Swift India
CORPORATE SERVICES LLP

Swift e-Bulletin
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Week – June 20th to June 24th

Quote for the week:

“The secret of change is to focus all your energy not on fighting the old but on building the new”

– Socrates.

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 Ministry of Corporate Affairs (“**MCA**”), Securities Board of India (“**SEBI**”) and orders passed by the SEBI, and High Court.

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

- MCA amends Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016.
- SEBI issues Circular with guidelines for the tagging/naming of the DEMAT accounts maintained by the stock brokers.

We have prepared a comprehensive summary for quick reference of the aforesaid updates and Judgements / orders issued during the week of June 20th to June 24th, 2022.

Thank you,
Swift team

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REGULATORY UPDATES

MCA

1. **MCA amends Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016.**

- MCA vide Notification dated June 09, 2022 amended The Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016.

- Vide this Notification, MCA has inserted Sub Rule 4 after Sub Rule 3 of Rule 4 in The Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016.

- The new Sub Rule 4 provides the timeline to be given to the applicant by the registrar in the following cases:

  - Where the Registrar, on examining the application made in Form SKT-2, finds that it is necessary to call for further information or finds such application or any document annexed therewith is defective or incomplete in any respect, he shall inform to the applicant to remove the defects and re-submit the complete Form within fifteen days from the date of such information.

  - After the resubmission of the Form or document, if the Registrar finds that the Form or document is defective or incomplete in any respect, he shall give further time of fifteen days to remove such defects or complete the Form.

  Failing to follow the timeline specified or on non-submission of rectified form within specified time line as above, registrar shall treat the Form as invalid in the electronic record, and shall inform the applicant, accordingly.

- This Notification also clarifies that Form STK-2 made prior to the commencement of the Companies (Removal of Names of Companies from the Register of Companies) Amendment Rules, 2022 shall not be counted for the purposes of reckoning the maximum number of re-submissions of such Form.

- MCA also substituted the old forms STK 1, STK – 5 and STK-5A with the new forms as attached to this notification.

To read the Notification in detail, please click here.

SEBI

1. **SEBI vide Circular dated June 21th, 2022 modified the operational guidelines for Foreign Portfolio Investors and designated Depository Participants.**

- SEBI vide Circular dated 21st June, 2022 brought about the modification in the operational guidelines for the Foreign Portfolio Investors, Depository participants/ custodians and Eligible Foreign Investors' respective bank accounts to which the payment will be remitted electronically.

- To facilitate faster confirmation of remittances by the intermediaries SEBI details out the bank details for payment of SEBI fees in USD.

To read the Circular in detail, please click here.

2. **SEBI issues Circular with guidelines for the tagging/naming of the DEMAT accounts maintained by the stock brokers.**

- SEBI vide Circular no. SEBI/HO/MIRSD/MIRSD2/CIR/P/2016/95 dated September 26, 2016 mandated that the Stock Brokers to follow a uniform nomenclature while naming the bank/DEMAT accounts as per their respective purpose and report the same to the stock exchanges or depositories.

- Subsequently after multiple modifications of the said guideline by SEBI, currently stock brokers are required to maintain demat accounts only under the following 5 categories:

S.NO.	DEMAT ACCOUNT CATEGORY	PURPOSE OF DEMAT ACCOUNT
1.	Proprietary account	Hold own securities
2.	Pool account	Settlement purposes
3.	Client unpaid account	Hold unpaid securities of clients
4.	Client securities margin pledge account	For margin obligation to be given by way of pledge/re-pledge
5.	Client securities margin funding account	Hold funded securities in respect of margin funding

- Further Circular also prescribes the following:

  - All the untagged DEMAT accounts need to be named by 30th June, 2022.
  - Securities shall not be credited in unnamed DEMAT account From July 01, 2022.
  - Debit of securities shall be prohibited in any unnamed account from August 01, 2022.
  - Stock Brokers might be allowed Naming of the unnamed accounts post the last date which after an application to the stock exchange who shall allow the naming within 2 working days' post imposition of the penalty on the same.

To read the Circular in detail, please click here.

3. **SEBI vide Circular dated June 24, 2022 issued extension of time line for Implementing a Circular "Guidelines in pursuance of amendment to SEBI KYC (Know Your client) Registration Agency (KRA) Regulations, 2011" dated April 06, 2022.**

- On receipt of requests from the KRAs to extend the timelines for applicability of the clause 9 and clause 13. After consideration, SEBI has decided that:

  - KYC records of all existing clients (who have used Aadhaar as an OVD) shall be validated within a period of 180 days from August01, 2022.
  - The validation of all KYC records (new and existing) shall commence from August01, 2022.

- This Circular shall come into **effect from July 01, 2022**.

To read the Circular in detail, please click here.

4. **SEBI issues Circular reducing the timelines for listing of units of privately placed Infrastructure Investment Trust (InvIT).**

- As a part of the continuing endeavor to streamline the process of allotment and listing of units, it has been decided to reduce the time taken for allotment and listing of units of privately placed Infrastructure Investment Trust (InvIT), after the closure of issue to six working days as against the present requirement of thirty working days. The timelines within which the units shall be listed from issue closure are as under:

- SEBI has provided the schedule of timeline and also issued communicational guidelines to both stock exchanges and depositories.

To read the Circular in detail, please click here.

5. **SEBI vide Circulars dated June 24, 2022 introduces Unified Payments Interface (UPI) mechanism for Infrastructure Investment Trusts(InvIT) and Real Estate Investment Trusts (REIT).**

- SEBI Circular No. CIR/DDHS/CIR/P/2019/15 and CIR/DDHS/CIR/P/2019/16 dated January 15, 2019 (hereinafter to be referred as 'ASBA Circulars') lays down the process for payment for applications in public issue of units of REIT and InvIT through the facility of ASBA.

- After consultation with stakeholders, SEBI decided to provide an additional option to individual investors to apply in public issues of units of REITs and InvITs with a facility to block funds through **Unified Payments Interface (UPI)** mechanism for application value up to Rs. 5 Lac.

- Accordingly, SEBI in these Circulars has given the framework for Unified Payments Interface (UPI) mechanism.

  The framework is structured as the following:

  - New entities / mechanisms part of the public issue process using UPI.

  - Validation Process by Stock Exchanges and Depositories.

  - Other compliance and general requirements required by the stock exchanges and the entities involved.

- SEBI has also Detailed out following as Annexures to the Circular:

  - <u>ANNEXUREE 1</u> - Process flow for applying though UPI mechanism.

  - <u>ANNEXURE 2</u> - Data fields required in Application-and-Bidding-Form relating to UPI.

  - <u>ANNEXURE 3</u> - Role of Issuer, Registrar, Stock Exchange, Intermediaries and Collecting Bank.

To read the Circular of InvIT in detail, please click here.
To read the Circular of REIT in detail, please click here.

6. **SEBI issues guidelines for Large Value Fund for Accredited Investors under SEBI (Alternative Investment Funds) Regulations, 2012 and Requirement of Compliance Officer for Managers of all AIFs.**

- After the introduction of framework for "Accredited Investors" in the securities market, SEBI (Alternative Investment Funds) Regulations, 2012 ('AIF Regulations'). AIF Regulations have been amended to provide certain relaxations from regulatory requirements to 'Large Value Fund for Accredited Investors' (LVF).

- Accordingly, these guidelines cover the following aspects:
  - Filing of LVF Schemes with SEBI.
    - While filing the placement memorandum for LVF schemes with SEBI, a duly signed and stamped undertaking by CEO or person holding equivalent role or position and Compliance Officer of Manager to the AIF, shall be submitted in the format as specified in the circular.
    - In case of LVF schemes already filed with SEBI, similar duly signed and stamped undertaking by CEO or person holding equivalent role or position and Compliance Officer of Manager to the AIF shall be submitted to SEBI on or before July 31, 2022.
  - Extension of tenure beyond two years.
  - Requirement of Compliance Officer for Managers of all AIFs.
    - All AIFs shall ensure that Manager to AIF designates an employee or director as Compliance Officer who shall be a person other CEO or person holding equivalent role or position.
    - The compliance officer shall be responsible for monitoring compliance with the provisions of the SEBI Act, AIF Regulations and circulars issued thereunder.

- SEBI has also issued the following formats of required disclosures and undertakings:
  - ANNEXURE - A: Format for undertaking to be submitted by CEO or person holding equivalent role or position and Compliance Officer of Manager to the AIF.
  - ANNEXURE – I: Details of disclosures in the placement memorandum with respect to compliance with provisions of AIF Regulations, as applicable, to the proposed LVF Scheme.
  - ANNEXURE – II: Information with respect to disclosures in the placement memorandum.

To read the Circular in detail, please click here.

JUDGEMENTS AND ORDERS

SEBI Order

1. In the matter of Mindtree Ltd. SEBI imposed a penalty of INR.1,00,000/- on the Notice

- SEBI received letter October 26, 2018 for Mindtree Ltd. (hereinafter referred to as "Company") informing on violation of regulation 7(2)(a) of the SEBI (Prohibition of Insider Trading) Regulations, 2015 (hereinafter referred to as the "PIT Regulations") by two (2) of its employees and also action taken by Company.

- In this regard, SEBI conducted separate investigation with regard to the transactions of promoters, directors and employees of the Company during the Investigation Period. It revealed that Mr. Nikhil Jain (hereinafter referred to as "Noticee") employee of the Company has done transactions in company scrip aggregating to a traded value in excess of INR.10,00,000 over a calendar quarter and filed to make necessary disclosure under regulation 7(2)(a) of the PIT Regulations. The Adjudicating Officer issued the Show Cause Notice ("SCN") and alleged that Noticee has traded in the securities which were in excess of the limit specified in Regulation 7(2)(a) of PIT Regulations and the necessary/ any disclosures was not made with regards to the aforesaid regulations.

- Adjudicating officer ("AO") considered the facts, circumstances and violation committed by the Noticee which was repetitive in nature, passed Adjudication order in respect of Noticee by imposing monetary penalty of INR.1,00,000/- (Indian Rupees One Lakh only) under Section 15A(b) of the SEBI Act upon Noticee for violations of regulation 7(2)(a) of the SEBI (Prohibition of Insider Trading) Regulations, 2015 (hereinafter referred to as the "PIT Regulations").

To read the Order in detail, please click here.

HIGH COURT

1. **Bombay High Court held that, the tax dues of petitioner because an inquiry/investigation was pending against petitioner and the amount of duty payable under GST Act was quantified.**

M/s. Anjali Services Private Limited	Petitioners
The Union of India	Respondent 1
Joint Director DGGI, Zonal unit, Mumbai	Respondent 2
The Commissioner GST & Central Excise	Respondent 3
The Designated Committee	Respondent 4

- M/s. Anjali Services Private Limited, being the petitioner in the present case, is a Company incorporated under the Companies Act, 1956, engaged in the providing services related to "Outdoor Catering Services and Cleaning Services" under section 65 (105) of the Finance Act, 1994. The entity was registered under Service Tax Rules, with the Central Excise Goods and Services Act, 2017 (CGST Act) and later registered itself under Goods and Services Tax Act (GST Act).

- Under section 174 of the CGST Act, summons was received by the Petitioner, by which Director of petitioner was summoned to appear in person and also tender evidence/documents mentioned therein because a case/inquiry about evasion of service tax was being conducted against petitioner. In pursuance of summons, petitioner's Director appeared before concerned officer and statement of Director was recorded. Petitioner also provided documents called for.

- Subsequently, petitioner received a letter from Joint Director DGGI, Zonal unit, Mumbai, being the respondent No.2 summoning petitioner's Director to attend to record his statement and also to submit certain documents. Once again, statement of Director of petitioner was recorded. Similar summons was received by petitioner and further statement was recorded and subsequently, the petitioner received a show cause-cum-demand as well.

- Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 (SVLDR Scheme), had been notified, before issuance of show cause notice and the scheme came into force on September 01, 2019. The scheme provides for who was an eligible person to make a declaration, what should be the tax dues, what are the reliefs available etc.

- The Court held that petitioner had accepted total service tax liability for the period under consideration and after initiation of inquiry also paid certain amounts but when the show cause-cum-demand notice was issued, amount had varied and petitioner's declaration was rejected on the ground of ineligibility since the final amount came to be quantified after October 30, 2019, i.e, on November 11, 2019 when the show cause-cum-demand notice was issued. Basis the facts in the case which were similar to the facts at hand, the Bombay High Court hereby hold that in petitioner's case there was tax dues of petitioner because an inquiry/investigation was pending against petitioner and the amount of duty payable under GST Act was quantified before June 30, 2019.

To read the Order 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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