Swift India
CORPORATE SERVICES LLP

Swift e-Bulletin
Edition 42ND 21-22
Week – January 24th to January 28th

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

"You only have to do a few things right in your life so long as you don't do too many things wrong."

– Warren Buffett."

Introduction

We welcome you to our weekly newsletter!

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

Further, various regulatory authorities have been proactive in bringing significant regulatory changes in recent challenging times. This week's newsletter covers various Circulars/notifications issued by certain regulatory authorities such as the Securities and Exchange Board of India ("SEBI") and orders passed by the National Company Law Appellate Tribunal (NCLAT), SEBI, High Court and Supreme Court.

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

- SEBI issue Circular on issuance of securities in dematerialized form in case of Investor Service Requests.
- SEBI issue Circular on introduction of Special Situation Funds as a sub-category under Category I AIF.

We have prepared a comprehensive summary for quick reference of the aforesaid updates and Judgements / orders issued during the week of January 24, 2022 to January 28, 2022.

Thank you,
Swift team

Table of Contents

REGULATORY UPDATES

SEBI Updates

1. **SEBI issue Circular on issuance of securities in dematerialized form in case of Investor Service Requests**

- In order to insure ease of dealing in securities markets by investor, listed company henceforth shall issue the securities in demat form only for the following request issue of duplicate securities certificate, Claim from Unclaimed Suspense Account; Renewal / Exchange of securities certificate, Endorsement, Sub-division / Splitting of securities certificate, Consolidation of securities certificates/folios, Transmission and Transposition.

- The process is briefly described below:

  - The holder/claimant shall submit duly filled up Form ISR-4 along with documents as may be necessary to RTA/Issuer Companies;
  - A Letter of Confirmation (LoC) shall be provided by RTA/Issuer Companies within 30 days from the date of receipt of request;
  - Validity of LoC is for period of 120 days and within this time period the holder/claimant has to submit request to DP for dematerializing the securities;
  - RTA/issuer companies will provide reminders after end of 45days and 90 days respectively;
  - On account of failure, RTA/ Issuer Companies shall credit the securities to the Suspense Escrow Demat Account of the Company;
  - The Circular provided for operational guidelines, please refer annexure A to Circular

To read the Circular in detail, please click here

2. SEBI issues Circular on introduction of Special Situation Funds as a sub-category under Category I AIFs

- SEBI (Alternative Investment Funds) Regulations, 2012 ("AIF Regulations"), have been amended and notified on January 24, 2022, to introduce Special Situation Funds(SSF), a sub-category under Category I AIF, which shall invest in 'special situation asset.

- SEBI specified the following in the regard
  - Each SSF shall have a corpus of at INR 100 Cr;
  - Below are the limits for SSF for acceptance of investment:
    a. Not less than INR 10 Cr from an investor;
    b. Not less than INR 5 Cr from accredited investor;
    c. Not less than INR 25 Lakhs from employees or directors of the SSF or employees or directors of the manager of the SSF.
  - SSF is required to comply with IBC if it wants to act as resolution applicant.
  - Circular specifies conditions for acquiring the stressed loan;

To read the Circular in detail, please click here.

[This space is intentionally left blank]

3. **Amendment to SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations 2003.**

SEBI vide Notification dated 25th January, 2022 issues amendment to SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations.

The few of the major amendments to the Regulations include the following:

- In regulation 4(2)(k) shall be substituted with the following, namely– "disseminating information or advice through any media, whether physical or digital, which the disseminator knows to be false or misleading in a reckless or careless manner and which is designed to, or likely to influence the decision of investors dealing in securities".

- After Regulation 6(6) the following sub regulations shall be inserted:

  "(7) to call for information and record from any person including any bank or any other authority or board or corporation established or constituted by or under any Central, State or Provincial Act in respect of any transaction in securities which are under investigation;

  (8) to make an application to the Judge of the designated court in Mumbai as notified by the Central Government for an order for the seizure of any books, registers, other documents and record, if in the course of investigation, the Investigating Authority has reasonable ground to believe that such books, registers, other documents and record of, or relating to, any intermediary or any person associated with securities market in any manner may be destroyed, mutilated, altered, falsified or secreted;

  (9) to keep in his custody the books, registers, other documents and record seized under these regulations for such period not later than the conclusion of the investigation as he considers necessary and thereafter to return the same to the person, the company or the other body corporate, or, as the case may be, to the managing director or the manager or any other person from whose custody or power they were seized: Provided that the Investigating Authority may, before returning such books, registers, other documents and record as aforesaid, place identification marks on them or any part thereof;

  (10) save as otherwise provided in this regulation, every search or seizure made under this regulation shall be carried out in accordance with the provisions of the

Code of Criminal Procedure, 1973 (2 of 1974) relating to searches or seizures made under that Code."

To read the Notification in detail, please click here.

[This space is intentionally left blank]

JUDGEMENTS/ ORDERS

SEBI

1. **SEBI imposes penalty for employee of the Company on failure to make relevant disclosure under PIT Regulations**

Securities and Exchange Board of India ('SEBI') received a letter from Titan Company Limited ('Company/Titan/TCL') wherein the company intimated SEBI about contravention of SEBI (Prohibition of Insider Trading) Regulations, 2015 (hereinafter referred to as 'PIT Regulations') and Company's Code of Conduct for Prevention of Insider Trading by some of its designated persons/employees.

Thereafter, SEBI conducted an investigation in the scrip of Titan and observed several non-compliances of PIT Regulations during the Investigation Period by employees and designated persons of TCL including Mr. Anbazhagan ('Noticee/by name'). Therefore, SEBI initiated adjudication proceedings against Noticee under the provisions of Section 15A(b) of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as 'SEBI Act') for alleged violation of Regulation 7(2)(a) of PIT Regulations by Noticee.

Adjudicating Officer (AO) issued Show Cause Notice (SCN) to Noticee under Rule 4 of the Adjudication Rules to show-cause as to why an inquiry should not be initiated against Noticee and penalty, if any, not be imposed upon him under the provisions of Section 15A(b) of SEBI Act for the aforesaid violation alleged to have been committed by him. It was observed that Noticee had traded in the shared of TCL and which were in excess of the limit specified in Regulation 7(2)(a) of PIT Regulations, Noticee was required to make disclosure in terms of the aforesaid regulations. Basis the responses received from Noticee and virtual hearing the Notice admitted the violation. The AO analyzed the provisions of the regulation and concluded that Noticee is liable for penalty and also informed the purpose of these disclosures is to bring about transparency in the transactions of Directors/ Promoters/Acquirers/ employees and assist the Regulator to effectively monitor the transactions in the market.

To read the Order in detail, please click here

HIGH COURT

1. <u>M/s. Kanodia Technoplast Limited files petition against the application filed by M/s. A.P. Trading Company with the NCLT to claim an amount of INR 8.56 Crores in default.</u>

M/s. Kanodia Technoplast Limited	Petitioner
M/s. A.P. Trading Company	Respondent

<u>Date of Judgement</u>: January 27, 2022

Kanodia Technoplast Limited, being the petitioner in the present case is a registered company under the Companies Act, 1956, engaged in the business of making laminated pouches for mouth freshners, tobacco, pan masala and other food items, which had come into contact with A.P. Trading Company, respondent in the present petition, which is a sole proprietorship firm in the month of April 2017 for supply of paper.

As per the claim made by the petitioner, the respondent had filed an application before the National Company Law Tribunal (NCLT) to initiate Corporate Insolvency Resolution Process against the petitioner and claimed an amount of INR 8.56 Crores in default. Thereafter the petitioner files its reply before the NCLT challenging the claims raised by the respondent and had further claimed the respondent had approached the petitioner to amicably resolve the matter and for which the parties had entered into a Memorandum of Understanding, wherein schedule for making payments was agreed upon between the parties.

The present petition was disposed of, which was filed by the petitioner under Section 11 of the Arbitration and Conciliation Act, 1996 seeking appointment of Arbitrator for adjudication of disputes with the respondent, the Arbitrator was appointed who shall conduct under the Delhi International Arbitration Centre (DIAC) and the learner Arbitrator was directed to ensure compliance of Section 12 of the Arbitration and Conciliation Act, 1996 before commencing the arbitration.

To read the Judgement in detail, please click here.

SUPREME COURT

1. **Parties to the Petition were directed to take steps to carry out the arbitration proceeding in terms of Singapore International Arbitration Centre (SIAC)**

Intercontinental Hotels Group (India) Private Limited & Anr	Petitioners
Waterline Hotels Private Limited	Respondent

Date of Judgement: January 25, 2022

Intercontinental Hotels Group (India) Private Limited and Intercontinental Hotels Group (Asia-Pacific) Private Limited being the subsidiaries of Intercontinental Hotels Group PLC (IHG Group), which is based out of India and Singapore, respectively. The IHG Group, being the Parent Company is a British Multi-National Hotel based out of Denham, United Kingdom.

Waterline Hotels Private Limited, being the respondent in the present case, is an Indian company engaged in hospitality sector, which had agreed to run and operate a hotel by name Holiday Inn & Suites Bengaluru, Whitefield, and entered into a Hotel Management Agreement with the petitioner for renovating the existing infrastructure in accordance with the brand standards establish by the IHG Group.

The petitioners were left with no option other than to invoke Arbitration clause of HMA to appoint a suitable arbitrator, as the settlement talks between the parties failed, and the respondent remained in persistent breach of the HMA. A former Judge of the High Court of Karnataka as a sole arbitrator to adjudicate the issues. The parties are directed to take steps to convey this order to the Singapore International Arbitration Centre (SIAC) to proceed in terms of the SIAC rules.

To read the Judgement in detail, please click here.

---

recommended that professional advice be taken based on the specific facts and circumstances. This newsletter does not substitute the need to refer to the original pronouncements.

+91 22 6669 5000

Call us toll free to explore a topic or let us answer your questions

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.

Swift India Corporate Services LLP

Regd. Office: 91-92 B, Mittal Court, Nariman Point, Mumbai 400 021, India
LLPIN: AAH-4705, registered under the Limited Liability Partnership Act, 2008
Tel +91 22 6669 5000, Fax +91 22 6669 5001

www.swiftindiallp.com