THE CENTRE FOR CORPORATE LAW
NATIONAL LAW UNIVERSITY ODISHA

#IN SIGHTS

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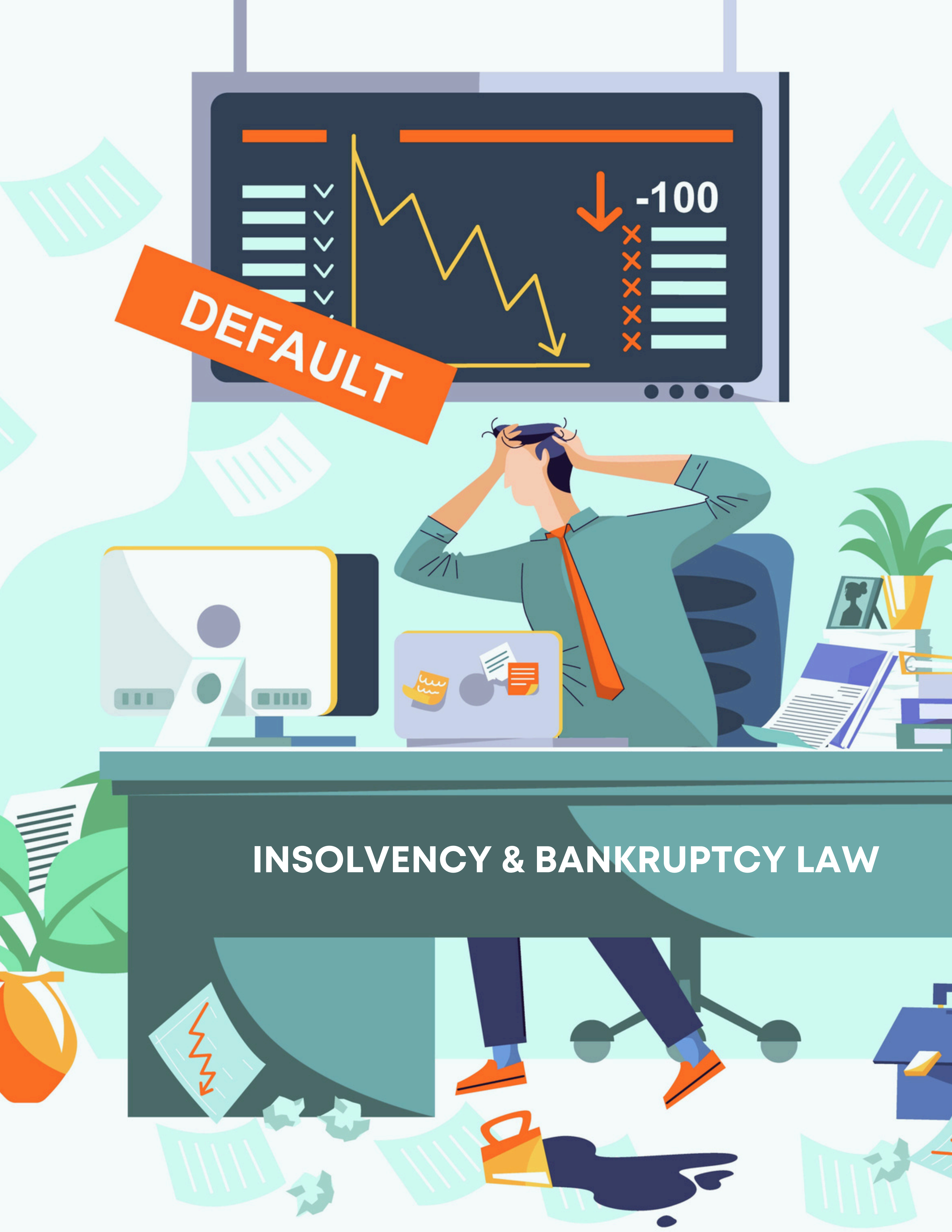


INSOLVENCY & BANKRUPTCY LAW

Insolvency and Bankruptcy Board of India ("IBBI") has notified the IBBI (Insolvency Resolution Process for Corporate Persons) (Amendment) Regulations, 2025 ("Amendment Regulations"). [Link]

IBBI has notified Amendment Regulations in order to streamline the Corporate Insolvency Resolution Process ("**CIRP**") while focusing on real estate projects. Key areas of change include handing over possession of apartments and buildings to homebuyers upon receiving approval from the Committee of Creditors ("**CoC**"). To streamline communication, facilitators can now be appointed between the authorised representatives and the creditors. Additionally, authorities such as New Okhla Industrial Development Authority and Haryana Urban Development Authority can also part take in meetings conducted by CoC.

Furthermore, CoCs also has the authority to introduce relaxations in eligibility criteria and performance security requirements to enable homebuyers to participate as resolution applicants. Monitoring committees also have to be formed in order to supervise the implementation of the resolution plan. Lastly, resolution professional has to divulge the registration status of a corporate debtor as a Micro, Small or Medium Enterprise ("**MSME**").

Proviso to Section 10A of Insolvency Bankruptcy Code 2016 ("IBC") does not prohibit CIRP Applications for defaults persisting: Madras High Court ("HC"). [*Dharamshi K.Patel Versus Indian Bank & Anr*] [Link]

The Madras HC in its recent judgement held that the proviso to Section 10-A of the IBCdoes not extend to cases where the default continues beyond the moratorium period. Section 10-A of IBC, 2016 was introduced during the COVID-19 pandemic to provide relief to the Corporate Debtors. Through a moratorium, this proviso places a temporary suspension of the initiation of the CIRP. The suspension would be applicable for any default which arises on or after March 25, 2020 for an initial period of six months, further extendable up to one year. However, if a default persists beyond that period, creditors retain the right to initiate insolvency proceedings.

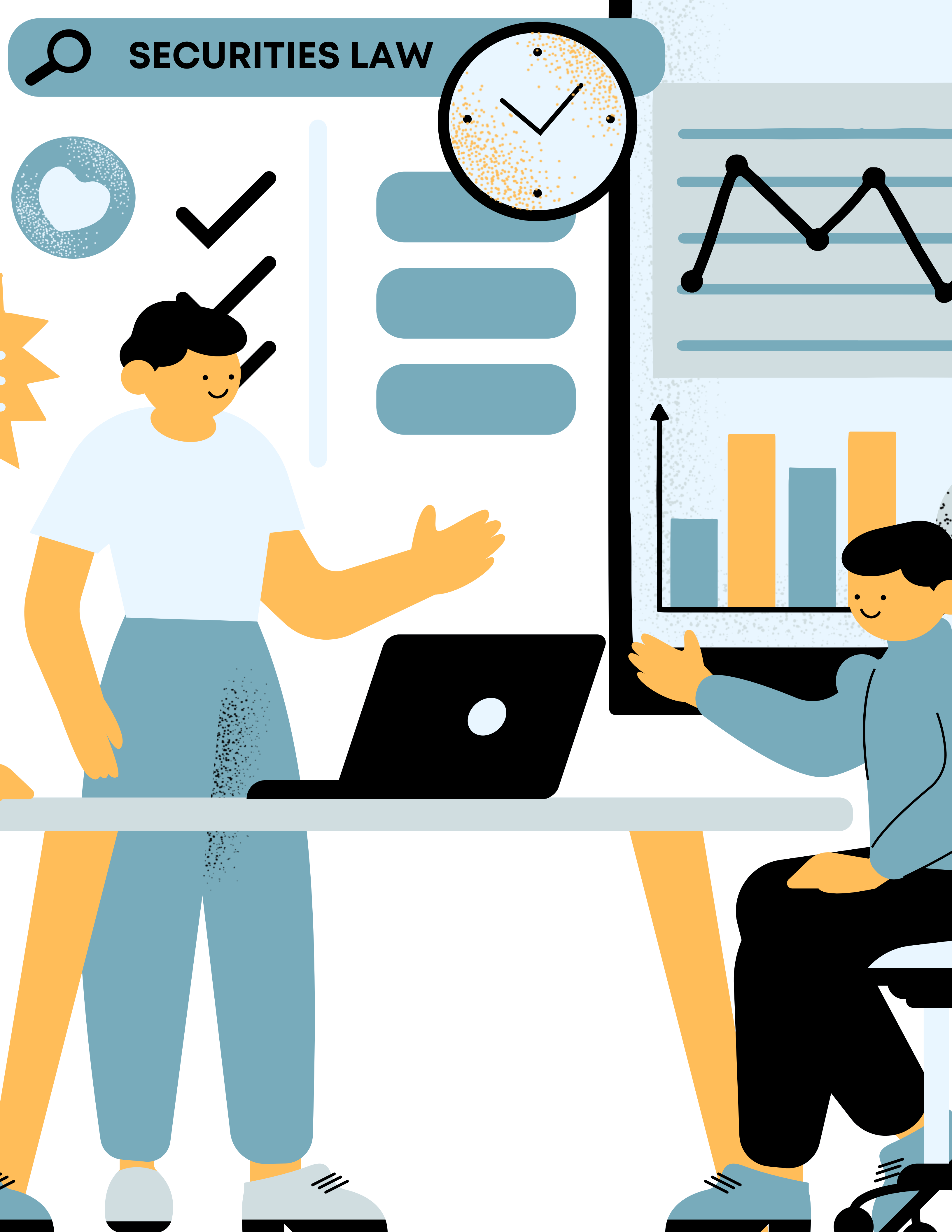
Gratuity dues of workers do not form part of 'Liquidation Estate' of corporate debtor and must be paid in full: Calcutta HC. [*M/s. Stesalit Limited Vs Union of India & Ors.*] [Link]

Calcutta HC recently held in a judgement that the gratuity dues do not form the part of the liquidation estate of the Corporate Debtor and are protected under the Payment of Gratuity Act, 1972. Relying on the precedent set by National Company Law Appellate Tribunal ("**NCLAT**") in *SBI v. Moser Baer Karamchari Union*, Court reiterated that these payments lie outside the waterfall mechanism under Section 53 of the IBC and must always be paid in full. Additionally, Section 14 of the Payment of Gratuity Act,1972 has an overriding effect and ensures that employees' statutory rights are upheld even in insolvency proceedings. Hence, the directive for full payment of the employee's gratuity dues was upheld.

A bankrupt individual cannot seek discharge under Section 138(1) of IBC: National Company Law Tribunal ("NCLT"), New Delhi`. [*Mr. Anil Syal Versus Mr. Ajay Gupta & Anr.*] [Link]

The NCLT, New Delhi ruled that as per Section 138(1) of the IBC, 2016, it is the Bankrupt Trustee, the person who is appointed to manage the bankrupt person estate, who should apply for the discharge of the Bankrupt before the Adjudicating Authority. The Tribunal further stated that only the Trustee has the locus standi to file for discharge.

It was also submitted before the Tribunal that by the virtue of Section 138(1)(a) of IBC, 2016 an automatic discharge occurs after one year. NCLT stated that in order for the discharge to occur, the Trustee had to file a formal application for the same.


SECURITIES LAW

Securities and Exchange Board of India ("SEBI") unveils a regulatory framework for Specialized Investment Funds ("SIFs"). [Link]

SEBI has introduced a regulatory framework for SIFs, a new asset class introduced to bridge the gap between Mutual Funds ("**MFs**") and Portfolio Management Services. The structure of SIFs, as a pooled investment vehicle managed by an Asset Management Company ("**AMC**"), is similar to MFs, but SIFs offer greater flexibility in investment strategies

An AMC can launch a SIF either through the Sound Track Route, requiring at least three years of operations and an average Asset Under Management ("**AUM**") of Rs.10,000 crore over the past three years, or through the Alternate Route, by appointing a fund manager with significant AUM management experience.

The minimum investment for SIF is set at Rs.10 lakh, with investments options spanning equity, debt, hybrid securities, and long-short strategies. SIFs can also allocate up to 25% of net assets to exchange-traded derivatives for purposes beyond hedging and portfolio rebalancing.

SEBI sets a thirty-day deadline for deployment of funds collected by AMC in a New Offer Letter ("NFO"). [Link]

To prevent the overcollection of funds by AMCs and ensure timely deployment of the funds collected, SEBI has mandated that funds collected in an NFO must be deployed within thirty days of allotment. Furthermore, the AMC must specify achievable deployment timelines in the Scheme Information Document of a new offering. If the AMC fails to comply with the deadline, the Investment Committee may extend it by thirty more days after reviewing the reason for the delay. Non-compliance will result in restrictions on fresh inflows and a waiver of exit loads for investors exiting after sixty business days.

SEBI has issued rules for the participation of retail investors in algorithmic trading ("algo trading"). [Link]

In a bid to democratize algo trading, which is currently dominated by institutional investors, SEBI has framed rules to ensure the safer participation of retail investors in algo trading. Algo trading allows investors to automatically execute trades based on pre-programmed orders.

The new guidelines require stockbrokers, algo trading providers, and stock exchanges to strengthen their risk management measures to address the risks of market manipulation and excessive volatility. Retail investors can now access algos approved by registered stock exchanges through stockbrokers.

Furthermore, brokers will be responsible for addressing investor grievances. Brokers must also ensure that the Application Programming Interface —the bridge that allows trading platforms to communicate with brokers or exchanges is not misused for prohibited activities.

SEBI proposes reforms in equity derivatives segment. [Link]

To enhance trade convenience and strengthen risk monitoring, SEBI is considering several measures in the Futures & Options ("**F&O**") market. Key proposals include intraday snapshots of F&O Open Interest to provide real-time risk assessment, revised exposure limits for MFs and Alternative Investment Funds ("**AIFs**") in derivatives, and new position limits for index derivatives.

Additionally, SEBI has proposed new eligibility criteria for non-benchmark indices, requiring a minimum of fourteen constituents, with the top stock's weight capped at 20% and the combined weight of the top three stocks limited to 45%. This aims to ensure broader market representation and prevent excessive concentration. Furthermore, SEBI has proposed extending pre-open and post-closing sessions to stock and index futures, similar to the cash market.

SEBI proposes to allow Category II AIFs to invest in listed debt securities. [Link]

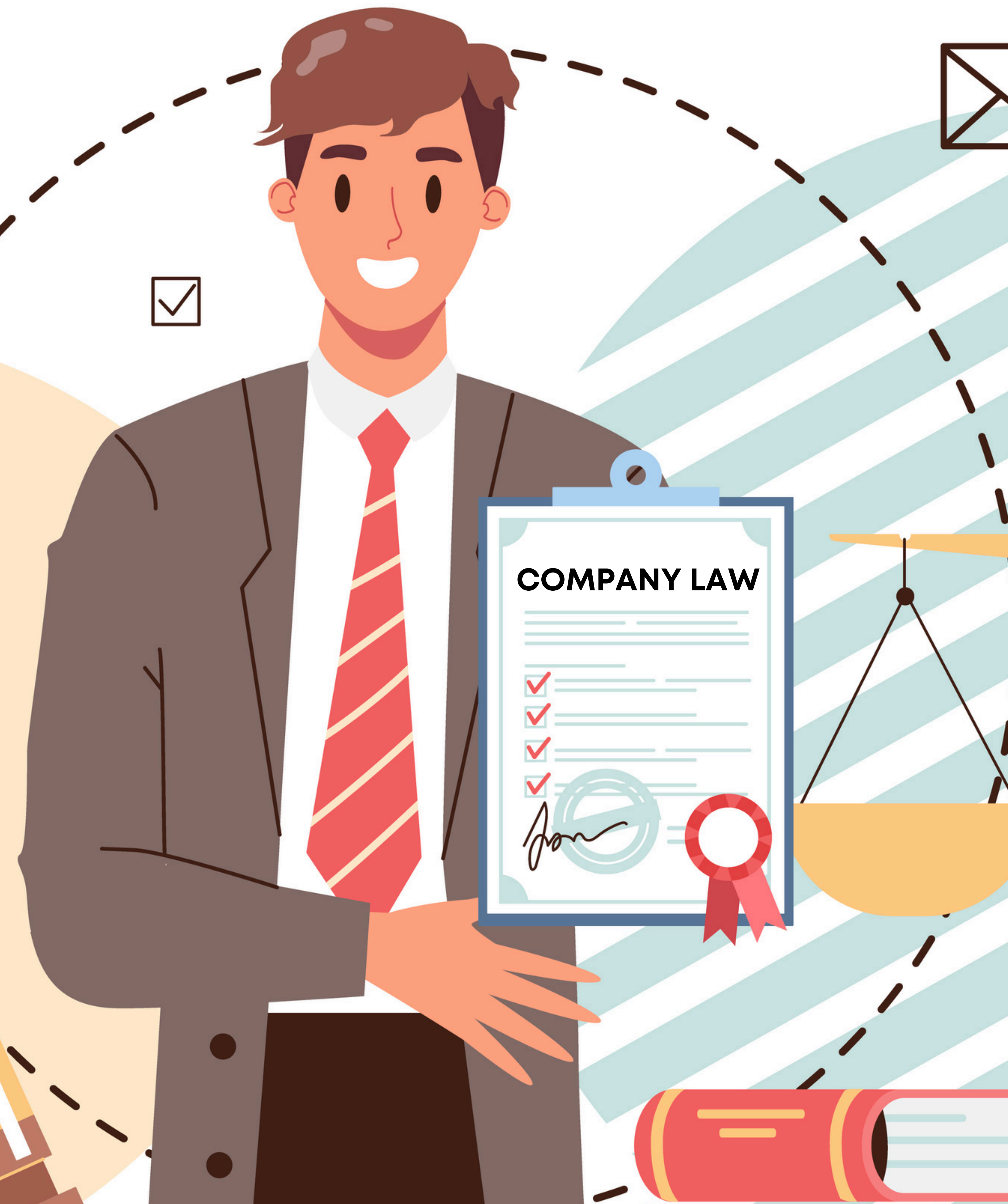
To provide investment flexibility to Category II AIFs, SEBI is considering allowing them to invest up to 100% in certain listed debt securities. Currently, Category II AIFs must invest more than 50% of their funds in unlisted securities. This change is driven by Regulation 62A of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, which mandated the listing of unlisted debt securities issued by listed entities, leading to a shrinkage in investment opportunities for Category II AIFs. To balance investment opportunities while ensuring AIFs bear some credit risk, SEBI is considering permitting investments of up to 100% in listed debt securities rated 'A' or below.

SEBI has proposed key changes to the Related Party Transactions ("RPT") framework.[Link]

SEBI has proposed key changes to the RPT framework, specifically for transactions where the listed entity is not a direct party. Subsidiaries must seek audit committee approval if the transaction exceeds Rs. 1,000 crore or 10% of standalone turnover. For SME-listed subsidiaries, the threshold is Rs. 50 crore or 10% of turnover. If a subsidiary lacks a financial track record, approval is required for transactions above Rs. 1,000 crore or 10% of net worth, certified within the last three months. Additionally, SEBI has introduced stricter disclosure requirements for the appointment and reappointment of secretarial and statutory auditors.

SEBI has proposed to expand the definition of Qualified Institutional Buyer ("QIB") to include Accredited Investors ("AI") for Angel Funds. [Link]

To attract more investment in start-ups, SEBI has proposed expanding the definition of QIBs to include AIFs, as defined under the SEBI (AIF) Regulations, 2012, but only for investments in Angel Funds. Additionally, SEBI is considering scrapping the existing 200-investor cap on individual Angel Funds. Currently, under the Companies Act, 2013, private placements are limited to a maximum of 200 investors excluding QIBs. Removing the cap would allow Angel Funds to onboard more investors, increasing capital inflow into start-ups.


COMPANY LAW

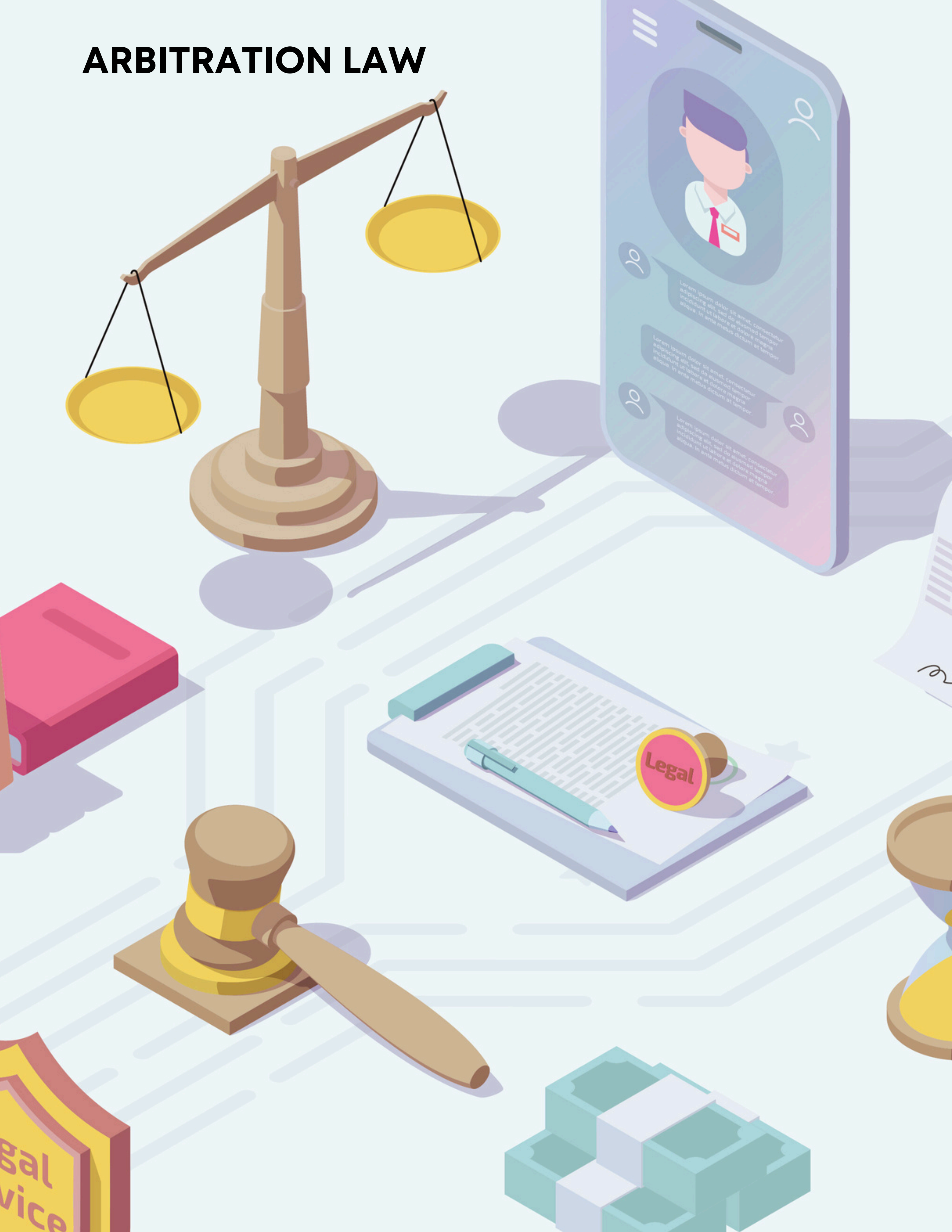
The Ministry of Corporate Affairs ("MCA") extends dematerialisation deadline for private companies. [Link]

MCA has extended the deadline for private companies, excluding producer companies, to comply with the dematerialisation requirements to from September 30, 2024 to June 30, 2025. Dematerialisation means conversion of physical securities into digital format.

In October 2023, the MCA mandated private companies (excluding small companies) to dematerialise existing securities and issue new ones only in digital form under Rule 9B of the Companies (Prospectus and Allotment of Securities) Rules, 2014.

The extension was granted because National Securities Depository Limited and the Central Depository Services Limited were overwhelmed with requests for the same, causing International Security Identification Number ("**ISIN**") allotment to take approximately thirty to forty-five days after document completion and fee payment. The amendment requires private companies to apply to registered depositories and obtain an ISIN for each category of security.

ARBITRATION LAW



The Andhra Pradesh HC held that an independent arbitrator can only be appointed if the ineligibility of the named arbitrator is proved. [*M/s. Kranthi Grand DKNV Hospitalities and anr v. M/s. Manasa Estates and Hospitality Pvt. Ltd. and 2 others*] [Link]

In a single judge bench ruling, the Court held that a request for appointment of an independent arbitrator instead of the arbitrator specified in the contract cannot be entertained unless there is evidence of bias or partiality. It was emphasised that referring disputes to the named arbitrator should be a general rule.

Furthermore, the Court relied on Supreme Court ("**SC**") judgements precedents to affirm that the parties must adhere to the prescribed appointment procedure when invoking an arbitration clause under the agreement. Hence, the Court, while dismissing the case, noted that the applicant had failed to present any material proof suggesting the named arbitrator would act unfairly.

The Andhra Pradesh HC ruled that the limitation period begins after the date of non-compliance with the arbitration notice requirements. [*Alliance Enterprises v. Andhra Pradesh State Fiber Net Limited (APSFL)*] [Link]

The Court held that the limitation period for filing an application for the appointment of an arbitrator under Section 11(6) of the Arbitration and Conciliation Act, 1996 ("**A&C Act**") starts after one party has issued the notice for the appointment of the arbitrator and the opposing party fails or refuses such appointment under the terms of the agreement.

The Court relied on the position of the SC that the period of limitation for seeking the appointment of arbitrator is different from raising substantive claims. Hence, the application was allowed as it was within the period of limitation as per Section 137 of the Limitation Act, 1963.

The Gujarat HC held that the plea that the limitation period did not commence due to the non-receipt of the signed copy of the award cannot be raised in the first appeal. [*National Highways Authority of India v. Kishorbhai Valjibhai Jethani & ors.*] [Link]

The two-judge bench ruled that a party cannot, for the first time raise the plea in an appeal under Section 37 of the A&C Act, that the limitation period under Section 34 of the A&C Act had not commenced due to non-receipt of a signed copy of the award.

A combined reading of Sections 31(5) and 34(3) of the A&C Act establishes that the limitation period starts from the date the signed copy is delivered to the party seeking to challenge the award. However, the Court observed that such a plea was not raised before the civil Court under Section 34. If the applicant was aware that Section 31(5) had not been complied with, he should have raised the issue earlier.

The Bombay HC ruled that the Court supervising the designated venue has jurisdiction under Section 11 of the A&C Act. [*Keller Ground Engineering India Private Limited v. Archon Powerinfra India Pvt. Ltd. & Ors.*]. [Link]

The single judge bench held that the power to entertain an application under Section 11 of the A&C Act lies with the Court supervising the designated venue in the agreement, unless there is a clear indication that there is another seat of arbitration. Section 11 must be interpreted in conjunction with Section 2(1)(e) of the A&C Act, ensuring that the application is submitted before the HC with supervisory jurisdiction over the relevant Court.

It further concluded that each arbitration agreement holds Mumbai as the venue, and no other Court had been approached for relief in this case. Moreover, the validity of the executed document is a matter for the Arbitrator to decide, not the Court under Section 11. Hence, in the absence of any indication to the contrary, the designated venue becomes the seat of arbitration.

The SC ruled that an oral agreement establishing joint and several liability falls within the scope of an arbitration clause. [*AC Chokshi Share Broker Pvt. Ltd. v. Jatin Pratap Desai & Anr*]. [Link]

The Court upheld an arbitral award against a husband, holding him jointly liable for a debit balance in a joint demat account registered in his wife's name. The arbitration clause is considered to extend to non-signatories, and the husband's active participation in transactions within his wife's account created an implied oral agreement binding both spouses to joint liability.

The Court also noted that while both respondents were not members or clients, they had entered into separate client registration agreements, resulting in individual client codes and accounts. The decision of the HC was overturned, and the "hyper-technical" reasoning adopted was criticised. The husband's involvement in trading from his wife's account made him a de facto party to the agreement.

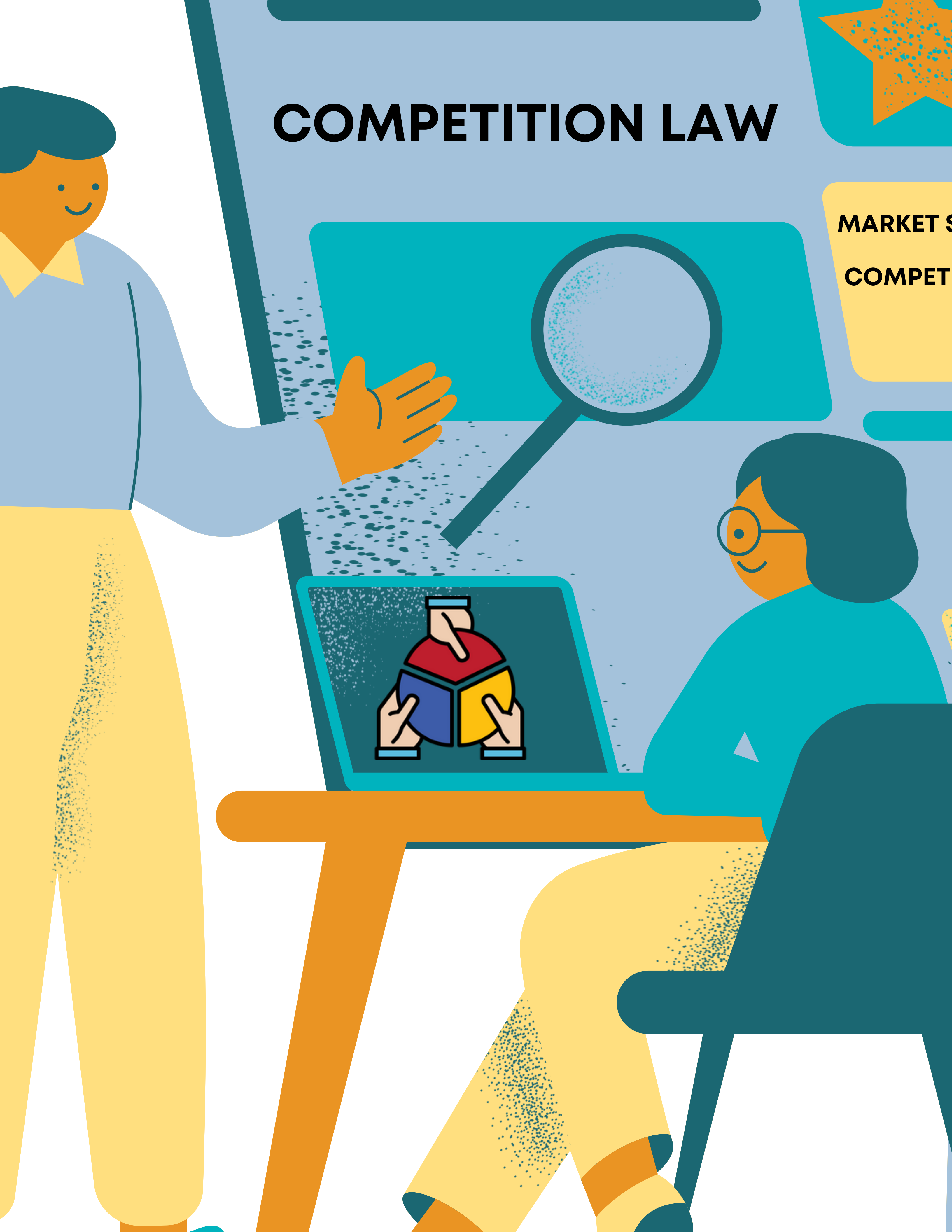
Constitution Bench of the SC commenced hearings on whether Courts have the authority to modify an arbitral award under Sections 34 and 37 of the A&C Act. [*Gayatri Balasamy v. M/S ISG Novasoft Technologies Ltd*]. [Link]

The five-judge bench, headed by the Chief Justice of India, will primarily focus on three key issues, namely (i) the definition of the term 'modification', (ii) whether partial modification is permissible and, if so, the scope of such modification and (iii) the extent to which an award can be severed.

The Solicitor General argued that Courts do not have the power to modify an award under Section 34 of the A&C Act; they can only set it aside relying on United Nations Commission on International Trade Law Model Law ("**UNCITRAL**"), which limits judicial intervention in arbitration.

Petitioners contended that India's arbitration law incorrectly adopted UNCITRAL's Article 34, which was designed for international disputes. Unlike other countries that tailored their arbitration laws to suit domestic needs, India directly incorporated Article 34 into Section 34. Hence, Courts should be empowered to modify awards in cases where the award is clearly erroneous.

The current hearing follows the conflicting judgements on the issue wherein in some past rulings, it has been held that the Court lacks modification power, while in others, such modifications are permitted.


COMPETITION LAW
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Competition Commission of India ("CCI") proposes new Draft CCI (Determination of Cost of Production) Regulations, 2025 ("DCP Regulations") set to revamp Predatory Pricing Rules. [Link]

CCI has proposed a DCP Regulations, on determining the cost of production of products in the economy. The draft aligns with amendments under the Competition (Amendment) Act, 2023 to modernize the competition laws in line with global best practices. The new regulations aim to refine the approach to calculating production costs in predatory pricing cases, establishing a clear cost benchmark for evaluation and enforcement under Section 4 of the Competition Act, 2002. This draft will replace the CCI (Determination of Cost of Production) Regulations, 2009.

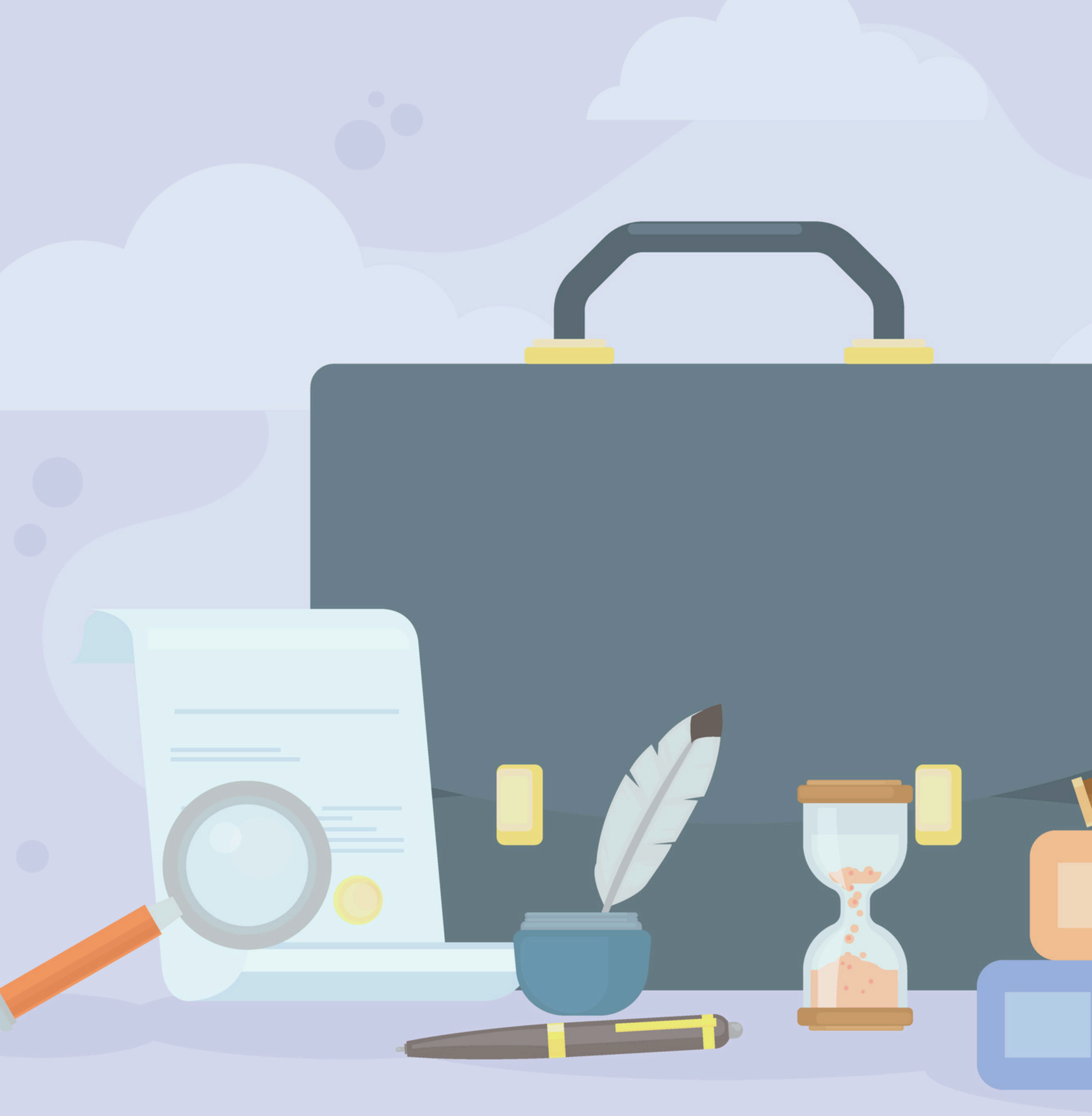
A major change that has been done in the draft regarding determining the cost has been is the replacement of "Market Value" with "Average Variable Cost" as a proxy for marginal cost. However, exception lies where, in specific cases, CCI might consider any other relevant cost concept such as average total cost, average avoidable cost, or long run average incremental cost.

CCI notifies CCI (Manner of Recovery of Monetary Penalty) Regulations, 2025 ("MRP Regulations") for better governance. [Link]

The CCI has notified MRP Regulations to improve procedural clarity and effectiveness of the regulation.The regulation will look after the recovery of the penalties from the offenders who are charged under section 27 of the Competition Act, 2002 for indulging in anti-competitive practices. The updated regulations contain procedures for issuing demand notices and recovery certificates, provisions for prompt payment, and methods to remedy defaults.

The amendments made key changes such as demand notices now to have a time limit of not less than sixty days within which penalty need to be paid, if simultaneous proceedings are started by CCI & income-tax authority then the proceedings of CCI will be kept on hold, The regulator now has the option to extend the time for payment of penalties or enable payment by instalments, provided the concerned entity submits an application before the due date.

MISCELLANEOUS



Union Minister for Finance and Corporate Affairs presented the Union Budget 2025-2026. [Link]

Finance Minister Smt. Nirmala Sitharaman presented Union Budget 2025-2026 in the parliament on 1st February, 2025. Some of the key highlights of the budget are mentioned below:

The government has planned to raise the Foreign Direct Investment ("**FDI**") cap for insurance companies from 74% to 100%, subject to the condition that foreign companies reinvest their entire premium income within India. This is significant step ahead, building on the previous increase from 49% to 74% introduced through Finance Act, 2021.

The government has proposed a revised definition of Virtual Digital Assets ("**VDA**") under Section 2(47A) of the Income Tax Act, 1961 ("**IT Act**"). This proposed amendment introduces a new sub-clause (d) under Section 2(47A), which makes the definition of VDA more specific to cover "crypto assets based on distributed ledger/blockchain technology for transaction validation." The amendment will be effective from 1st April, 2026.

The definition of "Capital Asset" is proposed to be amended to resolve the ambiguity regarding the tax treatment of income generated by Category I and Category II AIFs from securities transactions. An amendment to Section 2(14) of the IT Act clarifies that securities held by specified Category I and II AIFs will be deemed capital assets. Subsequently, income arising from the transfer of these securities will be taxable exclusively under the head "capital gains" instead of business income.

Under the existing framework, Sections 92CA and 92C of the IT Act govern the computation of Arm's Length Price ("**ALP**") for international and specified domestic transactions. Currently, each year requires a separate benchmarking exercise, which increases the administrative inefficiencies for Transfer Pricing Officers ("**TPOs**"). The government has proposed a block assessment approach where the ALP determined for one year applies to the next two consecutive years, reducing the burden of TPOs and simplifying the tax compliance procedure for the taxpayers. Taxpayers opting for this simplified approach must notify the authorities in a prescribed format and within a stipulated timeframe.

Further, the budget has revised the classification criteria for Micro, Small, and Medium Enterprises, increasing the investment limit by 2.5 times and doubling turnover thresholds. Micro enterprises can now invest up to Rs. 2.5 crore and generate Rs. 10 crores in annual turnover, enabling expansion without immediate reclassification. The cap for small enterprises has been raised to Rs. 25 crore and the turnover limit to Rs. 100 crores. Whereas, medium enterprises can now invest up to Rs. 125 crore and achieve Rs. 500 crores in turnover.

Finance Minister introduced new Income Tax Bill, 2025 ("IT Bill") in the parliament. [Link]

The Union Finance Minister introduced the new IT Bill in the parliament on 1st February 2025, which was approved by the cabinet on 7th February 2025. The IT Bill simplifies tax regulations by substituting the term "previous year" with "tax year" and eliminating the concept of "assessment year." The aim is to streamline tax laws, for which it has reduced the number of sections by 25-30% and used simplified language for better understanding.

Key updates include the introduction of the term "virtual digital space" in clauses related to search and seizure. Further, Clauses 11 to 154 consolidate various deductions and introduce new provisions to support startups, digital businesses and renewable energy investments. It also revises the interpretation of tax treaty terms, modifies taxability rules for royalty payments between non-residents and expands eligibility for lower Tax withholding /Tax collected at source applications.

Reserve Bank of India ("RBI") revised Master Directions on Foreign Investment in India. [Link]

RBI introduced new regulations permitting Foreign-Owned or Controlled Companies to acquire stakes in Indian businesses through stock swaps, eliminating the need for specific regulatory approvals or cash-only transactions. The RBI has also clarified that Compulsorily Convertible Debentures and preference shares issued to foreign investors can now have their tenor modified, allowing flexibility in share conversion under Foreign Exchange Management Act, 1999.

Further, RBI has also addressed regulatory hurdles for Non-Banking Financial Companies ("**NBFCs**"), allowing inward remittances to meet minimum net owned fund requirements with the option of repatriation if the license is denied.

The SC clarifies that "director in charge of a company" and "director responsible to the company" represent distinct roles. [Link]

The SC clarified that under Section 141(1) of the Negotiable Instruments Act, 1881, for an offence regarding cheque dishonour by a company, it should be shown that the accused was both in charge of and responsible for the conduct of the company's business. The Court differentiated between a director in charge of the company and a director responsible for its business operations, observing that both criteria should be met for liability to arise. A complaint must explicitly allege both to hold a director vicariously liable.

RBI issues draft circular on Levy of Foreclosure Charges and Pre-payment Penalties on Loans. [Link]

RBI has proposed new guidelines to eliminate foreclosure charges and pre-payment penalties on floating rate loans for MSMEs and individuals, including business loans. These regulations, issued on February 21,2025, aim to address inconsistencies in how lenders impose charges, ensuring greater transparency and borrower flexibility.

The key provisions include waiving foreclosure charges on eligible floating rate loans irrespective of funding source, exempting MSMEs loans from penalties up to Rs. 7.5 crore. However, this exemption is not available to Tier I & II Urban Co-Operative Banks and Base Layer NBFCs.

Additionally, there will be no minimum lock-in period, no retrospective charges and no penalties when the foreclosure is initiated by the lender. Lenders must disclose all charges in the Key Fact Statement. The Circular also mandates board-approved policies for cases where charges are permitted.

The International Financial Services Centres Authority ("IFSCA") has notified the International Financial Services Authority (Fund Management) Regulations, 2025 ("Fund Regulations"). [Link]

IFSCA issued the Fund Regulations, 2025 on 10th February, 2025, repealing Fund regulations issued in 2022. According to the new regulations entities must now register under three categories, Authorized Fund Management Entity ("**FME**"); Registered FME (Non-Retail); Registered FME (Retail), each with distinct investment and operational criteria. Further, registration requires a proven track record of integrity, appointment of a Principal Officer, and adherence to governance standards. Notifying IFSCA of any material changes, and category changes is a must for obtaining approval.

Additionally, the regulation outlines specific schemes, such as Venture Capital Schemes (limited to 50 investors, USD 250,000 minimum investment), Restricted Schemes (up to 1000 investors, USD 150,000 minimum investment), Retail Schemes (minimum 20 investors, no single investor exceeding 25%), and Special Situation Funds (close-ended with a tenure of at least three years).

The Governor of Kerela approves Karnatak's Micro Loan and Small Loan (Prevention of Coercive Actions) Ordinance, 2025. [Link]

On February 12, 2025 the Karnataka Micro Loan and Small Loan (Prevention of Coercive Actions) Ordinance, 2025, came into effect. The ordinance is not applicable to banks and NBFCs registered with RBI. It mandates registration for microfinance institutions, lenders and agencies with district authorities by March 14, 2025. The registration must include details on operational areas, interest rate and recovery methods.

Further the ordinance prohibits coercive recovery practices, prescribing punishment of up to ten years imprisonment and a fine of Rs. 5 lakh. Loans issued by unregistered lenders before the Ordinance's implementation are considered null for vulnerable groups such as farmers, women, and self-help groups. Civil Courts are prohibited from handling recovery cases of such loans. Additional provisions empower the Registering Authority and establish an Ombudsperson to mediate disputes.

Delhi HC observes that "Fee for technical Servies" ("FTS") entails transfer of specialized or distinctive knowledge of skill by service provider. [Link]

The HC clarified that FTS under Section 9(1)(vii) of the IT Act, is applicable only to services including the transfer of "distinctive" or "specified" skill, knowledge or expertise with the service provider. The Court held that guiding clients through publicly available customs rules across jurisdictions does not qualify as FTS, as such knowledge is neither specialized nor propriety.

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Contributors	*Contact Us*
Gauri Dudeja Samriddhi Mishra Shivam Gupta Soumya Dubey Surbhi Goyal Utsav Biswas	