Swift India
CORPORATE SERVICES LLP

Swift e-Bulletin
Edition 50th 21-22
Week – March 21st to March 26th

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

"There is no greater thing you can do with your life and your work than follow your passions in a way that serves the world and you

– Richard Branson”

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**") and orders passed by the NCLAT, SEBI, High Court and Supreme Court.

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

- **SEBI amends Securities and Exchange Board of India (Listing obligations and Disclosure Requirements) Regulations 2015.**
- **RBI issues Master Direction on Reserve Bank of India (Classification, Valuation and Operation of Investment Portfolio of Commercial Banks) Directions 2021.**

We have prepared a comprehensive summary for quick reference of the aforesaid updates and Judgements / orders issued during the week of March 21, 2022 to March 26, 2022.

Thank you,
Swift team

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REGULATORY UPDATES

SEBI

1. **SEBI amends Securities and Exchange Board of India (Listing obligations and Disclosure Requirements) Regulations 2015.**

- SEBI has amended the (Listing Obligations and Disclosure Requirements) Regulations 2015 and have inserted Clause D in Part E of Schedule II on separate posts of Chairperson and the Managing Director or the Chief Executive Officer.

- The amendment states that: -

  "The listed entity may appoint separate persons to the post of the Chairperson and the Managing Director or Chief Executive Officer such that: -

  The Chairperson shall be a non-executive director and shall not be related to the Managing Director or the Chief Executive Officer as per the definition of "relative" defined under the Companies Act 2013."

To read the Regulation in detail, please click here.

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RBI

1. **RBI has issued an amendment to Master Direction on (Classification, Valuation and Operation of Investment Portfolio of Commercial Banks) Directions 2021.**

- RBI amended the Master Direction on (Classification, Valuation and Operation of Investment Portfolio of Commercial Banks) Directions 2021.

- The Master Direction has provided for the prudential treatment for investment in Venture Capital funds (VCF's), RBI have received queries from banks pertaining to the applicability of investment in Alternative Investment Funds (AIFs).

- RBI reviewed and have decided that the investment in Category I and Category II AIFs, which includes Venture Capital funds VCFs, shall receive the same prudential treatment as applicable for investment in VCFs individually.

- This shall be applicable to all commercial banks (excluding Regional Rural Banks)

To read the Notification in detail, please click here.

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JUDGEMENTS AND ORDERS

SEBI Order

1. **SEBI has passed the adjudication order in the matter of TASC Pharmaceuticals Ltd for fradulent and unfair trade practice.**

- SEBI had passed Adjudication order on March 31, 2010 in respect of **Mr. Sunil Purohit** (hereinafter referred to as "Noticee") in the matter of **TASC Pharmaceuticals Ltd** (hereinafter referred to as "TASC/ Scrip") imposing penalty of Rs.1,00,000 (Rupees One Lakh only) under Section 15HA of the SEBI Act upon Noticee for violations of regulations 4(1), 4(2) (a), 4(2) (b) and 4(2) (g) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as "PFUTP Regulations").

- The Securities Appellate Tribunal (hereinafter referred to as "SAT"), on order dated March 7,2016 restored the matter to the file of adjudicating officer (hereinafter referred as "AO") for passing fresh order on merits and in accordance with the law against the Noticee.

- Show cause notice ("SCN") was issued to Noticee in this regard. SEBI conducted investigation and observed that the Noticee through Brokers has traded in the scrip of TASC during the Investigation Period ("IP") and has created artificial volume in the TASC which led to manipulative, fraudulent and unfair trades practice.

- During inquiry, Noticee was allowed for inspection of documents relied upon and was given opportunity for being heard to make further submissions on the matter.

- In view of facts, allegations, submissions, findings made and on absence of specific information on the alleged transactions, AO is of view that the allegations against the Noticee in relation to trades in the Scrip of TASC in violation of Regulation 4(1), 4(2) (a), 4(2) (b) and 4(2) (g) of the PFUTP Regulations cannot be established and passed order stating that the adjudication proceedings initiated against Noticee vide SCN are disposed of.

To read the Order in detail, please click here

HIGH COURT

1. **Petition stands dismissed on the ground that, mere use of the word 'Arbitration' in the heading in the Clause of the Agreement would not lead to the inference that there exists an agreement, seeking resolution of disputes through arbitration.**

FOOMILL Private Limited	Petitioner
AFFLE (INDIA) Limited	Respondent

Date of Judgement: March 25, 2022

FOOMILL Private Limited, filed the present petition seeking appointment of an Arbitrator for resolving the disputes in relation to the software development arising out of the Master Service Agreement between the parties.

The concerns raised by the petitioner was due to delay on the part of the respondent, AFFLE (India) Limited, wherein the petitioner wrote an email to the respondent to resolve the differences amicably by dialogue, wherein the respondent informed the petitioner that there is an 'expectation mismatch' and therefore, the 'project is put on hold'. The respondent introduced a new person for communication with the petitioner and showed no intent of resolving the issues flagged by the petitioner.

There being no intent of resolving the issues by the respondent, the petitioner sent a legal notice to the respondent invoking arbitration, wherein the respondent replied to the petitioner's legal notice, stating that there was no arbitration agreement between the parties.

Clause 11 of the Agreement, does not provide that the parties agreed to refer their disputes for resolution through arbitration though the heading of Clause 11 mentions the words 'Arbitration & Dispute Resolution'. On the basis of the heading of the Clause 11 noting the word 'Arbitration', the petitioner claims resolution of disputes arising between the parties through arbitration.

The Delhi High Court, finds no ground to appoint an Arbitrator to adjudicate the disputes between parties, as was clear that mere use of the word 'Arbitration' in the heading in the Clause 11 of the Agreement between the parties in the present proceedings would not lead to the inference that there exists an agreement between the parties seeking resolution of disputes through arbitration, thereby the petition was dismissed.

To read the Judgement in detail, please click here.

SUPREME COURT

2. **SEBI files a statutory appeal under Section 15Z of the SEBI Act, 1992 against the final order of the Securities Appellate Tribunal.**

Securities And Exchange Board Of India	Appellant(s)
Mega Corporation Limited	Respondent(s)

Date of Judgement: March 25, 2022

Securities And Exchange Board Of India ("SEBI"), files a statutory appeal under Section 15Z of the Securities and Exchange Board of India Act, 1992 against the final order of the Securities Appellate Tribunal , by which the Tribunal has set aside the order passed by the Securities and Exchange Board of India restricting the Mega Corporation Limited ("Respondent Company") from accessing the capital market for one year and further restraining the promoter directors from buying, selling or otherwise dealing with securities for India.

Mega Corporation Limited, being listed on the Bombay Stock Exchange in 1996, is engaged in the business of radio taxi service, coupled with trading of shares in a small measure till 2004. Due to unusual price movement of the scrip of the Company between January 2005 to September 2005, wherein the Company's shares traded between Rs. 4.25/- to Rs. 43.85/-, resulted in an increase in the average monthly volume of shares to 1,56,22,583 shares. This upward spurt drew the attention of the share market regulator, SEBI, and directed investigation while passing an ex parte ad interim order under Section 11B, 11(4)(b) and 11(D) of the Act against 56 entities, being the Company, its promoter-directors, some of its clients, stockbrokers and depositors.

After hearing the objections, the interim orders were confirmed, and a show-cause notice for violation of Regulations 3(a), (b), (c)&(d) and 4(1), 4(2)(k) & 4(2)(r) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 was issued.

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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