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CHANGE IN NAME FROM SWIFTINDIAINC CORPORATE SERVICES LLP AS ON 07.02.2017

Swift e-Bulletin
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Week – October 19h to October 23rd

Quote for the week:

"Don't judge each day by the harvest you reap but by the seeds that you plant."

- Robert Louis Stevenson

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, we all are witnessing 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 the Ministry of Corporate Affairs (**"MCA"**), the Securities and Exchange Board of India ("**SEBI**"), the Reserve Bank of India (**"RBI"**), and Ministry of Commerce and Industry ("**MCI**") and critical judgements and orders passed by the National Company Law Appellate Tribunal (**"NCLAT"**), SEBI and High Court.

We have prepared a comprehensive summary for quick reference of the aforesaid updates and Judgements / orders issued during the week of October 19, 2020 to October 23, 2020.

Thank you,
Swift Team

Table of Contents

REGULATORY UPDATES

MINISTRY OF CORPORATE AFFAIRS

1. **MCA extends the special measures under the Companies Act, 2013 and Limited Liability Partnership Act, 2008 in view of COVID-19 Outbreak vide General Circular No. 36/2020 dated October 20, 2020**

- ❖ In continuation to General Circular No. 11/2020 dated March 24, 2020 and keeping in view the requests received from various stakeholders seeking relaxation from residency requirement of **182** days in a year and after due examination, it is hereby clarified that non-compliance of minimum residency in India for a period of at least **182** days in a year, by at least one director in every company, under Section 149 of the Companies Act, 2013 shall not be treated non-compliance for the **Financial Year 2020-21** also.

  To read the Circular in detail, please click here.

SECURITIES AND EXCHANGE BOARD OF INDIA

1. **SEBI introduces additional guidelines on utilization of fund created out of the regulatory fee forgone by SEBI vide Circular dated October 19, 2020**

- ❖ In order to encourage the participation of Farmers / Farmers Producers Organizations ("**FPOs**") in agricultural commodity derivatives markets, the Stock Exchanges have created a separate fund, out of the regulatory fee so forgone by SEBI. The Stock Exchanges have been permitted by SEBI to utilize the said fund exclusively for the benefit of and easy participation by Farmers / FPOs in the agricultural commodity derivatives market, in accordance with the guidelines specified vide SEBI circular no. SEBI/HO/CDMRD/DMP/CIR/P/2019/40 dated March 20, 2019.

- ❖ Due to low participation by Farmers / FPOs in agricultural commodity derivatives market coupled with the challenges posed by the pandemic situation, a sizeable portion of the fund has remained unutilized. The matter was, therefore, deliberated in the Commodity Derivatives Advisory Committee ("**CDAC**") and based on the recommendations of **CDAC**, it has been decided to permit the Stock Exchanges to utilize the said fund for the following additional activities:

- *Reimbursement of Mandi tax;*
- *Reimbursement of assaying, cleaning, drying, sorting, storage and transportation charges;*
- *Incentivising Option Premium; and*
- *Reimbursement of fees levied by Clearing Corporation.*

- The Stock Exchanges can revise their action plan for utilisation of regulatory fee foregone by SEBI for Financial Year 2020-21 incorporating the abovementioned activities and the revised plan, if any, shall be disseminated on their website. Further, in order to enhance transparency, the Stock Exchanges are advised to make disclosure regarding the corpus of the fund and its utilization, on their website, on a monthly basis.

- The Stock Exchanges are further advised to include the details of the corpus of the fund and its utilization in the Monthly Development Report ("**MDR**").

- All other extant provisions of the circular dated March 20, 2019 shall continue to remain in force. The provisions of this circular shall be effective from the date of this circular

To read the Circular in detail, please click here.

2. **SEBI amends the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 vide Gazette Notification dated October 19, 2020**

- These regulations may be called the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) (Second Amendment) Regulations, 2020.

- In regulation 4, in sub-regulation (1) of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 the following Explanation shall be inserted, namely:

"Explanation.– For the removal of doubts, it is clarified that any act of diversion, misutilisation or siphoning off of assets or earnings of a company whose securities are listed or any concealment of such act or any device, scheme or artifice to manipulate the books of accounts or financial statement of such a company that would directly or indirectly manipulate the price of securities of that company shall be and shall always be deemed to have been considered as manipulative, fraudulent and an unfair trade practice in the securities market."

To read the Notification in detail, please click here.

3. **SEBI amends the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 vide Gazette Notification dated October 19, 2020**

- These regulations may be called the Securities and Exchange Board of India (Alternative Investment Funds) (Amendment) Regulations, 2020.

- In the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 Sub-clause (g) of Regulation 4 shall be substituted with the following, namely:

  "(g) The key investment team of the Manager of Alternative Investment Fund has –

  (i) adequate experience, with at least one key personnel having not less than five years of experience in advising or managing pools of capital or in fund or asset or wealth or portfolio management or in the business of buying, selling and dealing of securities or other financial assets; and

  (ii) at least one key personnel with professional qualification in finance, accountancy, business management, commerce, economics, capital market or banking from a university or an institution recognized by the Central Government or any State Government or a foreign university, or a CFA charter from the CFA institute or any other qualification as may be specified by the Board: Provided that the requirements of experience and professional qualification as specified in regulation 4(g)(i) and 4(g)(ii) may also be fulfilled by the same key personnel."

- In the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 After sub-regulation (5) of Regulation 20, the following shall be inserted, namely:

"(6) The Manager shall be responsible for investment decisions of the Alternative Investment Fund:

Provided that the Manager may constitute an Investment Committee (by whatever name it may be called), to approve investment decisions of the Alternative Investment Fund, subject to the following:

(i) The members of Investment Committee shall be equally responsible as the Manager for investment decisions of the Alternative Investment Fund;
(ii) The Manager and members of the Investment Committee shall jointly and severally ensure that the investments of the Alternative Investment Fund are in compliance with the provisions of these regulations, the terms of the placement memorandum, agreement made with the investor, any other fund documents and any other applicable law;
(iii) External members whose names are not disclosed in the placement memorandum or agreement made with the investor or any other fund documents at the time of onboarding investors, shall be appointed to the Investment Committee only with the consent of at least seventy-five percent of the investors by value of their investment in the Alternative Investment Fund or scheme; and
(iv) Any other conditions as specified by the Board from time to time."

To read the Notification in detail, please click here.

4. **SEBI steps up efforts for 'Data Culture' through "Data Democratization" in the Indian securities market; constitutes "Market Data Advisory Committee vide Press release No 55/2020 dated October 19, 2020**

❖ SEBI has constituted a Market Data Advisory Committee ("**MDAC**") – a Standing Committee - to, inter-alia, recommend appropriate policy for access to securities market data, identify segment wise data perimeters, data needs and gaps, recommend data privacy and data access regulations applicable to market data, etc. The Committee chaired by Ms. Madhabi Puri Buch, Whole Time Member, SEBI has CEOs of stock exchanges and depositories, representatives of various stakeholders and senior officials of SEBI as members.

❖ Financial markets are traditionally data rich and data driven. With ever growing financial markets, the volume and variety of data have also increased many fold over the years and will continue to do so. With increasing size and complexity of financial markets, the importance of data for research, decision making, and innovations in financial markets cannot be overemphasized. Given this, SEBI recognizes that non-private data is a "Public Good' and that access to high quality standardized data on various securities market activities is essential for fostering market transparency, operational efficiency and innovations in Indian securities market. SEBI's endeavor is to foster a "Data Culture" in the Indian Securities Market i.e. 'Data for Transparency', 'Data for Efficiency' and 'Data for Innovation' along with 'Respect for Data Privacy'

❖ Thus, MDAC is part of SEBI's initiatives to make shareable data on the Indian securities market, available for researchers, policy makers, general public alike and to enhance the quality of such data. Some of the other initiatives taken by SEBI, through its Department of Economic and Policy Analysis (DEPA), include:

   ➢ **SEBI Data Sharing Policy**: The Data Sharing Policy intends to facilitate access to Data from SEBI to meet a variety of requirements, viz. to undertake Analytics projects, Research activities, etc. by various educational/research institutions and other regulators. Data Sharing Policy is aimed at streamlining the process of Data sharing and formalization of Data protection measures to prevent Data from misuse and unauthorized access.

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

5. **SEBI introduces guidelines on Contribution by Issuers of listed or proposed to be listed debt securities towards creation of "Recovery Expense Fund" vide Circular dated October 22, 2020**

❖ In order to enable the Debenture Trustee(s) to take prompt action for enforcement of security in case of 'default' in listed debt securities, a 'Recovery Expense Fund' ("REF") shall be created which shall be used in the manner as decided in the meeting of the holders of debt securities. SEBI has introduces broad guidelines on three specific areas namely:

   ➢ *Manner of creation and operation of REF;*
   ➢ *Manner of utilization of Recovery Expense Fund; and*
   ➢ *Refund of Recovery Expense Fund to the issuer.*

❖ This Circular is issued in exercise of the powers conferred upon SEBI under Section 11 (1) of the Securities and Exchange Board of India Act, 1992 read with the provisions of Regulation 2A of the Securities and Exchange Board of India

(Debenture Trustees) Regulations, 1993 and Regulation 31(1) of the Securities and Exchange Board of India (Issue and Listing of Debt Securities) Regulations, 2008 to protect the interest of investors in securities and to promote the development of, and to regulate, the securities market.

❖ The provisions of this Circular shall come into force w.e.f. January 01, 2021 and all the applications for listing of debt securities made on or after January 01, 2021 shall comply with the condition of creation of REF. The existing issuers whose debt securities are already listed on Stock Exchange(s) shall be given additional time period of 90 days to comply with this circular for creation of REF.

To read the Circular in detail, please click here.

6. **SEBI issues clarification regarding Circular dated August 13, 2020 on Investor grievances redressal mechanism – Handling of SCORES complaints by stock exchanges and Standard Operating Procedure for non-redressal of grievances by listed companies vide Circular dated October 22, 2020**

❖ SEBI had issued a Circular SEBI/HO/OIAE/IGRD/CIR/P/2020/152 dated August 13, 2020 on Investor grievances redressal mechanism – Handling of SCORES complaints by stock exchanges and Standard Operating Procedure for non-redressal of grievances by listed companies.

❖ In respect of Paras 16, 27, 32 and Point 2c of Annexure -1 to the said circular, the words "*promoter and promoter group*" and "*promoter/promoter group*" are to be read as "*promoter(s)*".

To read the Circular in detail, please click here.

7. **SEBI introduces guidelines on processing of applications for registrations of Alternative Investment Funds ("AIFs") and launch of schemes vide Circular dated October 22, 2020**

❖ While processing applications for registration of AIFs and launch of new schemes, it has been observed that the Manager of AIF often proposes to set up an Investment Committee with the mandate to provide investment recommendations or advice to the Manager. In some applications, the Investment Committee is mandated to approve the investment decisions of the AIF. Such Investment Committees may consist of internal members (employees, directors or partners of the Manager) and/ or external members.

- Pursuant to the approval of SEBI Board, the SEBI (Alternative Investment Funds) Regulations, 2012 ("AIF Regulations") have been amended to provide that the Manager may constitute Investment Committee (by whatever name it may be called) to approve investment decisions of the AIF, subject to certain conditions. The amendment to AIF Regulations has been notified on October 19, 2020.

- Further, SEBI has written to Government and RBI seeking clarity on the applicability of clause (4) of Schedule VIII under FEM (Non-debt Instruments) Rules, 2019 to investment made by an AIF whose Investment Committee approves investment decisions and consists of external members who are not 'resident Indian citizens'

- Pending clarification as mentioned in the above point, the applications for registration of AIFs and launch of new schemes shall be dealt with as under:

  - *The applications wherein Investment Committee proposed to be constituted to approve investment decisions of AIF includes external members who are 'resident Indian citizens', shall be duly processed; and*
  - *The applications wherein Investment Committee proposed to be constituted to approve investment decisions of AIF includes external members who are not 'resident Indian citizens', shall be considered only after receipt of clarification as stated in bullet point 3 above.*

To read the Circular in detail, please click here.

8. **SEBI extends the timeline for continuation of regulatory measures introduced vide Press Release dated March 20, 2020, vide Press Release No. 56/2020 dated October 22, 2020**

- On review of the COVID-19 pandemic related situation, SEBI has decided that the regulatory measures introduced vide SEBI Press Release dated March 20, 2020 relating to "**Regulatory measures taken by SEBI in view of ongoing market volatility**" shall continue to be in force till November 26, 2020. The stock exchanges and clearing corporations will be issuing necessary instructions to the market participants in this regard.

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

RESERVE BANK OF INDIA

1. <u>RBI revises regulatory framework for Housing Finance Companies (HFCs) vide Notification dated October 22, 2020</u>

- ❖ After due examination of the inputs received from stakeholders on the Bank's Press Release No.2019-20/419 dated August 13, 2019 and draft regulatory framework placed in public domain on June 17, 2020, RBI has decided to issue the revised regulatory framework for HFCs.

- ❖ In exercise of powers conferred under National Housing Bank Act, 1987, and Reserve Bank of India Act, 1934, and in supersession of relevant regulations issued by National Housing Bank (**"NHB"**), the instructions as enumerated in the Annexure will be applicable to all Housing Finance Companies ("**HFCs**"). HFCs shall continue to comply with all extant instructions issued by NHB, which are not covered in the Annexure to the Notification.

- ❖ Exemption granted to HFCs from the provisions of Chapter III B of Reserve Bank of India Act, 1934 except for section 45-IA (Requirement of registration & net owned funds) was withdrawn on November 11, 2019. On a review, it has been decided to additionally exempt HFCs from section 45-IB (Maintenance of percentage of assets) and section 45-IC (Reserve fund) of the Reserve Bank of India Act. Necessary Notification in this regard will be issued in due course. It is clarified that the corresponding provisions of section 29B and 29C of the National Housing Bank Act, 1987 will, however, be applicable to HFCs.

- ❖ As mentioned in Bullet 3 of the public document put out for consultation, further harmonization between the regulations of HFCs and NBFCs will be taken up in a phased manner in the next two years so as to ensure that the transition is achieved with least disruption. Master Direction for HFCs covering all applicable instructions will be issued shortly

To read the Notification in detail, please click <u>here</u>.

2. **RBI eases and enhances the Digital payment transactions by streamlining the QR Code infrastructure vide Notification dated October 22, 2020**

❖ After examining the recommendations and the feedback received from a committee chaired by Prof Deepak Phatak to review the current system of Quick Response (QR) codes in India, the following has been decided:

- *The two interoperable QR codes in existence – UPI QR and Bharat QR – shall continue as at present;*
- *Payment System Operators (PSOs) that use proprietary QR codes shall shift to one or more interoperable QR codes; the process of migration shall be completed by March 31, 2022;*
- *No new proprietary QR codes shall henceforth be launched by any PSO for any payment transaction;*
- *RBI shall continue a consultative process to standardise and improve interoperable QR codes, to enable beneficial features identified by the Phatak Committee; and*
- *PSOs may take initiative to increase awareness about interoperable QR codes.*

❖ The above measures are expected to reinforce the acceptance infrastructure, provide better user convenience due to interoperability and enhance system efficiency. This directive is issued under Section 10 (2) read with Section 18 of the Payment and Settlement Systems Act, 2007 (Act 51 of 2007).

To read the Notification in detail, please click here.

3. **RBI finalizes a framework on Recognition of a Self-Regulatory Organization for Payment System Operators vide Notification dated October 22, 2020**

❖ Reserve Bank of India's Payment and Settlement Systems Vision 2019-21, envisaged the setting up of a Self-Regulatory Organisation ("**SRO**") for Payment System Operators ("**PSOs**"). The Statement on Developmental and Regulatory Policies of the Reserve Bank of India ("**RBI**"), as part of its Sixth Bi-monthly Monetary Policy Statement – 2019-20 (dated February 6, 2020), announced putting in place a Framework for Establishing a SRO for PSOs.

❖ RBI had placed a draft framework for public comments and based on the comments and suggestions received, it has finalised the Framework for Grant of Recognition as a SRO, which is at ***Annexure*** to this Notification.

❖ Interested groups / association of PSOs (banks as well as non-banks) seeking recognition as an SRO may apply to the Chief General Manager, Department of Payment and Settlement Systems, Central Office, 14th Floor, Shahid Bhagat Singh Marg, Fort, Mumbai – 400 001. The applications shall comply with the instructions laid down in the Framework.

To read the Notification in detail, please click here.

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MINISTRY OF COMMERCE AND INDUSTRY

1. <u>Central Government amends the Patents Rules, 2003 vide Gazette Notification dated October 19, 2020</u>

❖ These rules may be called the Patents (Amendment) Rules, 2020.

❖ In the Patents Rules, 2003 (hereinafter referred to as the said rules), for Rule 21, the following Rule shall be substituted, namely:

"21. Filing of priority document - (1) Where the applicant in respect of an international application designating India has not complied with the requirements of paragraphs (a), (b) or (b-bis) of rule 17.1 of the regulations under the Patent Cooperation Treaty, and subject to paragraph (d) of the said rule 17.1 of regulations under the Treaty, the applicant shall file the priority document referred to in that rule before the expiration of the time limit referred to in sub-rule (4) of rule 20 in the Patent Office.

(2) Where sub-paragraph (i) or sub-paragraph (ii) of paragraph (e) of rule 51bis.1 of the regulations under the Patent Cooperation Treaty is applicable, an English translation thereof duly verified by the applicant or the person duly authorised by him shall be filed within the time limit specified in sub-rule (4) of rule 20.

(3) Where the applicant does not comply with the requirements of sub-rule (1) or sub-rule (2), the Patent Office shall invite the applicant to file the priority document or the translation thereof, as the case may be, within three months from the date of such invitation, and if the applicant fails to do so, the claim of the applicant for the priority shall be disregarded for the purposes of the Act."

❖ In the said Rules, in rule 131, for sub-rule (2), the following sub-rule shall be substituted, namely:

"(2) The statements referred to in sub-rule (1) shall be furnished once in respect of every financial year, starting from the financial year commencing immediately after the financial year in which the patent was granted, and shall be furnished within six months from the expiry of each such financial year."

- In the said Rules, in the Second Schedule, Form 27 shall be substituted by a new form as mentioned in the Notification.

To read the Notification in detail, please click here.

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JUDGEMENTS/ ORDERS

NATIONAL COMPANY LAW APPELLATE TRIBUNAL

1. **National Company Law Appellate Tribunal directs the National Company Law Tribunal to review its decision on the petition filed by the directors of Seth Chemicals Works Private Limited**

Urmila Ray (Shareholder and Director of Seth Chemical Works Private Limited)	Appellant No. 1
Shreekant Ray (Shareholder Director of Seth Chemical Works Private Limited)	Appellant No. 2
M/s. Seth Chemical Works Private Limited	Respondent No. 1
Surendra Kumar Seth (Director of Seth Chemical Works Private Limited)	Respondent No. 2
Ashok Seth (Director of Seth Chemical Works Private Limited)	Respondent No. 3
Mahendra Kumar Seth (Director of Seth Chemical Works Private Limited)	Respondent No. 4
Sheetal Seth (Director of Seth Chemical Works Private Limited)	Respondent No. 5

The appeal was filed by the Appellants before the Hon'ble National Company Law Appellate Tribunal ("**Tribunal**") in accordance to the section 421 of the Companies Act, 2013 ("**the Act**") claiming that the affairs of the M/s. Seth Chemical Works Private Limited ("**the Company**") have been conducted in an oppressive manner to the appellants and prejudicial to the interest of the Company.

The appellants had prayed to the National Company Law Tribunal, Kolkata Bench for various interim reliefs, however the said interim reliefs were declined by the National Company Law Tribunal, Kolkata Bench.

The Learned Counsel for the appellant submitted to the Tribunal that no Board Meeting took place on January 20, 2020 as applicants never received the notice of the same. Further submitted that two directors were illegally appointed in the said meeting, Respondents have also illegally amended the Articles of Associations of the Company, the signature on the Board Resolution were obtained in a deceitful manner, the funds of the Company were being used to sponsor the litigation against the appellants and the mandate to Bank was changed deceitfully.

Based on the other material facts placed by the Learned Counsel of the Respondents, the Tribunal placed stay on the operations carried out on the basis of the resolution passed in the alleged Board Meeting held on January 20, 2020. Further, the Tribunal directed that the Company shall be operated only by those four directors who were acting as the directors of the company prior to Board Meeting dated January 20, 2020 till this case has been duly resolved. The Tribunal disposed of the said appeal by directing the National Company Law Tribunal, Kolkata Bench to make an effort to decide the said appeal on merit expeditiously, giving both parties an opportunity of being heard in accordance with the section 422 of the Act.

To read the order in detail, please click here.

SECURITIES AND EXCHANGE BOARD OF INDIA

1. Adjudication Order in respect of Ms. Kalavati Kanakia in the matter of KBS India Limited

In the matter of KBS India Limited, Securities and Exchange Board of India ("SEBI") pursuant to the periodic examination of DWBIS alerts observed a non-disclosure based alert was generated by the system in the scrip of KBS India Limited (“**Target Company/KBS**”). which mentioned about increase in shareholding by Ms. Kalavati Kanakia (“**Noticee**”) part of the public shareholders in the target company from 0.16% to 5.32%.

Since noticee crossed the limit of 5 % of share capital of the KBS, notice was required to make the necessary disclosures as prescribed under the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations 2011 **(“SAST Regulations”)** within two working days. However, it was observed that, the Noticee had failed to make the said disclosures. Hence, it was alleged that Noticee had not made the relevant disclosures and hence violated Regulation 29(1) read with regulation 29(3) of SAST Regulations.

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The Adjudication officer (AO) was appointed to enquire into the afore-mentioned alleged violations by the noticee and issued show cause notice (SCN) to the noticee. Based on the facts and circumstance it was observed that the Notice was obligated to make disclosure to the Bombay Stock Exchange and the Target Company as stipulated under SAST Regulations 2011.However, it was observed that no such disclosures were made by the Noticee and imposed penalty of INR 1,00,000 (INR One Lakh) on noitcee,

To read the order in detail, please click here.

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HIGH COURT

1. **Petition filed under Order IX Rule 9 of the Civil Procedure Code, 1908 was withdrawn for other remedies, as available, in accordance with law.**

M/s. Crest Educations Private Limited	Petitioner
M/s. Career Launcher (I) Limited	Respondent

Date of Judgement: October 19, 2020

Petition filed under Order IX Rule 9 of the Code of Civil Procedure, 1908, seeking to set aside the Order passed by the Delhi High Court, the Petitioner sought to withdraw the application and would pursue, instead, his appellate or other remedies, as available, in accordance with law.

The Petitioner being a Licensee of the Respondent who had agreed to set up franchisee of Career Launcher through a License agreement originally entered in the year 2002 which was further extended from time to time, lastly till end of December 2012. However, due to various disputes between the parties to the agreement, an interim order was passed and the matter was referred to the Learned Sole Arbitrator, who after perusing the various claims provided his findings.

To read the Judgement in detail, please click here.

2. **Delhi High Court directed the Petitioner to deposit the amount with the Centre Consumer Welfare Fund till the State Consumer Welfare Funds become operational.**

M/s. Samsonite South Asia Private Limited	Petitioner
Union of India & ORS.	Respondents

Date of Judgement: October 20, 2020

Petition application filed by the petitioner for seeking a direction to the respondents to make available the details of the relevant State Consumer Welfare Funds (CWFs) in whose favour the Petitioner is required to make pre-deposit of the alleged profiteered amount, was disposed of with directions.

The Court felt it strange, while the Petitioner wants to pay the State Consumer Welfare Funds, which are neither operational nor functional and it directed the Secretary, GST Council to co-ordinate with the State Government and place the matter before the GST Council, if required, to ensure that the Petitioner is directed to deposit the entire amount with the Centre Consumer Welfare Fund till the State CWFs become operational and necessary details of the State CWFs are made available to the Petitioner.

To read the Judgement in detail, please click here.

3. **The Court observed and directed the Trial Court that, while framing of issues, it shall frame issues in respect of the objections raised by the Defendant**

M/s. Chelmsford Country Club	**Petitioner**
Mrs. Ajit Kaur	**Respondent**

Date of Judgement: October 20, 2020

Petition filed challenging the impugned order, by which an application filed by the Defendant/Petitioner under Order VII Rule 11 of the Civil Procedure Code (CPC) was dismissed by the Trial Court, which had failed to consider the aspects which the defendant said in his application by raising objections and had incorrectly rejected the application under Order VII Rule 11 of CPC, said the Learned Counsel.

The present petition and all pending applications were disposed of with observations, that the impugned order does not deserve to be interfered and that the Trial Court, while framing of issues, shall frame issues in respect of the objections raised by the Defendant, herein. The Trial Court would thereafter determine as to whether the issues could be adjudicated on the basis of records, pleadings/documents or whether any oral evidence is required to be led, and then proceed in accordance with law.

To read the Judgement in detail, please click here.

4. **<u>Writ Petition stands disposed of on terms that, factual determination of relevant factors regarding immovability of the hoardings being brought to tax is necessary, as a condition precedent, for the purpose of levying building tax.</u>**

<u>W.P.(C.) 8118/2012</u>

Delhi International Airport Private Limited	**Petitioner**
South Delhi Municipal Corporation	**Respondent**

<u>W.P.(C.) 678/2013</u>

M/s. Delhi Outdoor Advertisers Association (Regd)	**Petitioner**
South Delhi Municipal Corporation & ORS.	**Respondents**

<u>Date of Judgement</u>: October 20, 2020

The Writ Petition filed by the aggrieved parties, w.r.t the levy of 'property tax' on structures erected for the affixing of hoardings which are used for display of advertisements, the Petitioners by way of this petitions, challenged the power of the South Delhi Municipal Corporation ('SDMC') who imposed the tax, by contending inter-alia that the Bye-Laws of the Delhi Municipal Corporation (Property Tax) Bye-Laws, 2004, whereby the levy has been imposed, are ultra-vires the Delhi Municipal Corporation Act, 1957 ('DMC' Act).

Relief was granted and the Writ Petition was disposed of on terms that, factual determination of relevant factors regarding immovability of the hoardings being brought to tax is necessary, as a condition precedent, for the purpose of levying building tax. The Delhi High Court, based upon its findings, considered it inappropriate and therefore set-aside the demands and notices issued by the Respondents that are subject matter of W.P(C.)8118/2012 and W.P(C.) 678/2013 on the ground that the question as to whether the hoardings qualify as permanent immovable structures, capable of being included in the definition of 'building' under Section 2(3) of the 'DMC' Act, has not been examined.

The Delhi High Court further stated that, the Respondent shall however be at liberty to issue fresh show-cause notice(s) to the Petitioners and all such other assessees, having regard to the views expressed in this judgment. In such an event, Respondent shall, after affording an opportunity of hearing, pass orders of assessment/demand, in accordance with law.

To read the Judgement in detail, click here.

5. **Application partly allowed with an interim order being passed in favor of Plaintiff and directed the Defendants to maintain accounts of the trademark, if they choose to use for their goods/services.**

Bennett Coleman & Co. Limited	Plaintiff
AGR Outlier Media Private Limited & ORS.	Defendants

Date of Judgement: October 23, 2020

Application was filed by the Plaintiff seeking a decree of permanent injunction from using the trade mark/title/tagline NEWSHOUR or any other such mark/title/tagline comprising NEWSHOUR as a part thereof amounting to infringement of the Plaintiff's registered trade mark along with a decree of permanent injunction was also sought to restrain the defendants from adopting or using the trademarks/titles/taglines NATION WANTS TO KNOW or any derivatives or combinations thereof.

Basis the opinions and views of the High Court, the application was disposed of with directions that, it is only after evidence that, it can be ascertained as to whether the plaintiff was using the aforesaid mark as a trade mark or was merely being used as a form of speech in the course of conducting the news channel or in the course of carrying on interviews/presentations by defendant No. 2. It further opined that these are aspects on which, prima facie, no view can be made based on the documents placed on record, namely, screen shots of various sites of Twitter, Facebook, etc.

The application was partly allowed and an interim injunction is passed in favour of the plaintiff and against the defendants retraining them from using the trade mark 'NEWS HOUR' or any other mark which is deceptively similar to the trade mark 'NEWS HOUR' of the plaintiff. The Court further concluded that, regarding the tagline NATION WANTS TO KNOW, no interim order is passed in favour of the plaintiff. And as submitted by the learned counsel for the plaintiff, defendant No. 2 is free to use the same as part of his speech/presentation of any news channel, etc. However, if the defendants choose to use the same as a trade mark with respect to any of their goods/services, the said defendants will maintain accounts for such usage. Such accounts shall be filed in court regularly on an affidavit of one of the directors of defendant No. 3 once in every six months.

To read the Judgement in detail, click here.

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