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CHANGE IN NAME FROM SWIFTINDIAINC CORPORATE SERVICES LLP AS ON 07.02.2017

Swift e-Bulletin
Edition 22/20-21
Week – December 14th to December 18th

Quote for the week:

"Things work out best for those who make the best of how things work out."

- John Wooden

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 such as, the Ministry of Corporate Affairs ("**MCA**"), the Securities and Exchange Board of India ("**SEBI**") and the Reserve Bank of India ("**RBI**"), and critical judgements and orders passed by the National Company Law Tribunal (**"NCLT"**), 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 December 14, 2020 to December 18, 2020.

Thank you,
Swift Team

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REGULATORY UPDATES

MCA UPDATES

1. **MCA amends the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 vide Gazette Notification dated December 17, 2020**

- These rules may be called the Companies (Compromises, Arrangements and Amalgamations) Second Amendment Rules, 2020.

- Among other changes, some of the few highlighted are as follows:

  In the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 (hereinafter referred to as the said rules), in rule 2, in sub-rule (1), after clause (d), the following clause shall be inserted, namely: -

  "(e) "corporate action" means any action taken by the company relating to transfer of shares and all the benefits accruing on such shares namely, bonus shares, split, consolidation, fraction shares and right issue to the acquirer".

- In the said rules, after rule 26, the following rule shall be inserted namely: - ***26 A. Purchase of minority shareholding held in Demat form:*** This rule lays down procedure for acquiring shares from minority shareholders holding shares in dematerialized form. It contains manner of verification of minority shareholders, Manner of sending notices to such shareholders including publication of notices, procedure of informing the depositories as well as process of payment to such minority shareholders.

  To read the Notification in detail, please click here.

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2. **MCA amends the Companies (Appointment and Qualification of Directors) Rules, 2014 vide Gazette Notification dated December 18, 2020**

- These rules may be called the Companies (Appointment and Qualification of Directors) Fifth Amendment Rules, 2020.

- Among other changes, some of the few highlighted are as follows:

In the Companies (Appointment and Qualification of Directors) Rules, 2014, in rule 6, (a) in sub-rule (4) relating to Compliances required by a person eligible and willing to be appointed as an independent director.,

(i) for the words "one year from" the words "two years from" shall be substituted;
(ii) for the first and second proviso, the following provisos shall be substituted, namely: -
(iii) "Provided that an individual shall not be required to pass the online proficiency self-assessment test when he has served for a total period of not less than three years as on the date of inclusion of his name in the data bank

As a director or key managerial personnel, as on the date of inclusion of his name in the databank, in one or more of the following, namely: -

(a) listed public company; or

(b) unlisted public company having a paid-up share capital of rupees ten crore or more; or

(c) body corporate listed on any recognized stock exchange or in a country which is a member State of the Financial Action Task Force on Money Laundering and the regulator of the securities market in such member State is a member of the International Organization of Securities Commissions; or

(d) bodies corporate incorporated outside India having a paid-up share capital of US$ 2 million or more; or

(e) statutory corporations set up under an Act of Parliament or any State Legislature carrying on commercial activities; or

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(B) in the pay scale of Director or above in the Ministry of Corporate Affairs or the Ministry of Finance or Ministry of Commerce and Industry or the Ministry of Heavy Industries and Public Enterprises and having experience in handling the matters relating to corporate laws or securities laws or economic laws; or

(C) in the pay scale of Chief General Manager or above in the Securities and Exchange Board or the Reserve Bank of India or the Insurance Regulatory and Development Authority of India or the Pension Fund Regulatory and Development Authority and having experience in handling the matters relating to corporate laws or securities laws or economic laws:

Provided further that for the purpose of calculation of the period of three years referred to in the first proviso, any period during which an individual was acting as a director or as a key managerial personnel in two or more companies or bodies corporate or statutory corporations at the same time shall be counted only once.";

(b) in the Explanation, in item (b) relating to criteria for passing in online proficiency self-assessment test, for the words "sixty percent", the words "fifty percent" shall be substituted.

To read the Notification in detail, please click here.

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SEBI UPDATES

1. **SEBI board met to discuss various issues, the results of which were shared vide Press Release No. 61/2020 dated December 16, 2020**

- SEBI Board met in Mumbai on December 16, 2020. The out of station Members joined the meeting through video conferencing. The Board, inter-alia, took the following decisions:

- **Amendments to SEBI (Mutual Funds) Regulations, 1996:** SEBI, in consultation with various stakeholders, undertook a detailed exercise on review of SEBI (Mutual Funds) Regulations, 1996 (hereinafter called as "MF Regulations") and various circulars issued thereunder in order to examine certain policy proposals, to remove redundant provisions, to align with the existing applicable Acts and other SEBI Regulations, and also to address certain operational difficulties. A working group was constituted under the aegis of Mutual Fund Advisory Committee ("**MFAC**") to take up the aforesaid exercise and based on the suggestions, MFAC recommended various changes in MF Regulations and circulars issued thereunder. The SEBI Board approved various amendments to MF Regulations in the following areas which are as under:

  - Eligibility criteria for sponsoring a mutual fund
  - Net-worth of the Asset Management Company ("**AMC**")
  - Segregation and ring - fencing of assets and liabilities of mutual fund schemes

  The SEBI Board has further approved proposals including dispensing with the requirement to issue physical unit certificates, reducing maximum permissible exit load, reducing the timeline for payment of dividend, permitting other modes for payment of dividend and providing clarity with respect to payment of interest and penalty in case of delay in dividend payment, etc.

- **Recalibration of Minimum Public Shareholding norms for listed companies going through Corporate Insolvency Resolution Process (CIRP):** Presently, during Corporate Insolvency Resolution Process (CIRP) where the public shareholding falls below 10%, such listed companies are required to bring the public shareholding to at least 10% within a period of 18 months and to 25% within 36 months.

In this context, the SEBI Board has decided the following in respect of companies which continue to remain listed as a result of implementation of the resolution plan under the Insolvency and Bankruptcy Code:

- Such companies will be mandated to have at least 5% public shareholding at the time of their admission to dealing on stock exchange, as against no minimum requirement at present.
- Further, such companies will be provided 12 months to achieve public shareholding of 10% from the date such shares of the company are admitted to dealings on stock exchange and 36 months to achieve public shareholding of 25% from the said date.
- The lock-in on equity shares allotted to the resolution applicant under the resolution plan shall not be applicable to the extent to achieve 10% public shareholding within 12 months.
- Such companies shall be required to make additional disclosures, such as, specific details of resolution plan including details of assets post-CIRP, details of securities continuing to be imposed on the companies' assets and other material liabilities imposed on the company, proposed steps to be taken by the incoming investor/acquirer for achieving the minimum public shareholding (MPS) and quarterly disclosure of the status of achieving the MPS.

- **Doing away with the applicability of Minimum Promoters' Contribution and the subsequent lock in requirements for issuers making a Further Public Offer - amendments to SEBI (ICDR) Regulations, 2018**:

  The SEBI Board approved the proposal to do away with the applicability of Minimum Promoters' Contribution and the subsequent lock in requirements for the issuers making a Further Public Offer of specified securities subject to fulfilment of the following conditions:

  - the equity shares of the issuer are frequently traded on a stock exchange for a period of at least three years,
  - the issuer has been in compliance with the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 for a period of at least three years, and
  - the issuer has redressed at least ninety-five per cent of the complaints received from the investors.

- **Amendment to SEBI (Investment Advisers) Regulations, 2013**: The SEBI Board approved amendment to SEBI (Investment Advisers) Regulations, 2013 (IA

Regulations) requiring Investment Advisers ("**IA**") to seek membership of a body recognized by SEBI for administration and supervision of IAs under IA Regulations. The SEBI Board also approved modification to the structure of fees payable by IAs, while ensuring that the total cost borne by IAs towards fees remains same as that payable by IAs under the present IA Regulations.

- **Amendment to SEBI (Alternative Investment Funds) Regulations, 2012**: The SEBI Board approved amendment to SEBI (Alternative Investment Funds) Regulations, 2012 (AIF Regulations) to provide certain exemptions to AIFs in respect of Investment Committee members in terms of Regulation 20(6) of AIF Regulations, conditional upon capital commitment of at least INR 70 Crore from each investor accompanied by a suitable waiver.

- **Amendment to the Securities and Exchange Board of India (Intermediaries) Regulations, 2008**: The SEBI Board approved the amendments to the Securities and Exchange Board of India (Intermediaries) Regulations 2008 with an objective to rationalize the processes in the said Regulations and to avoid the duplicity of proceedings before the Designated Authority and the Designated Member

- **Repeal of Securities and Exchange Board of India (Central Database of Market Participants) Regulations, 2003**: The SEBI Board approved the repeal of Securities and Exchange Board of India (Central Database of Market Participants) Regulations, 2003 as after the introduction of Permanent Account Number as the sole identification number for all securities market transactions and the discontinuance of the requirement of Unique Identification Number issued under the Securities and Exchange Board of India (Central Database of Market Participants) Regulations, 2003 and related Circulars, the Securities and Exchange Board of India (Central Database of Market Participants) Regulations, 2003 had outlived their utility.

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

2. SEBI revises Framework for issue of Depository Receipts vide circular dated December 18, 2020

- SEBI vide its Circular dated October 10, 2019 laid down a Framework for issue of Depository Receipts.

- Para 2.15 of the said circular specifies the following criteria for Permissible holders of Depository Receipts:

"Permissible holder means a holder of DR, including its Beneficial Owner(s), satisfying the following conditions:
(a)who is not a person resident in India;
(b)who is not a Non-Resident Indian (NRI)

Explanation1: For the purpose of this Circular, 'Beneficial Owner' shall have the same meaning as provided in proviso to sub-rule 1 of rule 9 of Prevention of Money Laundering (Maintenance of Records) Rules, 2005, as amended by the Central Government vide notification no. G.S.R. 669(E) dated September 18, 2019.

Explanation 2: The Permissible holder, including its Beneficial Owner(s), shall be responsible for ensuring compliance with this requirement."

- In accordance with representations received from market participants, the revised Para 2.15 of the abovementioned Circular is as under:

"Permissible holder means a holder of DR, including its Beneficial Owner(s), satisfying the following conditions:

(a)who is not a person resident in India;
(b)who is not a Non-Resident Indian (NRI)

Provided that the restriction under this Clause shall not apply in case of issue of DRs to NRIs, pursuant to share based employee benefit schemes which are implemented by a company in terms of SEBI (Share Based Employee Benefits) Regulations 2014; Provided further that the restriction under this Clause shall also not apply in case of issue of DRs by the company to NRIs pursuant to a bonus issue or a rights issue;

Explanation1: For the purpose of this Circular, 'Beneficial Owner' shall have the same meaning as provided in proviso to sub-rule 1 of rule 9 of Prevention of Money Laundering (Maintenance of Records) Rules, 2005, as amended by the Central Government vide notification no. G.S.R. 669(E) dated September 18, 2019.

Explanation 2: The Permissible holder, including its Beneficial Owner(s), shall be responsible for ensuring compliance with this requirement. Explanation 3: Except as permitted under the provisos above, NRIs shall neither subscribe to any further issue of DRs nor make any further acquisition of DRs (including of DRs issued prior to October 10, 2019)."

- After Para 2.12, the following shall be inserted as Para 2.12A:

  2.12A. "The onus of identification of NRIs holders, who are issued DRs in terms employee benefit scheme, would lie with the listed company. The listed company shall provide the information of such NRI DR holders to the designated depository for the purpose of monitoring of limits."

  To read the Circular in detail, please click here.

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RBI UPDATES

1. **Reserve Bank announces opening of Second Cohort under the Regulatory Sandbox vide Press Release dated December 16, 2020**

- After the announcement of commencement of Test Phase under the First Cohort on Retail Payments vide Press Release dated November 17, 2020, the RBI now announces opening of Second Cohort under the Regulatory Sandbox ("**RS**") with 'Cross Border Payments,' as its theme.

- India is the largest recipient of inbound remittances across the globe accounting for 15% of global share; in the year 2019, India received $83 billion and in the first half year of 2020, has received $27.4 billion. Further, the daily average turnover of Over the Counter ("**OTC**") foreign exchange instruments in India is approximately $40 billion. The Cohort is expected to spur innovations capable of recasting the cross-border payments landscape by leveraging new technologies to meet the needs of a low cost, secure, convenient and transparent system in a faster manner.

- To promote innovation and broaden the base of eligibility criteria, the enabling framework has been modified by reducing net worth requirement from the existing ₹25 lakhs to ₹10 lakhs, as also including Partnership firms and Limited Liability Partnership ("**LLPs**") to participate in the RS. Entities meeting the eligibility criteria (as laid out in the updated framework published on December 16, 2020) and having product technologically ready for testing in the RS and / or deployment in the broader market, as per the theme of the Cohort, may apply.

- The window for submission of applications for the Cohort shall be open from December 21, 2020 to February 15, 2021. Further, the RBI has informed that the scanned application may be forwarded through email. RBI has also decided to select 'MSME Lending' as the theme for the Third Cohort, details of which shall be announced in due course.

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

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JUDGEMENTS/ ORDERS

National Company Law Tribunal

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

National Company Law Tribunal, Delhi Bench ("Tribunal") accepted the appeal filed by the income Tax Department under section 252 of the Companies Act, 2013 ("the Act") and allows the restoration of M/s Axon Tradelinks Private Limited ("Respondent Company").

The Income-tax officer submitted that the Respondent Company had declared an income of Income of INR 6,027/- in the ITR for Assessment Year 2011-12 on March 31, 2012. Information was received from Assistant Director of Income –tax Officer (Investigation), Unit-2(1) that Respondent Company had opened a current account and used the same for rotating funds. Upon enquiries, it was found that the company and Directors were untraceable and no reply to summons was received. Investigation Wing concluded that the credit entries of INR 62,90,000/- from Grassroots Marketing Private Limited to the Respondent Company were unexplained as the identity, genuineness and creditworthiness of M/s. Grassroots Marketing Private Limited was not established. Receipts of INR 62,90,000/- from M/s. Grassroots Marketing Private Limited are not normal business transaction as the respondent company has not shown any sale/ turnover during Financial Year 2010-11. Therefore, the Appellant has reasons to believe that an estimated amount of at least INR 62,90,000/- has escaped assessment within the meaning of Section 147/148 for Assessment Year 2011-12 thereby rendering the respondent –company liable for consequences under Income Tax Act, 1961 and entitling the revenue to initiate proceedings against the company.

The case of Respondent Company had been re-opened under section 147 of Income Tax Act for assessing the transactions in the hands of the Respondent Company. Appellant had issued Notice dated March 31, 2018 under section 148 of Income Tax Act for Assessment Year 2011-12 for initiating assessment proceedings. Further, on perusal of the MCA website, the appellant had come to know that the name of the Respondent Company was struck off vide Notification dated August 08, 2018. Appellant submitted that the name of the respondent company had been struck off by the ROC without enquiry and the same was

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not intimated to the Assessing Officer Income-tax or the concerned Commissioner of Income Tax, which resulted into escapement of tax liability on the Respondent Company.

Appellant further submitted that since the respondent company has become non-existent entity, the respondent company and its directors were trying to escape the assessment proceedings and the liability that will arise out of the said proceedings. Appellant pleaded to the Tribunal that in order to render assessment order valid in the eyes of Law and to enable the Appellant to take steps for recovery of taxes and for any further consequential proceedings, the Respondent Company's name be restored to the Register of Companies as if the name of the company was never struck off.

Based on facts presented and failure of Respondents to appear before the Tribunal to provide its defence, the Tribunal passed the restoration order and further directed to take any other penal action against the Respondent Company as may be required under any statutory provisions, if any.

To read the order in detail, please click here.

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Securities and Exchange Board of India

1. Adjudicating Order in respect of below in the matter of Synergy Bizcon Limited

S. No.	Name of the Noticee	PAN
1.	Jinesh Bhatt	AKDPB6133C
2.	Deepak Pandurang Vikhape	AFCPV3352H
3.	Pooja Jinesh Bhatt	AOLPB5611F
4.	Shriti Jignesh Bhatt	BHGPB2695J
5.	Nagmaheshwar Balraj Yellamelli	ABLPY9972D
6.	Yogesh Bhawansingh Bisht	ARDPB3914G
7.	Rajnish Tiwari	AFIPT6953J
8.	Avinash Tiwari	AJHPT4613N
9.	Sanjay Saha	ABZPS1804L
10.	Amarender Kumar	BPWPK3680Q
11.	Slesha Pradeep Ghosh	ASGPG3261M
12.	Sanjay Gupta	ALCPG7419G
13.	Anji Reddy Vanga	AFLPV5261L
14.	Ravindra Nath Mishra	AMCPM1105C
15.	Vineet Sinha	BJPPS8679L
16.	Ganesh Nainsingh Sunar	DWFPS0045P
17.	Vishal Anand	AHQPA5685C
18.	Elizabeth Peter Gonsalves	BKQPG8186E
19.	Shweta Asthana	AVAPA1910G
20.	Ruben Chetty	AMJPC5528Q
21.	Preeti	CGUPP2139R
22.	Lalit	AIOPL1626K

Date of the Order: December 15, 2020

Investigation was conducted by the Securities and Exchange Board of India ('SEBI') in the scrip of Synergy Bizcon Limited, inter-alia to ascertain any possible violation of the provisions of SEBI Act, 1992 ('SEBI Act') and the SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 ('***PFUTP Regulations, 2003***') in the trading of certain entities during the period from May 2015 to October 2016. Further, it was observed by

SEBI, pursuant to investigation that a group of entities (listed in above table) indulged in trades that did not result in change of beneficial ownership, created misleading appearance of trading and contributed to increase in the scrip price of Synergy Bizcon Limited in a manipulative manner.

SEBI, considering all the facts and circumstances of the case the material available on record, the factors mentioned in Section 15J of the SEBI Act and in exercise of the powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the SEBI Adjudication Rules, penalty on the Noticees under Section 15HA of the SEBI Act was imposed.

To read the order in details please click here.

2. **Adjudicating Order in respect of Adesh Jain (PAN/DIN: AEGPJ3902G) in the matter of M/s. MPS Infotecnics Limited (Earlier known as Visesh Inforenics Limited)**

Date of the Order: December 16, 2020

Investigation was conducted by Securities and Exchange Board of India **("SEBI")** to ascertain whether shares underlying Global Depository Receipts (**"GDRs**") of MPS Infotecnics Limited **("MPS")** were issued with proper consideration and whether appropriate disclosures in compliance with Listing Agreement, if any, were made by MPS with respect to GDRs. The period under investigation was during issuance of GDRs i.e. November 01, 2007 to December 31, 2007.

SEBI during the course of investigation, observed that MPS had failed to inform Bombay Stock Exchange **("BSE")** of the account charge agreement entered into with BANCO EFISA, S.A., being a bank based in Lisbon, Portugal, where the proceeds of GDR were deposited, delisting of GDRs on Singapore Stock Exchange and the termination of GDR facility by Depository I.e. Bank of New York Mellon.

SEBI, disposed of the Adjudication Proceedings initiated against Adesh Jain, considering all the facts and circumstances of the case and the factors mentioned in the provisions of Section 15-I of the SEBI Act, 1992 read with Rule 5 of Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995.

To read the order in details please click here.

3. Adjudicating Order in respect of Sinew Developers Private Limited

Date of the Order: December 16, 2020

Vistara ITCL (India) Limited ***('Vistara'),*** a SEBI registered Debenture Trustee sent a letter to Securities and Exchange Board of India **("SEBI")**, in which Vistara had provided a list of companies from which it had not received till that date the Half Yearly Communication ('HYC') as per Regulation 52(4) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, ('LODR Regulations') for the half year ended March 31, 2019. The aforesaid list of companies included Sinew Developers Private Limited ('Noticee/Company'). SEBI, in view of the aforesaid information conducted an examination and observed that, a prima facie violation of Regulations 52(1), 52(4) and 52(5) of LODR Regulations by the Noticee.

SEBI, after considering all the facts and circumstances of the case and the factors mentioned in the provisions of Section 15-I of the SEBI Act, 1992 read with Rule 5 of Rules, impose a penalty of INR 3,00,000/- (Rupees Three lacs only) on the Noticee viz. Sinew Developers Private Limited in terms of the provisions of Section 15A(b) of the Securities and Exchange Board of India Act, 1992.

To read the order in details please click here.

4. Adjudication Order in respect of Silver Stallion Limited in the matter of Birla Pacific Medspa Limited

Date of the Order: December 16, 2020

Securities and Exchange Board of India **("SEBI")** conducted investigation into the initial public offer of Birla Pacific Medspa Limited **("BPML")** for the investigation period from July 7, 2011 to July 15, 2011, since there was high volatility on the day of listing. SEBI initiated adjudication proceedings, based on the findings of the investigation against Silver Stallion Ltd. **(the "Noticee")** under Section 15A(b) of the Securities and Exchange Board of India Act, 1992 (SEBI Act), for the alleged violation of Violation of Regulation 13(1) of the SEBI (Prohibition of Insider Trading) Regulations, 1992 (hereinafter be referred to as, the "PIT Regulations") and Regulation 7(1) of the SEBI(Substantial Acquisition of Shares and Takeovers) Regulations, 1997 (the "SAST Regulations").

SEBI, considering all the facts and circumstances of the case, the material available on record, the factors mentioned in Section 15J of the SEBI Act and in exercise of the powers under Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, a penalty of

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₹3,00,000/- (INR Three Lakh only) was imposed on the Noticee viz. Silver Stallion Limited under the provisions of Section 15A(b) of the SEBI Act.

To read the order in details please click here.

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High Court

1. Petition filed by Brace Iron and Steel Private Limited was allowed and Tata Steel BSL Limited was directed to pay the arrears of lease rent.

Brace Iron and Steel Private Limited	**Petitioner**
Tata Steel Bsl Limited	**Respondent**

Date of Judgement: December 15, 2020

Petition filed by the petitioner being a private company incorporated under the provisions of the Companies Act, 1956, was allowed and the respondent being Tata Steel BSL Limited ((formerly Bhushan Steel Limited or BSL) is a subsidiary of the industry giant Tata Steel Ltd). BSL underwent corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016 **("IBC")** and was acquired by Bamnipal Steel Limited., a wholly owned subsidiary of Tata Steel Ltd and was subsequently renamed as Tata Steel BSL Ltd in November 2018, who was directed to pay the arrears of lease rent (net of all taxes/ TDS), after adjusting the amount already paid to the lender Bank with applicable interest and the payment shall be subject to the outcome of the prospective arbitration proceedings.

To read the Judgement in detail, please click here.

2. Petition filed by Track and Towers Infratech Private Limited was dismissed as meritless

Track and Towers Infratech Private Limited	**Petitioner**
National Highway Authority of India	**Respondent**

Date of Judgement: December 14, 2020

Petition filed for seeking to quash of communication issued by National Highway Authority of India **("NHAI")** holding its bid as non-responsive for two laning with paved shoulder from Km. 0.000 to km. 45.878 of Aurad-Bidar Section of NH-161A on Engineering, Procurement, Construction (EPC) Mode under Bharatmala Pariyojana in the State of Karnataka, was dismissed as meritless, but no orders as to costs.

The court is of the opinion that the decision of the NHAI in declaring the bid of the petitioner as non-responsive, does not warrant any interference. The petitioner has not been able to demonstrate that the decision making process adopted by the NHAI is perverse, irrational or tainted with mala fides or is designed to favour a particular party. Hence, the petition was dismissed as meritless.

To read the Judgement in detail, please click here.

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Supreme Court

1. **Civil appeal filed by Action ISPAT and Power Private Limited was dismissed by the Supreme Court by upholding the judgement of the Division Bench of the Delhi High Court**

Action ISPAT and Power Private Limited	Appellant
Shyam Metalics and Energy Limited	Respondent

With Civil Appeal Nos. 4042-4043 of 2020

Date of Judgement: December 15, 2020

The Civil Appeal was dismissed, that arised out of a judgment of the Division Bench of the Delhi High Court by which a Single Judge's order transferring a winding up proceeding pending before the High Court to the National Company Law Tribunal **["NCLT"]** was upheld.

A winding up petition under sections 433(e) and (f), 434 and 439 of the Companies Act, 1956, being Co. Pet. No.731 of 2016 was filed by one Shyam Metalics and Energy Limited (Respondent No.1 herein), seeking winding up of the appellant company in as much as for goods supplied to the appellant company, a sum of INR.4.55 crore was still due.

The concurrent finding of the Company Judge and the Division Bench in the present case is that despite the fact that the liquidator has taken possession and control of the registered office of the appellant company and its factory premises, records and books, no irreversible steps towards winding up of the appellant company have otherwise taken place. This being so, the Company Court has correctly exercised the discretion vested in it by the 5th proviso to section 434(1)(c) and resultantly, the civil appeal was dismissed.

Further, the facts of the civil appeal in 4042-4043 of 2020, the matter has been transferred by the High Court to the NCLT to verify the necessary facts and circumstances of the case, after which relief can be given to the appellant herein, we do not find any reason to interfere with the aforesaid order. The appeals are therefore dismissed.

To read the Judgement in detail, please click here.

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