Swift India
CORPORATE SERVICES LLP

Swift e-Bulletin

Edition 39th 21-22
Week – January 03rd to January 07th

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

"Play by the rules, but be ferocious."

– Phil Knight

Introduction

We welcome you to our weekly newsletter!

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

Further, various regulatory authorities have been proactive in bringing significant regulatory changes in recent challenging times. This week's newsletter covers various Circulars/notifications issued by certain regulatory authorities such as the Reserve Bank of India ("RBI"), Securities and Exchange Board of India ("SEBI"), International Financial Services Centers Authority ("IFSCA"), and critical judgements and orders passed by the National Company Law Tribunal ("NCLT"), High Court and Supreme Court.

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

- SEBI issues Clarification w.r.t. timing of submission of NOC from the lending scheduled commercial banks/ financial institutions/ debenture trustee vide Circular dated January 05, 2022.
- IFSCA amends International Financial Services Centers Authority (Registration of Insurance Business) Regulations 2021.

We have prepared a comprehensive summary for quick reference of the aforesaid updates and Judgements / orders issued during the week of January 03, 2022 to January 07, 2022.

Thank you,
Swift team

Table of Contents

REGULATORY UPDATES

RBI UPDATES

1. **RBI Issues Master Circular - Bank Finance to Non-Banking Financial Companies (NBFCs) vide Notification dated January 05, 2022.**

- This Master Circular consolidates instructions on Bank Finance to Non-Banking Financial Companies (NBFCs)matter issued up to January 04, 2022.

  To read the circular in detail, please click here.

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SEBI UPDATES

1. **SEBI issues Clarification w.r.t. timing of submission of NOC from the lending scheduled commercial banks/ financial institutions/ debenture trustee vide Circular dated January 03, 2022.**

- SEBI vide Circular No. SEBI/HO/CFD/DIL1/CIR/P/2020/249 dated November 16, 2021 and Circular No. SEBI/HO/CFD/DIL2/CIR/P/2021/659 dated November 18, 2021 has notified changes to the Master Circular No. SEBI/HO/CFD/DIL1/CIR/P/2020/249 dated December 22, 2020.

- In respect of the NOC as required in terms of Circular dated November 16, 2021 and November 18, 2021, it is now clarified that the NOC shall be submitted before the receipt of the No-objection letter from stock exchange in terms of Regulation 37(1) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015

- The recognized stock exchanges are directed to bring the provisions of this circular to the notice of the listed companies and also to disseminate the same on their website.

To read the circular in detail, please click here.

2. **SEBI issues guidance for Increasing Awareness regarding Online Mechanisms for Investor Grievance Redressal vide Circular dated January 05, 2022.**

- In order to enhance transparency and awareness pertaining to Investor Grievance Redressal, SEBI advised all the Recognized Stock Exchanges including Commodity Derivatives Exchanges/ Depositories / Clearing Corporations to displpay the following of their websites and mobile apps.
  - A link / option to lodge complaint with them directly.
  - A link to SCORES website/ link to download SCORES mobile app.

To read the circular in detail, please click here.

IFSCA UPDATES

1. **IFSCA amends International Financial Services Centers Authority (Insurance Intermediary) Regulations, 2021.**

- IFSCA amends the existing International Financial Services Centers Authority (Insurance Intermediary) Regulations 2021 whereby it requires the following:

  - a paid-up capital and net worth certificate from Practicing Chartered Accountant or Practicing Company Secretary or Practicing Cost Accountant in India on half yearly basis.

  - along with the audited accounts a copmliance certificate from Practicing Chartered Accountant or Practicing Company Secretary or Practicing Cost Accountant in India on half yearly basis

  - it requires a certificate from Practicing Chartered Accountant or Practicing Company Secretary or Practicing Cost Accountant in India in FORM-B certifying that all requirements of the said act are complied with by the applicant for registration of insurance business.

  To read the circular in detail, please click here.

2. **IFSCA amends International Financial Services Centers Authority (Registration of Insurance Business) Regulations 2021**

- IFSCA amends the existing International Financial Services Centers Authority (Registration of Insurance Business) Regulations 2021 whereby it requires a certificate from Practicing Chartered Accountant or Practicing Company Secretary or Practicing Cost Accountant in India in FORM-B & C certifying that all requirements of the said act are complied with by the applicant for registration of insurance business.

  To read the circular in detail, please click here.

3. **IFSCA issues Circular dated January 04, 2022 on SWIFT Operations in IBU**

- With reference to the IFSC (Banking) Regulations, 2020 and various Circulars in this respect, it has been directed that the SWIFT operations shall be undertaken from the IFSC Banking Unit (IBU), GIFT City, Gandhinagar by assigning the roles of maker and checker to suitable staff in IBU itself for ensuring the data confidentiality and data protection and IBUs are directed to ensure compliance of the above on or before March 31, 2022.

To read the Circular in detail, please click here.

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JUDGEMENTS/ ORDERS

SEBI

1. **Adjudication proceeding cannot be taken up against a Company which has been strucked off from the records of Registrar of Companies ("ROC")**

Securities and Exchange Board of India (SEBI) initiated an investigation to ascertain the violation of the provisions of Securities and Exchange Board of India, Act 1992 **('SEBI Act')** and SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 **('PFUTP Regulations, 2003')** in the scrip of Sun and Shine Worldwide Limited **('the Company/ SSWL')** by Sure Portfolio Services Private Limited **("Noticee"),** it was alleged that Noticee violated the provisions of the SEBI Act read with Regulations of the PFUTP Regulations. Accordingly, SEBI initiated Adjudication Proceedings against the Noticee for the aforesaid violation of the provisions of SEBI Act and PFUTP Regulations, 2003.

The Adjudicating Officer (**"AO"**) issued Show Cause Notice (**"SCN"**) to the Noticee as to why an inquiry should not be held against it and why penalty, if any, should not be imposed for the alleged violation. The SCN disclosed alleged violation under SEBI Act and PFUTP Regulations. Further SCN which was issued was returned as undelivered and on checking the status of the Noticee it was ascertained from the Ministry of Corporate Affairs **("MCA")** website the Noticee name has been struck off from list of Companies and AO quoted that "It is an established fact that when a company's name is struck-off from the Registrar of Companies **("RoC")** list and the company is also dissolved, then it is a non-existing company and the adjudication proceedings against the non-existing company is thus nullity. Therefore, in view of the facts and circumstances and the fact that the Noticee's name has been struck-off from the RoC list and also 'dissolved' as on August 08, 2018 as per the RoC notification. It was concluded that the present adjudication proceedings initiated against the Noticee cannot be proceeded with.

To read the order in detail, please click here

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HIGH COURT

1. **Delhi High Court directs the Mediation Centre to place their report of Mediation on record in the petition filed by Jaldhi Overseas Pte Ltd.**

Jaldhi Overseas Pte Ltd	**Decree Holder**
Steel Authority of India Limited	**Judgement Debtor**

Date of Judgement: January 04, 2022

Jaldhi Overseas Pte Ltd had filed the present petition under Section 39 of the Arbitration and Conciliation Act, 1996 to be read with Order XXI Rule 10 and Section 151 of Code of Civil Procedure seeking execution of Awards.

It was pointed out by the Judgement Debtor, that the arbitral Award in question has already been satisfied and only a fraction of difference is required to be met out with decree holder and accordingly, at request of learned counsel for parties, the present enforcement petitions were referred to Delhi High Court Mediation & Conciliation Centre for amicable resolution of left-over disputes. It further submits that the total decretal amount has been paid in favour of decree holder and the said fact is not disputed by learned counsel appearing on behalf of decree holder.

Upon hearing to the proceedings, the Delhi High Court disposes the present petition and directs the Delhi High Court Mediation and Conciliation Centre, in Charge to place their report of mediation on record.

To read the Judgement in detail, please click here.

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SUPREME COURT

1. **Supreme Court allows the challenged judgement by restoring the judgement of the Trial Court by rejecting the cross-appeal of Plaintiff**

Small Industries Development Bank of India	**Appellant(s)**
M/s. SIBCO Investment Private Limited	**Respondents**

Date of Judgement: January 03, 2022

The judgement and order of the Division Bench of the High Court of Calcutta was challenged in the present appeals, whereby the decision of the Single Judge dismissing the suit M/s. SIBCO Investment Private Limited **("SIBCO")** was Reversed. The suit was filed against Small Industries Development Bank of India **("SIDBI")** seeking interest on the alleged belated payment of principal sum and accrued interest to the plaintiff for the Bonds issued by SIDBI.

The question to be answered in this case is whether plaintiff has set forth a just claim, based on the Bonds issued by the defendant or is it a case of that trial in Shakespeare's The Merchant of Venice where Shylock is claiming the promised pound of flesh in the form of interest on delayed payment on the Bonds purchased by the plaintiff. The 41 Bonds related to this case were initially issued by SIDBI to M/s. CRB Capital Markets Ltd.

The Plaintiff SIBCO had purchased these Bonds from Shankar Lal Saraf in the form of promissory notes issued by the defendant SIDBI, which were termed as SIDBI Bonds 2003 (4^{th} Series) carrying 13% interest and SIDBI Bonds 2004 (5th Series) generating interest at the rate of 12.50%.

The Supreme Court allowed the challenged judgment by restoring the judgement of the Trial Court and thereby rejected the cross-appeal of the Plaintiff.

To read the Judgement in detail, please click here.

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About Swift

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

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

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