Swift India
CORPORATE SERVICES LLP

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CHANGE IN NAME FROM SWIFTINDIAINC CORPORATE SERVICES LLP AS ON 07.02.2017

Swift e-Bulletin
Edition 33/20-21
Week – March 01st to March 05th

Quote for the week:

"Formal education will make you a living; self-education will make you a fortune."

- Jim Rohn

Introduction

We welcome you to our weekly newsletter!

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

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

Further, various regulatory authorities have been proactive in bringing significant regulatory changes in recent challenging times. This week's newsletter covers various Circulars/notifications issued by certain regulatory authorities such as the Ministry of Corporate Affairs ("**MCA**"), Securities and Exchange Board of India ("**SEBI**"), the Reserve Bank of India ("**RBI**") and the Insolvency and Bankruptcy Board of India ("**IBBI**") 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 March 01, 2021 to March 05, 2021.

Thank you,
Swift Team

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REGULATORY UPDATES

MCA UPDATES

1. **MCA amends Companies (Management and Administration) Rules, 2014 by adding new forms for filing of annual returns for One Person Company and Small Company vide Notification dated March 05, 2021**

- In the Companies (Management and Administration) Rules, 2014 in Rule 11(1) relating to filing of Annual return following shall be substituted:

  "(1) Every company shall file its annual return in Form No.MGT-7 except One Person Company (OPC) and Small Company. One Person Company and Small Company shall file annual return from the financial year 2020-2021 onwards in Form No.MGT-7A"

- In the said rules, for Rule 12, the following rule shall be substituted, namely:

  "*12. Filing of Annual Return with Registrar. - A copy of the annual return shall be filed with the Registrar with such fees as may be specified for this purpose.".*

- In the said rules, in Rule 20 relating to Voting Though Electronic Means, after proviso in sub-rule (2), various explanations pertaining to “Nidhi”, “agency”, “cut-off date”,” cyber security”, “electronic voting system”, “remote e-voting system”, “secured system” and “voting by electronic means” have been numbered.

- New forms MGT 7 and MGT 7A have been substituted for Form MGT 7 copies of which have been inserted in the notification.

- The aforesaid amendments shall come into force on the date of their publication in the Official Gazette.

  The Gazette Notification is awaited, to read the Notification in detail, please click here.

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2. MCA amends the Companies (Incorporation) Rules, 2014 vide Notification dated March 05, 2021

- These rules shall be called Companies (Incorporation) Third Amendment Rules, 2021 and shall come into force from the date of publication in the Official Gazette.

- In the Companies (Incorporation) Rules, 2014 in the Annexure after Rule 40 in Form INC 35 (AGILE-PRO), part of Spice+ in serial number 12 at the end of Table (A) the facility for performing Aadhar authentication for GSTIN Registration has been provided.

  The Gazette Notification is awaited, to read the Notification in detail, please click here.

3. MCA notifies commencement of provisions of (Companies Amendment) Act, 2017 (1 of 2018) vide Notification dated March 05, 2021

- The Central Government hereby appoints the day of March 05, 2021 as the day on which provisions of clause 23(i) of the (Companies Amendment) Act, 2017 (1 of 2018) shall come into force.

- The aforesaid clause 23(i) of the (Companies Amendment) Act, 2017 (1 of 2018) relates to amendments to section 92 of the Companies Act 2013 relating to annual return. Some of the amendments proposed in Section 92 as per Section 23(i) of the (Companies Amendment) Act, 2017 (1 of 2018) are:

  - after the proviso, the following proviso shall be inserted, namely:
    “Provided further that the Central Government may prescribe abridged form of annual return for "One Person Company, small company and such other class or classes of companies as may be prescribed".

  - for sub-section (3) relating to extract of annual return, the following sub-section shall be substituted, namely:
    "(3) Every company shall place a copy of the annual return on the website of the company, if any, and the web-link of such annual return shall be disclosed in the Board's report."

The Gazette Notification is awaited, to read the Notification in detail, please click here.

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SEBI UPDATES

1. **SEBI issues Master Circular on surveillance of securities market dated March 01, 2021**

- Securities and Exchange Board of India (SEBI) from time to time, has been issuing various Circulars for effective surveillance of the securities market.

- In order to enable the users to have an access to all the applicable Circulars at one place, the Master Circular on Surveillance of Securities Market has been prepared. The list of applicable Circulars has been appended. In case of any inconsistency between the Master Circular and the applicable Circulars, the content of the relevant Circular shall prevail.

- This Master Circular is a compilation of the Circulars issued by Integrated Surveillance Department, which are operational as on date of this circular in the following areas:

  - *Trading Rules and Shareholding in Dematerialized mode;*
  - *Unauthenticated news circulated by SEBI Registered market intermediaries through various modes of communication;*
  - *SEBI (Prohibition of Insider Trading Regulations), 2015:*

    - *Disclosures under SEBI (Prohibition of Insider Trading Regulations), 2015;*
    - *Allowing offer for sale (OFS) AND Rights entitlement (RE) transactions during trading window closure period;*
    - *Reporting to Stock Exchanges regarding violations under Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015 relating to the Code of Conduct ("**CoC**");*
    - *Automation of Continual Disclosures under Regulation 7(2) of SEBI (Prohibition of Insider Trading) Regulations, 2015 - System driven disclosures.*

To read the Circular in detail, please click here.

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2. **SEBI directs applicability of Code of Conduct and Institutional Mechanism for prevention of fraud or market abuse to Stock Exchanges, Clearing Corporations and Depositories vide Circular dated March 03, 2021**

- Pursuant to the report of the Committee on Fair Market Conduct set up to recommend appropriate Institutional Mechanism to ensure accountability of the management / designated persons in case of negligence / failure, necessary changes have been carried out in SEBI (Prohibition of Insider Trading) Regulations, (“**PIT Regulations**”). Based on the report, the Board has further decided that the Code of Conduct and Institutional Mechanism for prevention of fraud or market abuse shall also be applicable to Stock Exchanges, Clearing Corporations and Depositories (herein after collectively referred as Market Infrastructure Institutions (“**MIIs**”) and this Circular shall subsequently become effective on its date of publication.

- According to this Circular MIIs shall carry on the following tasks:

  - *Formulate a Code of Conduct to regulate, monitor and report trading by their designated persons and immediate relative of designated persons towards achieving compliance with the PIT Regulations, by adopting the minimum standards set out in* ***Schedule C*** *of the said Regulations.*

  - *Managing Director (MD) / Chief Executive Officer (CEO) of the MII shall be obligated to frame the referred code of conduct and the Directors may ensure the compliance by MD / CEO in this regard.*

  - *MII shall identify and designate a Compliance officer who in consultation with the Directors shall specify the designated persons to be covered by the code of conduct based on their role and function in the organization and the access that such role and function would provide to unpublished price sensitive information in addition to seniority and professional designation and shall include the position / designation as specified in the Regulation 9(4) of the PIT Regulations.*

- MIIs shall also put in place an Institutional Mechanism for prevention of fraud or market abuse covering the following:

  - *MD / CEO of the MII shall put in place adequate and effective system of internal controls to ensure compliance with such regulations and Circulars issued by the*

Board from time to time, to prevent fraud or market abuse by MII or its designated persons and immediate relatives of designated persons.

- *The Regulatory Oversight Committee of the MII shall review compliance with the provisions of this Circular at least once in a financial year and shall also verify that the systems for internal control are adequate and are operating effectively.*

- *MII shall formulate written policies and procedures for inquiry in case of suspected fraud or market abuse by its designated persons and immediate relatives of designated persons, which shall be approved by its Board of Directors. Any enquiry / investigation against the designated persons and immediate relatives of designated persons of the MII may be undertaken under the supervision of Regulatory Oversight Committee comprising of Public Interest Directors ("**PIDs**") and independent external expert with consideration of avoidance of conflict of interest, if any, so as to ensure maximum fairness and transparency.*

- *MII shall initiate appropriate inquiry upon becoming aware of any illegal or unethical practices or transactions of suspected fraud or market abuse by its designated persons and immediate relatives of designated persons and promptly inform its Board of Directors of such suspected fraud or market abuse and results of the inquiry.*

- *MII shall have an effective whistler-blower policy to enable stakeholders, including employees to freely communicate their concerns about illegal or unethical practices and such other directions as issued in this Circular.*

- *MII shall ensure that the whistler-blower policy provides for suitable protection against any discharge, termination, demotion, suspension, threats, harassment, directly or indirectly or discrimination against any employee who reports instances of fraud or market abuse or any suspicion of fraud or market abuse.*

- MIIs are directed to take necessary steps to put in place systems for implementation of the Circular, including necessary amendments to the relevant bye-laws, rules and regulations for the implementation of the above and disseminate the same on their website and communicate to SEBI the status of implementation of the provisions of this circular through their Monthly Development Report.
  To read the Circular in detail, please click here.

3. SEBI issues modifications in various Circulars issued under Mutual Funds Regulations earlier vide Circular dated March 04, 2021

- SEBI undertook regulatory revamp exercise of SEBI (Mutual Funds) Regulations, 1996 (hereinafter called as "**MF Regulations**") and various circulars issued thereunder. In this regard, Mutual Fund Advisory Committee (**"MFAC"**) after deliberations on the suggestions of the Working Group constituted for this purpose has provided its recommendations on various proposals.

- The proposals relating to amendments to MF Regulations have been notified vide Gazette notification dated February 04, 2021. These amendments to MF Regulations shall come into force on 30th day from the date of their publication in the Official Gazette.

- With respect to proposals relating to modifications in various circulars issued under MF Regulations, SEBI has decided to implement the aforementioned modifications in following areas:

  - *Gross Exposure Limits for mutual fund schemes;*
  - *Investment Pattern;*
  - *Procedure for Change in Control of Asset Management Company ("**AMC**"):*
    - *Requirement of Regulations;*
    - *New Sponsor(s);*
    - *Undertakings by new Trustee(s)/Sponsor(s);*
    - *Disclosures to Unitholders;*
    - *Revision of all Standard Offer Documents; and*
    - *Other Situations.*
  - *Go Green Initiatives undertaken by SEBI;*
  - *Filing of Annual Information Return ("**AIR**") by Mutual Funds;*
  - *Investment in securities by employees of AMC(s) and Trustees of Mutual Funds;*
  - *Advertisement;*
  - *Disclosure of performance of mutual fund schemes;*
  - *Undertaking from Trustees for new Scheme Offer Document;*
  - *Key Personnel of the AMC;*
  - *Disclosures of Votes Cast by Mutual Funds;*
  - *Dividend Distribution Procedure for Mutual Funds;*
  - *Postal Ballot mechanism;*

- *Exit Period for Unitholders;*
- *Comments from SEBI for change in Fundamental Attribute;*
- *Rajiv Gandhi Equity Savings Scheme ("**RGESS**");*
- *Modes of Payments and Dispatch;*
- *Reporting the quarterly details of transactions of dealing in securities by Trustees;*
- *Timelines for issuance of Consolidated Account Statement ("**CAS**");*
- *Investment in Non-Convertible Preference Shares ("**NCPSs**");*
- *Change in Nomenclatures;*
- *Auditor of a Mutual Fund; and*
- *Applicability of Exit Load.*

To read the Circular in detail, please click here.

4. SEBI extends the timeline for conducting meeting(s) of unitholders of REITs and InvITs through Video Conferencing ("VC") or through Other Audio-Visual Means ("OAVM") facility

- SEBI vide circulars dated June 22, 2020 read October 08, 2020 had permitted Real Estate Investment Trusts ("**REITs**")/ Infrastructure Investment Trusts ("**InvITs**") to conduct annual meetings and other meetings of unitholders through Video Conferencing ("**VC**") or through other Audio-Visual Means ("**OAVM**") up to December 31, 2020.

- Upon receiving further representations SEBI has decided to further extend this facility to conduct meetings of unitholders which become due in the year 2021 through VC or OAVM for some more time. It is observed that Ministry of Corporate Affairs ("**MCA**"), vide circulars dated December 31, 2020 and January 13, 2021, had permitted companies to conduct their Extraordinary General meetings up to June 30, 2021 and Annual General meetings due in the year 2021 through VC or OAVM.

- In accordance with this SEBI has decided to extend the facility to conduct meetings of unitholders, through VC or OAVM for REITs/InvITs, as under:

  - *Annual meetings of unitholders in terms of Regulation 22(3) of SEBI (Real Estate Investment Trusts) Regulations, 2014 and Regulation 22(3)(a) of SEBI (Infrastructure Investment Trusts) Regulations, 2014, (which becomes due in the calendar year 2021) to be conducted till December 31, 2021; and*
  - *For meetings other than annual meeting of unitholders till June 30, 2021.*

- REITs/ InvITs shall comply with the procedure prescribed in ***Annexure-I*** of SEBI circular dated June 22, 2020

To read the Circular in detail, please click here.

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RBI UPDATES

1. RBI issues relaxations with respect to FPI investments in Non-Convertible Debentures ("NCDs")/bonds which are under default

- Authorised Dealer Category-I (AD Category-I) banks are requested to refer to Foreign Exchange Management (Debt Instruments) Regulations, 2019 notified vide Notification No. FEMA. 396/2019-RB dated October 17, 2019, as amended from time to time, and the relevant directions issued thereunder.

- A.P. (DIR Series) Circular No. 31 dated November 26, 2015 stated that Foreign Portfolio Investors ("**FPIs**") were permitted to acquire Non-Convertible Debentures ("**NCDs**")/bonds, which are under default, either fully or partly, in the repayment of principal on maturity or principal instalment in the case of amortizing bond, and to A.P. (DIR Series) Circular No. 31 dated June 15, 2018 (**hereinafter called Directions**), as amended from time to time.

- Currently, FPI investments in corporate bonds are subject to a minimum residual maturity requirement, short-term investment limit (paragraph 4 (b)(ii) which stated that FPIs were required to invest in corporate bonds with a minimum residual maturity of three years) and the investor limit (paragraph 4(f)(i) which stated that Investment by any FPI, including investments by related FPIs, shall not exceed 50% of any issue of a corporate bond) in terms of the Directions. However, FPI investments in security receipts and debt instruments issued by Asset Reconstruction Companies and debt instruments issued by an entity under the Corporate Insolvency Resolution Process as per the resolution plan approved by the National Company Law Tribunal under the Insolvency and Bankruptcy Code, 2016 are exempt from these requirements. RBI has now decided to exempt investments by FPI in NCDs/bonds which are under default, either fully or partly, in the repayment of principal on maturity or principal instalment in the case of amortizing bond from the aforesaid requirements.

- The updated Directions are attached to the circular.

To read the Circular in detail, please click here.

IBBI UPDATES

1. **IBBI amends the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 vide Gazette notification dated March 04, 2021**

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

- In the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (hereinafter referred to as 'the principal regulations'), in regulation 31 relating to the list of stakeholders prepared by the liquidator for sub-regulation (2), the following sub-regulation shall be substituted, namely:

  “(2) The liquidator shall file the list of stakeholders with the Adjudicating Authority within forty-five days from the last date for receipt of the claims.”

- In sub-regulation (5) relating to list of stakeholders available for inspection, after clause (c), the following clause shall be inserted, namely:

  “(d) filed on the electronic platform of the Board for dissemination on its website

  Provided that this clause shall apply to every liquidation process ongoing and commencing on or after the date of commencement of the Insolvency and Bankruptcy Board of India (Liquidation Process) (Amendment) Regulations, 2021.”

To read the Notification in detail, please click here.

JUDGEMENTS/ ORDERS

NCLT

1. **National Company Law Tribunal Initiates Corporate Insolvency Resolution Process ("CIRP") against Banyantree Developers Private Limited.**

NCLT, New Delhi Bench **("Tribunal")** admits the Financial Creditor's application filed under section 7 of the Insolvency and Bankruptcy Code, 2016 **("IBC")** read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 and initiates CIRP against the Banyantree Developers Private Limited **("Corporate Debtor").**

The Corporate Debtor had availed a loan from the Applicant worth more than INR 2 Crores on personal terms in the year 2015. The Corporate Debtor had made a part payment of INR 1.50 Crores in the same year leaving a sum of INR 70 lakhs outstanding and payable by the corporate debtor. It was mutually agreed between the Corporate Debtor and the Applicant that the repayment of INR 70 Lakhs shall be made till June 2019 along with interest @ 18% per annum. However, the Corporate Debtor failed to make the repayment in spite of repeated requests from the Applicant.

The Applicant issued demand notice upon the corporate debtor to pay the aforesaid sum of INR 70 Lakhs along with interest at the rate of 18% per annum. The corporate debtor replied to the demand notice acknowledging the receipt of INR 70 Lakhs from the applicant. However, denied the liability alleging that that the said amount was towards capital contribution and not towards a loan. The applicant further sent a response to the reply of Section 8 notice denying the contention of the corporate debtor and further raising a demand for the due amount and filed an application under Section 7 of IBC, 2016.

In response to the application filed by the Applicant, the Corporate Debtor denied all contentions of the applicant and further affirming that the said application and claim are time barred. Further, the Applicant filed a rejoinder to the reply filed by the corporate debtor, denying the various averments made by the Corporate Debtor.

Based on the facts presented, Tribunal was satisfied that the application filed by the Applicant under section 7 of the IBC, 2016 was complete and the default had occurred with respect to the payment of the financial debt of the Applicant. Tribunal admitted the said application filed by the Financial Creditor and declared moratorium in accordance to section 14 of the IBC. Tribunal resolved to appoint Mr. Anil Tayal to act as the Insolvency

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Resolution Professional **("IRP")**. Tribunal further directed the Financial Creditor to pay an advance amount of INR 2,00,000 (INR Two Lakh only) to the IRP for ensuring smooth conduct of CIRP within three days for the date of receipt of this order by the applicant.

To read the order in detail, please click here.

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SEBI

1. **Adjudication Order in the matter of Solitaire Machine Tools Limited**

Securities and Exchange Board of India **('SEBI')** conducted an examination in the scrip of Solitaire Machine Tools Limited, during the examination SEBI observed that, the shareholding of the promoters (Noticee) increased more than 1% and Noticee had not made necessary disclosure to the Company and the exchange (BSE).

On personal hearing the authorized representative of Noticee, submitted its reply stating that change in shareholding of the Noticees has taken place by way of transmission of shares by operation of law and being nominee in the demat account of Jyoti Praful Sheth further, the change has not resulted in any change in the shareholding of the promoter group per se. Therefore, the adjudication proceedings initiated may kindly be dropped.

From the fact of the case, SEBI observed that pursuant to the off-market transactions the shareholding of the Noticees increased by more than 1%. Hence, it triggered disclosure requirement by the Noticees under Regulation 13(4A) of PIT Regulations. However, it was alleged that the Noticees did not make the said disclosures within prescribed timeline.

The noticee Further submitted that, since transmission of shares is brought about by the operation of law and does not involve any voluntary act on part of the persons involved in it, So, there is no requirement of disclosure under PIT Regulations by the Noticees. Further SEBI find that Noticees were promoters of the company during the investigation period and the shareholding were increased during the investigating period which required them to make the necessary disclosures as prescribed under the Regulations, which they had failed to make within the stipulated timeline.

Considering the facts and circumstances of the case and above factors, SEBI imposed monetary penalty of INR 1,00,000/- (INR One Lakh) on the Noticees under Section 15A (b) of the SEBI Act, 1992.

To read the order in detail, please click here.

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HIGH COURT

1. **Delhi High Court dismisses the petition basis the observations made by the Hon'ble Supreme Court in Mehmood Ul Rehman (Supra)**

Business Standard Private Limited & ANR.	**Petitioners**
Lohitaksha Shukla & ANR.	**Respondents**

Date of Judgement: March 01, 2021

Business Standard Private Limited – Petitioner, engaged in the business of running a newspaper under name and style of "Business Standard" and Mr. Bhattacharya, Editorial Director, seeking to quash the Order and Complaint pending before the Court of Metropolitan Magistrate, Saket Court, New Delhi. The basis of the complaint being an article titled as "The Long and Short of it" published in the newspaper 'Business Standard' and which was also available on the website, under the authorship of Mitali Saran.

There were two petitions pertain to one common complaint and parties to both the petitions being similar, the said these petitions were heard together and disposed of by common judgment, with the consent of both the sides,

The Delhi High Court in the present case disposed of the petitions basis on perusal of complaint in question, impugned order, various provisions of law discussed in the proceedings and pertinent observations made by the Hon'ble Supreme Court in Mehmood Ul Rehman (Supra), the Delhi High Court held that the complaint in question is not maintainable and is liable to be dismissed and consequentially, the proceedings emanating there-from were also quashed.

To read the Judgement in detail, please click here.

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2. **Delhi High Court allows the suit to arbitration in accordance with the covenants of the Family Settlement Agreement (FSA) and Trade Mark and Name Agreement (TMNA)**

Hero Electric Vehicles Private Limited & ANR.	**Plaintiffs**
Lectro E-Mobility Private Limited	**Defendants**

<u>Date of Judgement</u>: March 02, 2021

Present suit is filed by the M/s. Hero Electric Vehicles Private Limited and M/s. Hero Exports seeking a decree of permanent injunction, restraining the defendants from dealing, in any manner, in electric bikes having a throttle, using "Hero" or any mark deceptively similar thereto, as a trademark, brand name or tradename, in any manner as would infringe the said mark, or result in passing off, of the defendant's electric bikes having a throttle, as those of the plaintiffs.

The defendants (being Lectro E-Mobility Private Limited and Hero Cycles Limited) have filed for arbitration under Section 8 of the Arbitration and Conciliation Act, 1996, seeking reference of the dispute, forming subject matter of the suit, to arbitration.

Hero Exports claims that, it had started its business of electric vehicles, and to have launched battery fitted electric cycles and electric scooters, in the year 2007, under the well-known trademarks "Hero" and "Hero Electric". Further, the marks "Hero" and "Hero Electric" were registered by the Registry of Trade Marks, in favour of Hero Exports, under Class 12 of the Schedule to the Trade Marks Rules, 2002, in 2008.

The Delhi High Court, disposed of the application on terms stating that, the prayer for referring the disputes, in the suit to the arbitration is allowed and the parties would be at liberty to proceed to appoint the arbitrator(s) in accordance with the covenants of the Family Settlement Agreement (FSA) and Trade Mark and Name Agreement (TMNA) and/or to approach the Delhi High Court in that regard.

To read the Judgement in detail, please click here.

3. **Court held that no appeal is permitted under Section 37 against the order passed by a learned Single Judge in an application for stay of the arbitral award.**

Essar Oil and Gas Exploration and Production Limited	**Applicant/ Appellant**
Toshiba Water Solutions Private Limited (Formerly Known as UEM India Private Limited)	**Respondent**

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Date of Judgement: March 02, 2021

Appeal filed under Section 37 of the Arbitration and Conciliation Act, 1996, passed by the learned Single Judge in the Notice of Notion, inter-alia praying for stay of the Arbitral Award passed by the sole Arbitrator.

Court in its view, held that, no appeal is permitted under Section 37 against the order passed by a learned Single Judge in an application for stay of the arbitral award and more particularly under Section 36 of the Arbitration and Conciliation Act, 1996. The Court further concluded that, the appeal is not maintainable and stands dismissed and interim application does not survive and is accordingly disposed of.

To read the Judgement in detail, please click here.

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SUPREME COURT

1. **Supreme Court held that West Bengal Mineral Development and Trading Corporation Ltd (WBMDTCL), being a "State" within the meaning of Article 12 of the Constitution of India, has continued in unlawful possession of the Premises and orders to vacate the premises with four months**

Punalur Paper Mills Limited	Appellant
West Bengal Mineral Development and Trading Corporation Limited. & ORS.	Respondents

<u>Date of Judgement</u>: March 01, 2021

Appeal was filed for the entire second floor of the premises no. 13 Nellie Sengupta Sarani (Lindsay Street), Culcutta, measuring approximately 7500 square feet area, owned by the Applellant - Punalur Paper Mills Limited. The said premises were requisitioned under the West Bengal Premises Requisition and Control (Temporary Provisions) Act, 1947. Section 10B was inserted in the West Bengal Premises Requisition and Control (Temporary Provisions) Act, 1947, pursuant to certain judgments of the Supreme Court.

Section 10B of the said Act, states that as a result of the operation, any property requisitioned under the Act had to be released by the State Government on or before the expiry of a period of 25 years from the date of requisition. In the present case, the period of 25 years ended in the year 1998, which obligated the State to release the Premises. is common ground between the parties that the Premises was not in fact released and physical possession remained with the West Bengal Mineral Development and Trading Corporation Ltd (WBMDTCL)

Subsequent to the lapse of such period of 25 years, by way of a notification under section 4 of the Land Acquisition Act, 1894 ["Land Acquisition Act"], the Premises was sought to be acquired for the public purpose of providing the permanent office accommodation of WBMDTCL. The said notification was then challenged in Writ Petition before the High Court of Calcutta by the Appellant, who owned the said Premises. The Writ Petition also mentioned, seeking handover of vacant possession of the Premises since the 25-year period prescribed by section 10B of the West Bengal Requisition Act had ended.

A cursory reading of the aforesaid provision will make it clear that the Appellant is correct in its submission, which is therefore accepted and the impugned judgment of the Division Bench is set aside to this extent. A very disturbing feature of these appeals is the fact that WBMDTCL, which is "State" within the meaning of Article 12 of the Constitution of India, has continued in unlawful possession of the Premises since 1998 without paying a single pie towards compensation till date. Hence, it was held that, WBMDTCL who had asked for reasonable time to vacate the premises and was granted time of four months from the date of this judgement to vacate the premises.

The appeal stands disposed of, as in these appeals, though no one appears on behalf of West Bengal Sugar Industries Development Corporation Ltd. ["WB Sugar Industries"], who have been in illegal occupation of a portion of the fifth floor of premises no. 13, Nellie Sengupta Sarani (Lindsay Street), Calcutta ["Fifth Floor Premises"], measuring approximately 1350 square feet.

To read the Judgement in detail, please click here.