDR")** issued by Birla Power Solutions Limited **("BPSL")** to ascertain whether shares underlying GDRs were issued with proper consideration and whether appropriate disclosures, have been made by BPSL.

BPSL issued GDRs in two tranches in the year 2010. It was observed from the corporate announcements made by the Company on BSE and NSE that no corporate announcement was made by the Company with respect to issuance of GDR ONE. With respect to GDR TWO BPSL did not mention how many allottees/subscribers were there to the said issue. Further, BPSL had not informed with regards to pledge agreement entered into with EURAM Bank for subscription of GDRs and the outcomes of the board meeting which was price sensitive information and could have impacted the price of the scrip.

SEBI observed that, Directors (Noticee 1, 3 and 4) had participated in the Board meeting wherein, approvals were made and authorized the EURAM Bank to use the GDR proceeds as security in connections with the loan and the same was acted upon by Birla Power Solutions Limited ("**BPSL**") in which the Noticees No. 1 and Company Secretary had signed and executed the Pledge Agreements on behalf of Company. Thus, the Noticees no. 1, 3 and 4 were part of the fraudulent scheme and violated the provisions of Section 12 A (a) of SEBI Act, 1992 read with Regulations 3 (b) and 4 (1) of PFTUP Regulations.

Securities and Exchange Board of India ('**SEBI**'), imposed penalty on Company Secretary (Noticee 2) and Directors of the Company for indulging in fraudulent and unfair trade practices relating to the securities.

To read the order in details please click here.

HIGH COURT

1. **Delhi High Court disposes of the applications related to trademark on ground that the use of trademark by the defendant will not create any confusion or deception in the minds of the general public.**

United Spirits Limited	**Plaintiff**
Som Fragrances Private Limited & ORS.	**Defendants**

Date of Judgement: April 28, 2021

Plaintiff - United Spirits Limited, being the part of Diageo Group of Companies and being the subsidiary of Diageo Plc, which is one of the global leaders in manufacturing, distributing, marketing and sale of alcoholic beverages with a large collection of brands across spirits and beer. The Plaintiff filed an application for seeking relief for grant of an ad-interim injunction against infringement of its registered trademark 'SIGNATURE', which was granted in favour of the Plaintiff. The Defendant – Som Fragrances Private Limited, are engaged in the business of manufacturing and selling of Tobacco, Chewing Tobacco, Pan Masala, Zarda, Khaini, Jafrani Patti, etc. The Defendant filed an application to vary or modify the order and to take on record the labels which was in use prior to the filing of the suit by the Plaintiff.

The Defendant in its written statement filed that, the plaintiff is in the business of sale of Alcoholic Beverages whereas the defendants are dealing with the goods, namely, pan masala with and without tobacco, khaini, mouth fresheners, etc. The defendants are dealing in entirely different and dissimilar goods. The trade channel and the purchasing public is entirely different from each other and so, there can be no question of confusion and deception.

This being the case, the Delhi High Court held that, it is settled position that a party cannot be granted a relief which is not founded on pleadings and with references of various judgements of the Supreme Court, held that, in its opinion the judgements prima facie do not apply to the facts of the present case and that the parties to the case have not entered into a settlement.

The Delhi High Court disposed of both the applications on grounds that, the Plaintiff had agreed that the trademark 'SIGNATURE', as the Plaintiff was conscious that the use of this trademark by defendant will not create any confusion or deception in the minds of the general public. In the light of the above facts of the case, the Delhi High Court modified the interim order, subject to the defendants filing an undertaking of their directors to abide by the terms and conditions of the undertaking and confirmed that the defendant is permitted to use the trademark 'SIGNATURE'.

To read the Judgement in detail, please click here.

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SUPREME COURT

1. **Supreme Court dismisses the appeal filed by the Commissioner of Income Tax against Reliance Energy Limited in the capacity of the issue to the extent of deduction under Section 80-IA of the Income Tax Act, 1961.**

Commissioner of Income Tax – I	**Appellant**
M/s. Reliance Energy Limited	**Respondents**

<u>Date of Judgement</u>: April 28, 2021

Appeal was filed by the Commissioner of Income Tax – I, being the appellant pertaining to the assessment year 2002-03, where the Assessee – M/s. Reliance Energy Limited, engaged in the business of generation of power and also deals with purchase and distribution of power, being the respondent in the present appeal had filed the income tax return declaring the total income as 'NIL' and was subsequently revised. However, at the time of assessment proceedings, the Assessee submitted a revised computation of income by revising its claim of deduction under Section 80-IA of the Income Tax Act, 1961, of which the Income Tax Department (Revenue) asked to explain as to why the deduction should not be restricted to business income.

Supreme Court held that, there being no discussion about Section 80-IA(5) either by the Appellate Authority, nor the Tribunal and the High Court. However, its was considered that the submissions on behalf of the Revenue as it has a bearing on the interpretation of sub-section (1) of Section 80-IA of the Act. In this respect, the Supreme Court held that the scope of sub-section (5) of Section 80- IA of the Act is limited to determination of quantum of deduction under sub-section (1) of Section 80-IA of the Act by treating 'eligible business' as the 'only source of income'. However, Sub-section (5) cannot be pressed into service for reading a limitation of the deduction under sub-section (1) only to 'business income', even though the Revenue tried to rely on the phase '*derived.... from'* in Section 80-IA(1) of the Act in respect of the submission that the intention of the legislature was to give the narrowest possible construction to deduction admissible under this sub-section.

Thus the appeal was dismissed in the capacity of the issue to the extent of deduction under Section 80-IA of the Income Tax Act, on the basis of the aforesaid reasons,

To read the Judgement in detail, please click here.

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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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