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Editor's Letter

Dear Readers,

April 2025 witnessed multitude of regulatory developments from RBI and SEBI besides important judicial pronouncements spanned over various fields such as Insolvency and Bankruptcy, Contracts, arbitration. Many of those, which may interest our readers, have been covered in this edition.

RBI with eye on enhancing ease of doing business and bringing all instructions onto a single document(s) is consolidating all instructions related to Interest Rate on Deposits, Export and Import of Goods and Services. RBI has also withdrawn 20 circulars dating from 1972 to 2002, covering various operational aspects which are no longer needed.

Similarly, SEBI has amended its Master Circular for Infrastructure Investment Trusts as well as Real Estate Investment Trusts, which amendments relate to lock-in provisions and inter-se transfers thereof among sponsors and their group entities under specified conditions. To ensure that the compliance aspect of a listed entity is entrusted to and looked after by a reasonably senior official, SEBI has clarified that a Compliance Officer of a listed entity must be one level below the Managing Director or Whole-time Director, or CEO or equivalent. Sensing that the market intermediaries are not ready, SEBI has extended the timelines of implementation standards under "Safer participation of retail investors in Algorithmic trading" till 1st May 2025 and has also relaxed the deadline to adopt and implement the Cybersecurity and Cyber Resilience Framework till June 30, 2025. To ensure verifiability of all documents issued by SEBI, the Document Number Verification System (SEBI-DNVS) has been launched as per which any physical communication such as letters, notices, show cause notices and summons issued by SEBI shall bear an Outward Number, can now be verified through one-time password.

On judicial front, in the realm of Arbitration, it has been held that eviction of tenants governed by Rent Control Act can be made by jurisdictional forums under the Rent Control Act only and not u/s 9 of Arbitration and Conciliation Act. The Delhi High Court has held where the arbitration agreement does not specify a seat or venue, jurisdiction must be assessed in line with Section 2(1)(e) of the Arbitration and Conciliation Act, 1996.

Insolvency and Bankruptcy Code, 2016 (IBC) is not intended to be used as a mechanism for debt recovery but rather as a process for resolution of the Corporate Debtor. Acceptance of substantial OTS ('one-time settlement') payments while simultaneously pursuing Corporate Insolvency Resolution Process proceedings is no longer possible as it makes IBC a 'recovery mechanism" which goes against the very spirit and purpose of the IBC. The judgment that moratorium under IBC cannot be invoked to stall prosecution in cheque bounce cases will go a long way and will surly help building trust of public in the banking system of the country as it was seen that many borrowers have taken refuse of insolvency proceedings mainly to frustrate the criminal prosecution.

The current feature also pens downs an article emphasizing scope of judicial power u/s 34 of the Arbitration Act to modify arbitral awards, owing to a current verdict of the Supreme Court which promises to be a watershed moment for arbitration law in India as of now settling a long-standing ambiguity and decisively shaping the contours of judicial involvement in arbitration.

This newsletter also features updates about the firm, articles authored by our lawyers published in reputed publications, and recent recognitions received.

I hope you find this edition insightful.

Warm regards,

Navneet Gupta

Mr. Navneet Gupta

Partner

SNG & Partners

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A ARTICLE - "EXAMINING THE LIMITS OF JUDICIAL POWER TO MODIFY AN ARBITRAL AWARD "

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Indian arbitration law has undergone significant change since the enactment of the Arbitration and Conciliation Act, 1996 ("**the Act**") as amended from time to time. The focus of this article is on Section 34[1] of the Act, which deals with setting aside the arbitral award. A relevant legal question is whether, under Section 34, courts have the judicial power to modify arbitral awards. Traditionally, courts have been seen as having no power to modify awards and being limited to either upholding, setting them aside, or even partially setting them aside. However, the evolving jurisprudence, driven by significant Supreme Court and High Court decisions, invites a nuanced reconsideration of the legislative intent.

INTRODUCTION

Arbitration is designed as a less formal, more efficient alternative to litigation, providing parties a streamlined dispute resolution mechanism that reduces procedural delays while providing greater autonomy over the proceedings. The Act is inspired by the UNCITRAL Model Law on International Commercial Arbitration,1985, which seeks to minimize judicial interference in arbitral processes[2], envisioning the same under section 5[3] of the Act. Section 34 embodies this legislative objective by providing narrow grounds for judicial intervention in an arbitral award, by outlining the conditions under which a party can seek to set aside the arbitral award by way of an application. However, this provision does not explicitly allow modification of an arbitral award. The absence of statutory

[1] Section 34- Application for setting aside arbitral award- The Arbitration and Conciliation Act, 1996
[2] Article 5- Extent of court intervention - UNCITRAL Model Law on International Commercial Arbitration 1985
[3]Section 5- Extent of judicial intervention

language on the modification of an arbitral award has led to considerable debate in recent times.

STATUTORY POSITION

The Section 34[4] of the Act permits parties to make an application challenging an arbitral award only on limited grounds such as incapacity of a party, invalidity of the arbitration agreement, lack of proper notice, excess of jurisdiction, procedural irregularities, or conflict with the public policy of India. However, legislative intent in Section 34(2)(a)(iv) adopts a nuanced approach through a vital proviso:

> *"Provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, only that part of the arbitral award which contains decisions on matters not submitted to arbitration may be set aside."*

This proviso ensures that the principle of severability is preserved. For example, if the portion of the award that is within the scope of the submissions to arbitration is distinct and unaffected by the part that is beyond the scope, then courts are obliged to uphold the valid portion. This proviso balances judicial powers with respect for arbitral autonomy, preventing the court from setting aside the entire award because it contains one separable defect. It underscores the legislative intent for upholding arbitral awards wherever possible, in alignment with the preamble of the Act. The Act does not specifically empower courts to modify an award, but the court may only set it aside, in whole or in part. In contrast, Section 33[5] provides a limited opportunity for parties to request the arbitral tribunal itself, only to the extent of correcting any clerical or computational errors or clarifying any specific parts of the arbitral award. This ensures that minor technical issues do not become grounds for unnecessary court intervention.

[4] Supra
[5] Section 33 - Correction and interpretation of award; additional award

Together, Sections 33 and 34 restrict the role of courts to exceptional cases only.

Historical Context and Early Jurisprudence

In contrast to the above, under the Arbitration Act, 1940, Courts were explicitly empowered to modify an arbitral award as per Sections 15 and 16 of the Arbitration Act 1940. This provision of the erstwhile 1940 Act granted broader powers to the court, providing ample scope for judicial interference with the arbitral award. However, with the enactment of the 1996 Act, which is based on the UNCITRAL Model Law on International Commercial Arbitration, 1985, a complete departure from this model was undertaken by the legislature and the legislature intentionally omitted any provision akin to Sections 15 and 16 of the 1940 Act. This omission limits the court's interference and promotes finality to the arbitral award and party autonomy in arbitral proceedings. The Act thereby embodies a minimalist judicial role, allowing courts only to set aside awards on narrow grounds, and not to modify the arbitral award.

Judicial Interpretation

In *McDermott International Incorporated v. Burn Standard Company Limited*[6] the Hon'ble Supreme Court held that the act limits the judicial intervention to only a supervisory role, permitting courts to interfere with arbitral awards only on narrow grounds such as fraud, bias, or violations of natural justice. It emphasized that courts are not empowered to correct errors made by arbitrators. At most, they may set aside the award, leaving parties free to reinitiate arbitration if they so choose. Further the Court held that interference may arise only when the award: (i) violates contractual terms rendering the dispute non-arbitrable; (ii) offends public policy; (iii) contravenes substantive Indian law; (iv) is perverse on evidence; (v) decides issues never in dispute; or (vi) contains internal contradictions. It

[6] (2006) 11 SCC 181

also clarified that while the Act does not refer to "partial awards", such awards may still be valid if they conclusively resolve specific matters, functioning as final awards on those issues at an interim stage under Section 31(6)[7] of the act.

In *MMTC Ltd. Vs Vedanta Ltd*.[8] the Hon'ble Supreme Court held that courts do not sit in appeal over arbitral awards and may interfere only on limited grounds. Specifically, interference on merits is permissible only if the award is found to be in conflict with the public policy of India, as provided under Section 34(2)(b)(ii) of the Act. However, when one of the grounds is established, the Court clarified that its role is not to reassess the merits of the dispute or undertake a reappreciation of evidence. Interference is limited to only when the findings of the arbitrator are shown to be arbitrary, capricious, perverse, or such that they shock the conscience of the Court. If the arbitrator's view is a possible or plausible one based on the facts on record, the Court must not intervene.

Definitive Ruling in NHAI v. M. Hakeem

The question of whether courts can modify arbitral awards was conclusively settled in *National Highways Authority of India v. M. Hakeem*[9]. In this case, the Hon'ble Supreme Court was asked to examine the correctness of a High Court's decision to modify compensation amounts awarded by an arbitral tribunal. The Court held that interpreting Section 34 of the Act to include the power to modify an arbitral award would be going beyond the boundaries set by the Legislature as the Parliament clearly did not intend to permit modification of arbitral awards.

The Case for Reform: Arguments in Favour of Limited Modification Powers

[7] Section 34- Application for setting aside arbitral award.
[8] (2019) 4 SCC 163
[9] (2021) 9 SCC 1

Despite the legal clarity post-Hakeem, practitioners and academics argue that some scope for modification should exist. For instance, if only a small severable portion of the award is found invalid, then setting aside the entire award may lead to delays, increased costs, and redundancy.

Even in countries like England, under the English Arbitration Act, 1996, the court has the power to vary the award. Courts in Singapore under the Singapore Arbitration Act, 2001 have the power to vary the award. Keeping the above global scenario in mind a limited modification in specific areas should be allowed, as India may benefit from a similar approach.

CONCLUSION

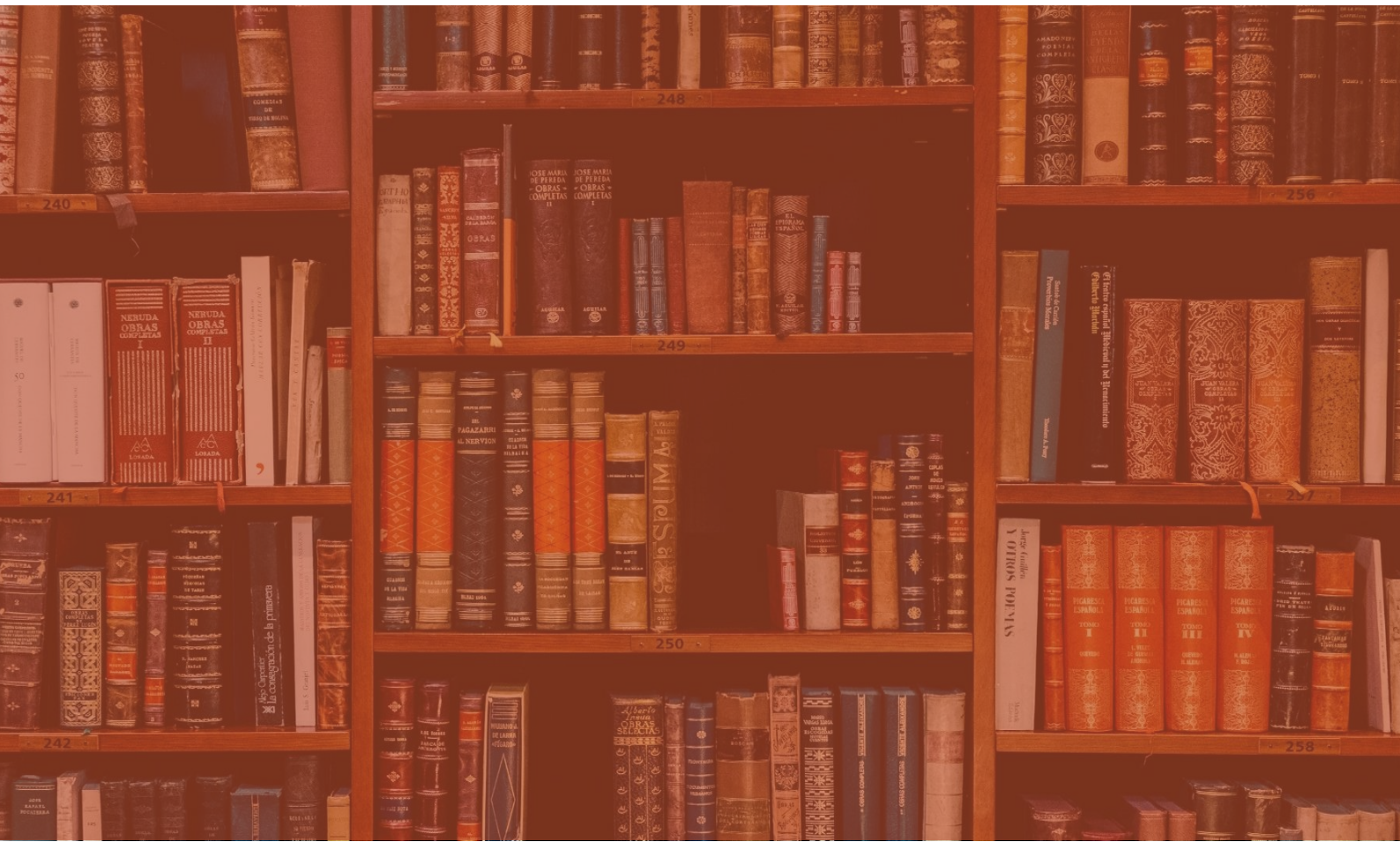
Presently, Indian courts have no power under Section 34 of the Act to modify arbitral awards. The Supreme Court's decision in *M. Hakeem* conclusively affirms this interpretation, consistent with the Act's objective of minimal judicial interference. However, a blanket prohibition on modifications may not serve the cause of efficient dispute resolution in all cases. Allowing courts to make minor, severable corrections under exceptional circumstances could strike a better balance between finality and fairness.

The lack of a provision permitting courts to *modify* an award, even in cases where separable errors exist, had led to practical challenges in enforcement proceedings. These questions culminated before a Constitution Bench of five judges in *Gayatri Balasamy v. ISG Novasoft Technologies Limited*[10], where the Hon'ble Supreme Court was poised to clarify whether courts may modify arbitral awards while exercising jurisdiction under Section 34 of the Act. The Apex Court on 30th April, 2025 vide a 4:1 majority has held that the courts have a limited power to modify an arbitral award under Section 34. The limited power as per the judgement of the Apex Court may be exercised under the circumstances (i) when the award is severable, by

[10] SLP (C) Nos.15336-15337/2021

severing the "invalid" portion from the "valid" portion of the award; (ii) by correcting any clerical, computational or typographical errors which appear erroneous on the face of the record; (iii) post award interest may be modified in some circumstances; (iv) under Article 142 of the Constitution which applies, however, the power must be exercised with great care and caution within the limits of the constitutional power.

The verdict promises to be a watershed moment for arbitration law in India as of now settling a long-standing ambiguity and decisively shaping the contours of judicial involvement in arbitration.



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B Reserve Bank of India ["RBI"]

1. RBI's revised Master Circular on Government Business & Agency Commission

RBI has consolidated instructions on the conduct of government business and the payment of agency commissions. Accordingly, revenue receipts and payments on behalf of the Central/State Governments, as well as pension payments in respect of Central/State Governments, are eligible for agency commission paid by RBI.

Further, payments which have been classified as capital in nature by government to cover losses incurred by autonomous/statutory bodies/ Municipalities/ Corporations/Local Bodies; and prefunded schemes which may be implemented by Central Government Ministry/ State Government Department through any bank; as well as transactions related to Gold Monetisation Scheme, 2015, will be ineligible for agency commission paid by RBI.

Read more

2. RBI updates Master Circular on disbursement of government pensions by agency banks

While consolidating instructions up to March 31, 2025 on disbursement of government pensions by agency banks, the RBI has directed that agency banks to act on the copies of government orders provided by government to them through post, fax, e-mails or by accessing from the government websites and authorize their pension paying branches to make payments to the pensioners immediately. All agency banks are advised to scrupulously follow all the guidelines/ instructions contained in various notifications of Government (Central as well as States) and take necessary action immediately without waiting for any further instructions from RBI.

The pension paying banks will credit the pension amount in the accounts of the pensioners based on the instructions given by respective Pension Paying Authorities. Additionally, banks must

facilitate joint pension accounts for spouses and issue digital acknowledgments for life certificates, and also allow alternative methods for pension withdrawal.

Read more

3. RBI Revises Valuation Norms for Government-Guaranteed Security Receipts

RBI has introduced introduce a differentiated approach to valuing SRs backed by the Government of India. Accordingly, if a loan is transferred to an Asset Reconstruction Company (ARC) for a value exceeding its net book value, the excess provision may be reversed to the Profit and Loss Account, provided the sale consideration includes only cash and government-guaranteed SRs.

Read more

4. RBI issues Master Direction to consolidate Interest Rate on Deposits applicable to banks

While consolidating all instructions related to interest rates on deposits for all banks operating in India, the RBI has instructed banks to disclose their interest rate schedules in advance, so as to help depositors make informed decisions when selecting deposit schemes.

Additionally, if a term deposit matures on a non-business working day, banks are required to pay interest at the original contracted rate for that day, so as to ensure that depositors are not penalized for the bank's holiday schedule, and their earnings are preserved.

Further, the RBI has instructed the banks to have a clear policy in place, approved by the Board, so that if any deposit is split or transferred due to certain circumstances, like the death of the depositor, no penalties should be levied, as long as the terms remain unchanged.

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5. RBI revises Bank Rate & Penal Interest Rates on shortfalls in reserve requirements

While reducing the bank rate by 25 basis points from 6.50% to 6.25%, the RBI directed that the penal interest rates on shortfalls in maintaining the required levels of Cash Reserve Ratio (CRR) and Statutory Liquidity Ratio (SLR), will now stand at Bank Rate plus 3.0 percentage points (9.25%) or Bank Rate plus 5.0 percentage points (11.25%), depending on the duration of the shortfall.

Read more

6. RBI releases Draft FEMA Rules on Foreign Trade

While releasing revised draft Regulations and Directions under the Foreign Exchange Management Act (FEMA), 1999, concerning the export and import of goods and services, the RBI's updated draft required that the importers must get repatriated advances if imports are not materialised, especially when outstanding exceeds Rs.25 crore. Similarly, exporters with unrealised proceeds beyond two years and above the Rs.25 crore threshold can proceed only against full advance or irrevocable letters of credit.

Additionally, Authorised Dealers are tasked with verifying documents, ensuring timely entries in the Export and Import Data Processing and Monitoring Systems (EDPMS and IDPMS), and monitoring the genuineness of transactions.

Read more

7. RBI withdraws 20 Circulars related to Cheque Guidelines

Following a continued review under the recommendations of the Regulation Review Authority (RRA) 2.0, aimed at simplifying regulatory compliance and removing outdated instructions, the RBI has announced the withdrawal of 20 circulars related to cheque processing and customer service guidelines.

The withdrawn circulars, dating from 1972 to 2002, covered various operational aspects such as temporary credit limits during suspended clearing, introduction of MICR technology, immediate credit for local

and outstation cheques, payment of interest for delayed collections, and procedures for dishonoured cheques.

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C Securities and Exchange Board of India [SEBI]

1. SEBI Revises Lock-In Provisions and Follow-On Offer Guidelines for InvITs

SEBI has amended lock-in provisions with existing regulations for Infrastructure Investment Trusts (InvITs), ensuring that sponsor-held units are not subject to additional restrictions beyond their original lock-in period. Additionally, it has permitted inter-se transfers of locked-in units among sponsors and their group entities under specified conditions. It has also introduced a regulatory framework for follow-on offers (FPOs) by publicly offered InvITs.

Read more

2. SEBI amends Master Circular for Real Estate Investment Trusts; Revised lock-in provisions for preferential unit issues

SEBI has amended its Master Circular for Real Estate Investment Trusts (REITs), whereby lock-in period for units allotted to sponsors and sponsor groups is now aligned with initial offer regulations, with 15% locked-in for three years and the remainder for one year. Additionally, inter-se transfer of locked-in units within sponsor groups is permitted, provided the lock-in period continues for the transferee.

Read more

3. SEBI Clarifies Compliance Officer Position in LODR

Aiming to ensure that Compliance Officers hold a position of sufficient authority within the organizational structure to effectively perform their duties, SEBI clarified that a Compliance Officer must be one level below the Managing Director or Whole-time Director, or if absent, one level below the CEO or equivalent.

Read more

4. SEBI Extends Algo Trading Implementation Timeline

SEBI has extended the deadlines to May 01, 2025, which was originally set to April 01, 2025, for implementation of its circular on "Safer participation of retail investors in Algorithmic trading".

Read more

5. SEBI extends compliance deadline for Regulated Entities to adopt & implement 'Cybersecurity & Cyber Resilience Framework'

SEBI has relaxed the deadline to June 30, 2025 by giving three months extension to the regulated entities (REs), excluding Market Infrastructure Institutions (MIIs), KYC Registration Agencies (KRAs), and Qualified Registrars to an Issue and Share Transfer Agents (QRTAs), to adopt and implement the Cybersecurity and Cyber Resilience Framework (CSCRF).

Read more

6. SEBI Eases Regulations on Intraday Position Limits for Index Derivatives

SEBI has outlined a temporary modification to the implementation of intraday monitoring, originally mandated in the SEBI Master Circular dated December 30, 2024. While exchanges are still required to monitor position limits intraday from April 1, 2025, as planned, penalties for breaches will be suspended until further notice.

Additionally, Exchanges are also required to develop a joint Standard Operating Procedure (SOP) to inform market participants about the modalities of intraday monitoring and to notify clients and trading members of any breaches for risk management purposes.

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7. SEBI's measures to facilitate ease of doing business, through ESG Disclosure, Green Credits & Assessment Updates

Based on expert committee recommendations and public consultation, SEBI introduced voluntary green credit disclosures within Business Responsibility and Sustainability Report (BRSR). Listed entities can now choose between "assessment" or "assurance" for BRSR Core and value chain ESG disclosures, with the "assessment" to be conducted as per Industry Standards Forum (ISF) guidelines.

Read more

8. SEBI revises threshold for applicability of LODR provisions to entities who has listed its non-convertible debt securities

SEBI has amended LODR Regulations 2015, as per which in case the value of the outstanding listed non-convertible debt securities becomes equal to or greater than the specified threshold of Rupees One Thousand Crore during the course of the year, a high value debt listed entity (HVDLE) shall ensure compliance with the Regulations within six months from the date of such trigger, and the disclosures of such compliance may be made in the corporate governance compliance report on and from the third quarter following the date of the trigger.

Further if (HVDLE) has its specified securities (i.e. equity shares and convertible debentures) listed, it shall comply with the provisions of regulation 15 to regulation 27 of the regulations. The management of the unlisted material subsidiary will have to periodically bring to the notice of the board of directors of the "high value debt listed entity" (HVDLE), a statement of all significant transactions and arrangements entered into by the unlisted material subsidiary.

Significantly, a HVDLE cannot dispose of shares in its unlisted material subsidiary resulting in reduction of its shareholding to less than or equal to 50% or relinquish the control over the subsidiary without passing a special resolution in its General Meeting.

Read more

9. SEBI Relaxes Advance Fee Rules for Investment Advisers & Research Analysts

While addressing concerns that shorter advance fee periods disincentivizes long-term recommendations, the SEBI has relaxed the permissible advance fee period from three months for Research Analysts (RAs) and two quarters for Registered Investment Advisers (IAs) to one year, provided it is agreed upon by the client.

Read more

10. SEBI launches 'Document Number Verification System'

For granting access to the users to verify the authenticity of the documents by entering the Outward Number and other details like sender and recipient names, and the date, after authenticating via an OTP sent to the recipient's mobile number, the SEBI has launched the Document Number Verification System (DNVS).

Read more

11. SEBI issues operational framework (PaRRVA) for performance validation agency

By outlining the operational framework for a performance validation agency called the Past Risk and Return Verification Agency (PaRRVA), specifying its responsibilities and the eligibility criteria for credit rating agencies (CRAs), the SEBI has specified that a CRA must have at least 15 years of past experience, a net worth of Rs.100 crore, and an established investor grievance redressal mechanism, including an Online Dispute Resolution (ODR) system, to qualify as a PaRRVA.

Additionally, CRAs are required to partner with a recognised stock exchange, which will function as the PaRRVA Data Centre (PDC). This PDC will be responsible for collecting data from financial entities such as mutual funds and stock exchanges.

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12. SEBI Doubles Equity Assets under Management (AUM) Threshold for Foreign Portfolio Investors (FPIs)

While amending its Master Circular for Foreign Portfolio Investors, Designated Depository Participants and Eligible Foreign Investors dated May 30, 2024, which required additional disclosure requirements for Foreign Portfolio Investors (FPIs) holding more than INR 25,000 crore of equity AUM in the Indian markets (hereinafter referred to as "size criteria"), the SEBI has now specified that FPIs and their investor groups holding more than Rs.50,000 crore in equity assets under management (AUM) in Indian markets were required to make such additional specific disclosures and relevant clauses of Master Circular have been amended.

Read more

D Insolvency and Bankruptcy Code, 2016 [IBC]

1. Financial creditor cannot simultaneously pursue CIRP proceedings, once he accepts substantial 'one-time settlement' payments by Corporate Debtor

The National Company Law Tribunal (NCLT), Mumbai, in case of ***IFCI Limited vs. M/s. Patil Construction & Infrastructure Ltd. [C.P. (I.B) No. 142/MB/2023] dated March 04, 2025***, has observed that that the IBC is not intended to be used as a mechanism for debt recovery but rather as a process for resolution of the Corporate Debtor.

The NCLT held that the conduct of the Financial Creditor in accepting substantial 'one-time settlement' (OTS) payments while simultaneously pursuing Corporate Insolvency Resolution Process (CIRP) proceedings, represents an attempt to use the Insolvency and Bankruptcy Code, 2016 (IBC) as a 'recovery mechanism', which goes against the very spirit and purpose of the IBC.

The NCLT observed that the conduct on part of the Financial Creditor, i.e., accepting payments made by the Respondent as per the OTS proposal, retaining / managing post-dated cheques according to the OTS arrangement, and returning post-dated cheques upon receipt of the corresponding payment, creates a deemed acceptance of the OTS proposal on part of the Financial Creditor. Further, the OTS Proposal was rejected by the Applicant only after a substantial amount had already been paid by the Corporate Debtor.

The NCLT remarked that the Financial Creditor cannot now be permitted to abandon this re-payment arrangement (OTS) when substantial compliance had already been achieved. IBC is not intended to be used as a mechanism for debt recovery but rather as a process for resolution of the Corporate Debtor. The Financial Creditor was using the IBC as a recovery forum, as it sought to

proceed with CIRP despite the fact that only the last tranche under the OTS was remaining unpaid, while still retaining the last post-dated cheque. Thus, petition has been dismissed.

Read more

2. Applications filed in respect of "Fraudulent and Wrongful trading" carried on by the Corporate Debtor, could not be termed as "Avoidance Applications" used for Applications filed under Sections 43, 45 and 50 of the IBC, to avoid or set aside the Preferential, Undervalued or Extortionate transactions, as the case may be

The Supreme Court in case of ***Piramal Capital and Housing Finance Limited verses 63 Moons Technologies Limited [Civil Appeal No. 1632-1634 of 2022] dated April 01, 2025***, ruled that the applications filed in respect of "Fraudulent and Wrongful trading" carried on by the Corporate Debtor (CD), could not be termed as "Avoidance Applications" used for the Applications filed under Sections 43, 45 and 50 of the Insolvency and Bankruptcy Code, 2016 (IBC) to avoid or set aside the Preferential, Undervalued or Extortionate transactions, as the case may be.

The Apex Court clarified that there is clear demarcation of powers of the Adjudicating Authority to pass orders in the Avoidance Applications filed by the Resolution Professional under Section 43, 45 and 50 falling under Chapter III and the Applications filed by the Resolution Professional in respect of the Fraudulent and Wrongful trading of CD, under Section 66 falling under Chapter VI of the IBC.

The Apex Court also criticised the action of the NCLAT in overstepping its jurisdiction and misapplying foreign jurisprudence while examining the resolution plan submitted by Piramal Capital and Housing Finance Limited as part of the corporate insolvency resolution process (CIRP) of Dewan Housing Finance Corporation Limited (DHFL). At the same time, the Court upheld the resolution plan, and quashed the NCLAT's finding that monies recovered from DHFL which relates to fraudulent transactions should go to its creditors and not the successful resolution applicant, Piramal.

The Supreme Court reiterated that the CoC's (Committee of Creditors) commercial decisions are sacrosanct and not subject to judicial interference unless they violate legal provisions. When the

CoC had negotiated a higher upfront payment of Rs.37,250 crores from Piramal in exchange for it giving up and assigning uncertain recoveries from fraudulent transactions to Piramal Capital, such decision was taken in exercise of the CoC's commercial wisdom. The legislature has consciously not provided for a ground to challenge the justness of the 'commercial decision' taken by the Financial Creditors, because one of the dominant purposes of the IBC is revival of the CD and to make it a running concern.

Read more

3. Merely because a decree has been obtained by the Operational Creditor does not mean they cease to be Operational Creditors

The National Company Law Appellate Tribunal (NCLAT) New Delhi, in case of ***Venus Buildtech India Pvt Ltd vs Senbo Engineering Ltd. [Company Appeal (AT) (Insolvency) No. 1317 of 2023] dated March 12, 2025***, has held that an application under Section 9 of the Insolvency and Bankruptcy Code, 2016 (IBC), cannot be rejected solely on the ground that the Operational Creditor, having obtained a decree for the debt, ceases to be an Operational Creditor.

Following the decision of the Supreme Court in *Vishal Chelani v. Debashis Nanda [(2023) 10 SCC 395],* whereby it was held that the mere facts that the Homebuyers have obtained decree from the UP RERA, they shall not cease to be Financial Creditor, the NCLAT concluded that the NCLT had committed an error in rejecting the application u/s 9 of the IBC only on the ground that since the Appellant was a decree holder, he will not fall within the definition of the Operational Creditor. Accordingly, the appeal was allowed.

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4. Assets reflected in balance sheet of Corporate Debtor forms part of liquidation estate u/s 36 of IBC and can't be distributed to creditors outside the framework prescribed u/s 52 & 53 of the IBC

The National Company Law Appellate Tribunal (NCLAT) New Delhi in case of ***Anil Kohli Liquidator of Vegan Colloids Limited Versus Punjab National Bank [Company Appeal (AT) (Insolvency) No. 865 of 2023] dated April 02, 2025***, has held that all assets reflected in the balance sheet of the Corporate Debtor, forms part of

the liquidation estate under Section 36 of the Insolvency and Bankruptcy Code, 2016 (IBC) and cannot be distributed to creditors outside the framework prescribed under Sections 52 and 53 of the IBC. If any such asset of the Corporate Debtor has been realized by a creditor during liquidation, such asset must be returned to the Liquidator, clarified the NCLAT.

The NCLAT further observed that as per Section 36 of the IBC, the liquidator must form a liquidation estate in which assets of the corporate debtor are included. Section 36(2) further mandates the liquidator to hold the liquidation estate for the benefit of the creditors. Since any amount reflected in the balance sheet of the corporate debtor is their assets, the NCLT should have considered the balance sheet showing reduced short-term borrowing during liquidation.

Based on the same, the NCLAT concluded that the Respondent has no right to recover any amount being an asset of the Company in liquidation during the liquidation process, as Respondent will receive the proceeds from Liquidation Estate in the manner provided u/s 53 of the IBC. Accordingly, the NCLAT allowed the appeal and quashed the order passed by the NCLT.

Read more

5. Subsequent breach of settlement agreement entered into with Corporate Debtor, will not preclude Financial Creditors from filing application u/s 7 of IBC

The National Company Law Appellate Tribunal (NCLAT) New Delhi in case of ***Bahadur Ram Mallah Versus Assets Reconstruction Company (India) Limited [Company Appeal (AT) (Insolvency) No. 66 of 2025] dated April 03, 2025***, has held that financial creditors are not precluded from filing an application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC), merely because they have entered into a settlement agreement with the corporate debtor that was subsequently breached. The nature of the debt remains unchanged, even if a settlement agreement has been executed between the parties.

The NCLAT observed that if the Corporate Debtor had genuinely contested the revocation, they would have referred to payments

made towards the entire settlement amount or demanded their NDC. The letter contains no objections regarding the ARC's alleged non-compliance with the GSA or the unilateral revocation which clearly establishes that the revocation was impliedly accepted. A perusal of Section 7 application makes it clear that it is not based on the default of the GSA, but founded on the original financial debt which was extended by the ICICI and IFCI to the Corporate Debtor which had been subsequently assigned to the ARC.

The NCLAT held that the material on record establishes that the GSA stipulated a settlement amount of Rs.75 crores, of which the Corporate Debtor paid only Rs.51.10 crores, leaving Rs.21.40 crores to be paid. The Corporate Debtor has not specifically denied this due amount or provided proof of its payment. While the corporate debtor has challenged the maintainability of the Section 7 petition, it has not denied debt and default. Furthermore, the DRT decree establishes the existence of debt and default, and despite an appeal, it has not been stayed by the DRAT. Accordingly, the present appeal was dismissed.

Read more

6. Dissenting financial creditors are entitled to receive payments on pro-rata basis of Resolution Plan, if resolution applicant releases the payment in instalments

The National Company Law Appellate Tribunal (NCLAT) Chennai, in case of ***RBL Bank Limited Vs Sical Logistics Limited [Company Appeal (AT) (CH) (Ins) No.36/2024 (IA Nos. 106, 107 & 779/2024)] dated March 28, 2025***, has held that dissenting financial creditors are entitled to receive payments on a pro-rata basis of the Resolution Plan, if resolution applicant releases the payment in instalments.

The NCLAT explained that priority in payment means that whenever the Successful Resolution Applicant remits the amount in instalments, the dissenting financial creditors shall be paid on a pro-rata basis. However, if the entire Resolution Plan amount is remitted at once, they shall be paid in full and in priority over the assenting financial creditors.

Although the NCLT in its order has held that the dissenting creditor shall be paid in priority, it has not specified exactly as to how the

payment shall be made. The priority in payment means that whenever the Successful Resolution Applicant (SRA) releases funds to Financial Creditors (FCs), the Dissenting Creditor must be paid first and that too on a pro-rata basis.

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7. Since sole proprietorship firms are not included in definition of corporate person under section 3(7) of IBC, no application under section 94 of IBC can be entertained against them

The Madhya Pradesh High Court in case of **Ramesh Kothari vs. State of Madhya Pradesh [WRIT PETITION No. 7687 of 2025] dated March 03, 2025**, has held that Section 94 of Insolvency and Bankruptcy Code, 2016 (IBC) gives remedy to "debtor" only to either apply personally or through a resolution professional (RP) to the Adjudicating Authority for initiating the insolvency resolution process.

The High Court explained that Section 3(8) of IBC, defines "corporate debtor" which means a corporate person who owes a debt to any person and "corporate person" is defined in Section 3(7), which means that a company under the Companies Act, 2013, a limited liability partnership under the Limited Liability Partnership Act, 2008 or any other person incorporated with limited liability under any law. Therefore, in this definition, the proprietorship firm is not included.

The High Court thus held that remedy given by way of Section 94 of IBC, 2016 only applies to Corporate Debtor which by definition doesn't include a Proprietorship Firm. Since the definition of Corporate Debtor doesn't include proprietorship firm, and M/s Rainbow Sales and M/s Kothari Enterprises are sole partnership firms, therefore, in respect of these two firms, no application under Section 94 of IBC is liable to be entertained even at the instance of the present petitioner.

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8. There is no automatic right to interest under IBC, as Regulation 16A(7) of CIRP Regulations does not mandate interest on principal amount

The National Company Law Tribunal (NCLT) Mumbai, in case of ***Klassic Wheels Limited Hirkesh Vs Amit Vijay Karia***

[IA/5159/2024 IN C.P. (I.B) No. 715/MB/2021] dated April 03, 2025, has held that there is no provision in the Insolvency and Bankruptcy Code, 2016 (IBC) for automatic interest on the principal amount. Specifically, Regulation 16A(7) of the CIRP Regulations, 2016 does not provide for interest to be charged on the principal. Therefore, such interest cannot be claimed as a matter of right, especially at a belated stage when the Corporate Insolvency Resolution Process is nearing completion.

Referring to Regulation 16A(7) of the CIRP Regulations, the NCLAT observed that a perusal of the said Regulation makes it clear that it pertains to the allocation or proportion of voting share among creditors in the same class. The Applicant has relied on the Regulation to assert that "it is the mandate of the statute that financial debt of a creditor in a class shall include interest at eight percent per annum unless a different rate has been agreed between the parties." However Thus, the reliance on Regulation 16A(7) is misplaced, as it does not require that a Resolution Plan submitted by PRAs must include interest in the claim of a creditor.

The NCLAT also observed that the said Regulation only prescribes the method for determining the voting share of a creditor in a class and does not confer any automatic entitlement to interest in a resolution plan. Hence, Regulation 16A(7) does not vest any right in the Applicant for enhancement of the claim amount. Further, the IBC is a comprehensive and self-contained code. Any automatic entitlement to interest must be expressly provided within its framework, which is not the case.

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9. IBBI mandates use of Baanknet (formerly eBKray) Auction Platform for Liquidation

IBBI has mandated the exclusive use of the Baanknet (formerly eBKray) auction platform for conducting auctions of assets during liquidation processes, and accordingly, Insolvency Professionals (IPs) are required to list unsold assets in ongoing cases by 31st March 2025.

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E Arbitration and Conciliation Act, 1996 [A&C Act]

1. Arbitral Tribunal after considering terms of contract & trade and usages along with commercial sense, has taken holistic view in extending tenure of contract; Such view can't be substituted by Writ Courts

While deciding a Petition filed by the Airports Authority of India (AAI) u/s 34 of the Arbitration and Conciliation Act, 1996 (A&C Act), challenging an Arbitral Award passed by the Arbitral Tribunal, the Delhi High Court in case of ***Airports Authority of India vs Delhi International Airport [OMP (COMM) 186/2024] dated March 07, 2025***, has clarified that the force majeure clause will not generally be invoked, if the contract provides for an alternative mode of performance.

The High Court explained that a "force majeure clause" in a contract is generally an exception or an eclipse provision. A force majeure clause is a contractual provision that relieves parties from fulfilling their contractual obligations when certain unforeseen events occur, which are beyond their control. It is a settled proposition that the interpretation of the contract must be in sync with the test of business efficacy and should be responsive to the facilitation of business. Any interpretation which may generate any sense of uncertainty for the parties, who choose arbitration as a mode of adjudication, should be avoided.

While recognizing that the pandemic had lasted far longer than anticipation, the High Court observed that it is a matter of common acknowledgement that Covid had materially and adversely effected the function of the business. At the time of pandemic, the Airports Authority of India had reasonably assumed that the impact of Covid would be short-lived, likely continuing only until June 2020, and thus accommodated the Delhi International Airports Limited. Thus, the Arbitral Tribunal taking into account the terms of the contract and the trade and usages along with the commercial sense, has taken a holistic view in extending the tenure of the contract.

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2. Eviction of tenants governed by Rent Control Act cannot be sought u/s 9 of Arbitration and Conciliation Act, if they are not parties to the Development Agreement executed between Developer and Landlords

The Bombay High Court in case of ***Ambit Urbanspace Versus Poddar Apartment Co-operative Housing Society Limited [Commercial Arbitration Petition (L) No.38696 of 2024] dated April 01, 2025***, has held that eviction of tenants governed by the Rent Control Act (RTA) cannot be sought u/s 9 of the Arbitration and Conciliation Act, 1996 (A&C Act), particularly when they are not parties to the Development Agreement executed between the Developer and the Landlords and are not being provided upgraded premises in the redeveloped building compared to what they currently occupy under the tenancy agreements.

The High Court explained that only jurisdictional forums under the Rent Control Act have the authority to determine issues related to tenancy, and hence, proceedings u/s 9 of the Arbitration Act should not be used as a backdoor method for eviction especially when no eviction action was taken over two decades that too on facts within the knowledge of the landlords. A measure taken u/s 9 of the Arbitration Act ought not to conflict with special protective provisions in ameliorative legislation such as the Rent Act. Finally, the High Court concluded that granting the reliefs sought by the Developer would be inequitable and inappropriate as it would denude the tenants of their protection under the Rent Act and downgrade their current status. Thus, the petition was dismissed.

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3. Jurisdiction u/s 11 of Arbitration Act shall be determined as per Sections 16 to 20 of CPC, if arbitration clause did not specify a seat or venue. An insignificant or trivial part of cause of action would not be sufficient to confer territorial jurisdiction

The Delhi High Court in case of ***Faith Constructions v. N.W.G.E.L. Church [Arbitration Petition 1318 of 2024] dated March 20, 2025***, has held where the arbitration agreement does not specify a seat or venue, jurisdiction must be assessed in line with Section 2(1)(e) of the Arbitration and Conciliation Act, 1996 (A&C Act), read

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with Sections 16 to 20 of the Civil Procedure Code, 1908 (CPC) and further clarified that an insignificant or incidental connection to a jurisdiction, such as the receipt of payments in a bank account, does not confer jurisdiction.

The High Court observed that at the stage of determining the jurisdiction of the Court to entertain a petition under Section 11 A&C Act, in case of lack of consent between the parties as to the seat/venue of arbitration, which is reflected from the arbitration clause of the subject agreement, the Court must determine jurisdiction by taking the aid of Sections 16 to 20 of the CPC.

The High Court emphasized that Territorial jurisdiction of a Court is ascertained having regard to the place of accrual of cause of action. Some of the relevant principles that have developed in this area of jurisprudence are, including but not limited to, that making and signing of a contract constitutes cause of action; that facts which are necessary to decide the lis between the parties must have wholly or at least in part, arisen within the territorial jurisdiction of the Court; that each fact pleaded in the petition would not ipso facto be considered relevant while determining cause of action and that they must have a nexus with the issues involved in the matter; and importantly, that an insignificant or trivial part of cause of action would not be sufficient to confer territorial jurisdiction, even if incidentally forming a part of cause of action.

In the present case, the agreement was executed, notarized, and performed in Odisha, where the Respondent's principal business was also located, making it the place where the material cause of action arose. Mere receipt of part payment in a Delhi bank account did not establish jurisdiction, as payments were made through cheques from the Respondent’s bank in Odisha, and no clause specified Delhi as the place of payment. Consequently, the High Court dismissed the petition and held that no part of the cause of action could have been said to have arisen within Delhi.

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4. Arbitration clause contained in incomplete and unfinalized Memorandum of Understanding is not enforceable

The Calcutta High Court in case of ***Greenbilt Industries Private Limited vs A B Dinesh Concrete Private Limited [AP (COM) 421 of 2024] dated March 27, 2025***, has ruled that an arbitration clause contained in an incomplete and unfinalized Memorandum of Understanding (MOU) is not enforceable and hence, cannot be the foundation for initiating arbitration proceedings. The High Court emphasized that a document that remains incomplete and lacks crucial details cannot be enforced as a legally binding agreement under the Arbitration and Conciliation Act, 1996 (A&C Act).

After examining the contents of the MoU, the High Court noted that the document circulated on February 9, 2022, was incomplete, with blank spaces for crucial commercial details, and therefore lacked the essential elements of a concluded contract. Further, the absence of reference to an arbitration clause in the September 14, 2023 demand letter reinforced that the petitioner was not relying on the MOU but on an oral or informal understanding.

On the issue of jurisdiction, the High Court agreed with the respondent, noting that the entire cause of action arose outside West Bengal and there was no basis for invoking the jurisdiction of the Calcutta High Court. The tenor of the demand letter clearly indicates that the petitioner sought to hold the respondent liable through civil or criminal proceedings but did not invoke any arbitration clause. This strengthens the conclusion that the arbitration agreement was not binding.

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F General Laws

1. Forfeiture of reasonable earnest money under a contract does not fall within ambit of Section 74 of Indian Contract Act, hence such forfeiture doesn't call for imposing of penalty

While answering an appeal challenging the Judgment of the National Consumer Disputes Redressal Commission (NCDRC) by which it disposed of a consumer complaint, the Supreme Court in case of ***Godrej Projects Development vs Anil Karlekar [Civil Appeal No. 3334 of 2023] dated February 03, 2025***, ruled that if the forfeiture of earnest money under a contract is reasonable, then it does not fall within Section 74 of the Indian Contract Act, 1872 (ICA), inasmuch as, such a forfeiture does not amount to imposing a penalty; however, if the forfeiture is of the nature of penalty, then Section 74 of ICA would be applicable.

The Court clarified that under the terms of the contract, if the party in breach undertook to pay a sum of money or to forfeit a sum of money which he had already paid to the party complaining of a breach of contract, the undertaking is of the nature of a penalty.

Further, the Apex Court observed that after the agreement was entered into between the parties in the year 2014, only after the possession was offered by the Appellant to the Respondents, they sought cancellation of the allotment and the reason given by them is that on account of sharp decline in the prices, a person would be able to buy a flat at a substantially lower price even in primary market. The Court emphasised that Respondents would have probably utilised the money which was payable by them to the Appellant for purchasing another property at a lower rate.

Read more

2. Suit for specific performance of agreement to sell, filed after its cancellation, is not maintainable in absence of any prayer for declaratory relief u/s 34 of Specific Relief Act challenging the validity of such cancellation

The Supreme Court in case of ***Sangita Sinha vs Bhawana Bhardwaj [Civil Appeal No. 4972 of 2025] dated April 04,***

2025, held that a suit for the specific performance of an agreement to sell, filed after its cancellation, is not maintainable unless it includes a prayer for declaratory relief under Section 34 of the Specific Relief Act, 1963, challenging the validity of the cancellation.

The Apex Court clarified that declaratory relief challenging the validity of the cancellation is essential while seeking specific performance of the agreement to sell, as the suit could not be sustained without a valid and subsisting agreement.

The Apex Court noted that the seller had admittedly issued a letter dated February 07, 2008 cancelling the Agreement to Sell dated January 25, 2008, prior to the filing of the subject suit on May 05, 2008. Even though the demand drafts enclosed with the said letter were subsequently encashed in July, 2008 after initiation of suit for specific performance, the Apex court clarified that it would be incumbent upon the buyer to seek a declaratory relief that the said cancellation is bad in law and not binding on parties for the reason that existence of a valid agreement is sine qua non for the grant of relief of specific performance. Hence, the Court allowed the appeal.

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3. Mandatory levy of service charge by restaurants, is void and illegal; No implied contract can be deemed to exist between consumer and restaurants, upon consumer placing order even after being informed about service charge

The Delhi High Court in case of ***National Restaurant Association vs. Union of India [W.P.(C) 10683/2022] dated March 28, 2025***, ruled that service charge and tips are voluntary payments by consumers and cannot be made compulsory or mandatory on food bills by restaurants or hotels. In essence, collection of service charge is proving to be a double whammy i.e., customers are forced to pay service tax and GST on service charge as well.

The High Court held that collecting a mandatory service charge as matter of default without giving choice to consumer, cannot be contended to be contractually binding in nature. And even if implied contract is deemed to exist between consumer and restaurants, upon consumer placing order after being informed about service charge, it would be rendered void.

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The High Court observed that mandatory collection of service charge on food bills is contrary to law and if consumers wish to pay any voluntary tip, same is not barred. The amount however, ought not to be added by default in the bill/invoice and should be left to the customer's discretion. The Court went on to explain that CCPA is not merely an advisory body, but it has the power to issue guidelines for prevention of unfair trade practices and for protecting consumer interest.

Rights of consumers as a class prevail over the rights of restaurants, emphasising that the society's interest is paramount, and hence, guidelines issued by the Central Consumer Protection Authority ("CCPA") would not curtail fundamental rights under Article 19(1)(g) in any manner in view of the discussion above as the guidelines are in the larger interest of the consumers and have been issued in accordance with law.

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4. SEBI's subsequent disgorgement order is barred by res judicata, if its earlier order had not directed disgorgement, and hence, SEBI can't pass multiple Final Orders on same cause of action

Reiterating that the principle of res judicata applies to quasi-judicial proceedings, the Supreme Court in case of ***SEBI vs Ram Kishori Gupta [civil Appeal No. 7941 of 2019] dated April 07, 2025***, has upheld the Securities Appellate Tribunal's (SAT) decision, which held that SEBI's subsequent disgorgement order was barred by res judicata, as its earlier order had not directed disgorgement.

The Apex Court invoked the principle of constructive res judicata (as per Explanation IV to Section 11 of the CPC), holding that since SEBI could have ordered disgorgement in its earlier proceedings, it was not permissible to do so in a subsequent order. Essentially, the Securities and Exchange Board of India (SEBI) cannot pass multiple Final Orders on the same cause of action.

The Apex Court noted that since SEBI choose not to pass the disgorgement order in 2014, then it would be impermissible for the SEBI to pass a disgorgement order later, by re-opening the same issue which was earlier decided and remained unchallenged, as the same would be barred by principle of constructive res-judicata.

Having undertaken the exercise pursuant to its show-cause notices issued in 2012, SEBI passed the order dated July 31, 2014, in exercise of power under Section 11B of the SEBI Act, with certain directions which attained finality and were given full effect to. That being so, SEBI could not have reopened the entire exercise without just cause so as to pass a fresh order under Section 11B, once again, 4 years later. Accordingly, the Apex Court allowed the appeal.

Read more

5. Google has violated Sec 4(2)(e) of Competition Act, 2002, as mandatory use of Google Play Billing System is anti-competitive, and Google has leveraged dominance to favour Google Pay

The National Company Law Appellate Tribunal (NCLAT), New Delhi, in matter of ***Alphabet Inc vs. Competition Commission of India [Competition Appeal (AT) No. 04 of 2023] dated March 28, 2025***, observed that even though Google had abused its dominant position in the Play Store ecosystem to promote Google Pay as a default payment processor for app developers, it did not deny market access to competitors.

While partially upholding the Competition Commission of India (CCI) judgment on Google's Play Store dominance, the NCLAT ruled that dominance in first two markets has been used to leverage to promote and protect its position in the market for UPI enabled digital payment apps, and thus, violation of Section 4(2)(e) of the Competition Act, 2002, (Act 2002) stands proved. At the same time, the NCLAT held that there was no violation of Section 4(2)(c) of the Act and the CCI's finding that Appellant being dominant in app store market has caused denial of market access to the payment processors and aggregators is unsustainable.

The NCLAT agreed with the CCI's findings while determining the relevant market and holding the relevant markets, i.e. market for Apps facilitating payment through UPI in India has been correctly determined. The said product market is not interchangeable or substitutable by the consumer by other payment system, i.e. payment by credit or debit cards, Wallet and net banking. The NCLAT noted that effect analysis should consider both actual harm and potential harm caused by conduct. However, this analysis must be based on actions that have already occurred. A dominant entity cannot be penalised for possible future conduct. In effect analysis,

both actual harm and the potential for anti-competitive effects must be assessed.

The CCI found that Google forced app developers to use GPBS for paid apps and in-app purchases and was thus imposing unfair and discriminatory conditions. Upholding the same, the NCLAT stated that unfair and discriminatory conditions in the purchase or sale of goods or services, as mentioned in Section 4(2)(a)(i), do not apply if such conditions or pricing are introduced to compete in the market. To exempt a discriminatory condition under this provision, it must be demonstrated that the condition was necessary to address competition. Since there is no material or pleadings on behalf of Google to satisfy that condition of mandatory requirement of use of GPBS has been adopted to meet the competition, the NCLAT concurred that Google has imposed unfair and discriminatory conditions.

Even though the CCI had found that Google charged 15-30% fees from other apps but only 2.3% for YouTube, violating the law, the NCLAT found that YouTube is Google's own app, not a third-party service, so no "sale of goods/services" was involved. Hence, no discriminatory pricing was established. Thus, there was no violation of Section 4(2)(a)(ii) of the Act.

The CCI found that Google used its dominance in Android OS & app stores to promote Google Pay over rivals. The NCLAT accepted this, observing that dominance in first two markets has been used to leverage to promote and protect its position in the market for UPI enabled digital payment apps. Thus, violation of Section 4(2)(e) stands proved.

As far as denial of market access is concerned, the CCI found that Google's policies denied market access to rival payment processors and limited innovation by third-party payment processors. The NCLAT, however, noted that the UPI market is growing rapidly (Paytm, PhonePe, Razorpay) and Google's Play Store payments account for less than 1% of UPI transactions, so no significant impact was proven. The market of payment processors/ aggregators, having not been established as relevant market, nor relevant facts have been evidenced regarding payment processors/ aggregators, the findings of violation of Section 4(2)(b)(ii), cannot be sustained.

The CCI had held Google dominant in two markets (licensable OS and app stores) and termed it a gatekeeper, imposing obligations without proving specific violations. The NCLAT noted that CCI's findings on Google's monetisation model were inconclusive, and by issuing ex-ante directions without proven abuse, the CCI overstepped its authority. These directions were thus deemed ultra vires and disproportionate. Hence, the NCLAT ruled that the CCI had erred in imposing a penalty on Google's entire turnover instead of restricting it to the relevant turnover, specifically, revenue generated from the Google Play Store. The NCLAT thus recalculated the penalty to Rs.2,16.69 crore instead of the earlier Rs. 936.44 crore.

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6. Registration of deed cannot be refused on the ground that the executant has no title over the property sought to be transferred

The Supreme Court in case of ***K. Gopi vs. Sub-Registrar [Civil Appeal No. 3954 of 2025] dated April 07, 2025***, has held that the Registration Act, 1908 does not authorize the Registering Authority to deny registration of a transfer document on the ground that the vendor's title documents are not produced or that their title is unproven.

Rule 55A(i) of the Tamil Nadu Registration Rules would be unconstitutional, as it is inconsistent with the provisions of the Registration Act, 1908. As per Rule 55A(i) of the Tamil Nadu Registration Rules, the person seeking registration of a document was mandated to produce the previous original deed as per which he acquired title and encumbrance certificate. Unless this Rule is complied with, the document will not be registered.

The Apex Court therefore struck down this rule saying that it was not within the mandate of the Sub-Registrar or Registering Authority under the 1908 Act to verify whether the vendor has valid title. Even if a person executing a sale deed or lease does not have title to the property, the registering authority cannot refuse to register the document, provided all procedural requirements are met and applicable stamp duty and registration fees are paid.

Once the registering authority is satisfied that the parties to the document are present before him and the parties admit execution thereof before him, subject to making procedural compliances as narrated above, the document must be registered. The execution and registration of a document have the effect of transferring only those

rights, if any, that the executant possesses. If the executant has no right, title, or interest in the property, the registered document cannot affect any transfer.

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G Negotiable Instruments Act, 1881

1. Interim moratorium u/s 96 of IBC cannot be invoked to stall prosecution in cheque bounce cases u/s 138 of NI Act

The Supreme Court in case of ***Rakesh Bhanot vs Gurdas Agro Pvt Ltd [Criminal Appeal No. 1607 of 2025] dated April 01, 2025***, has held that an interim moratorium under Section 96 of Insolvency and Bankruptcy Code, 2016 (IBC) cannot be invoked to stall prosecution in cheque bounce cases under Section 138 of Negotiable Instruments Act, 1881 (NI Act).

The Apex Court observed that the cause of action for prosecution under Section 138 of NI Act commences on the dishonour of the cheque and the failure to pay the amount unpaid because of dishonour, within 15 days from the date of receipt of notice demanding payment. However, the prosecution can be only with respect to the amount unpaid by dishonour of the cheque irrespective of the actual debt.

The Apex Court also emphasised that the acceptance of the report by the Resolution Professional under Section 100 and the moratorium under Section 101 of the IBC, will not bar the continuation of any criminal action.

Additionally, the Apex Court emphasized that the acceptance of the Resolution Plan under Section 31 of IBC or its implementation thereof will have no effect on the prosecution under Section 138 of the NI Act. The scope and nature of the proceedings under the IBC may result in extinguishment of the actual debt by restructuring or through the process of liquidation. But such extinguishment will not absolve its directors from the criminal liability. The object of

moratorium or for that purpose, the provision enabling the debtor to approach the NCLT under Section 94 of IBC is not to stall the criminal prosecution, but to only postpone any civil actions to recover any debt.

Further, the deterrent effect of Section 138 of NI Act is critical to maintain the trust in the use of negotiable instruments like cheques in business dealings and that the criminal liability for dishonouring cheques ensures that individuals who engage in commercial transactions are held accountable for their actions, however subject to satisfaction of other conditions in the NI Act.

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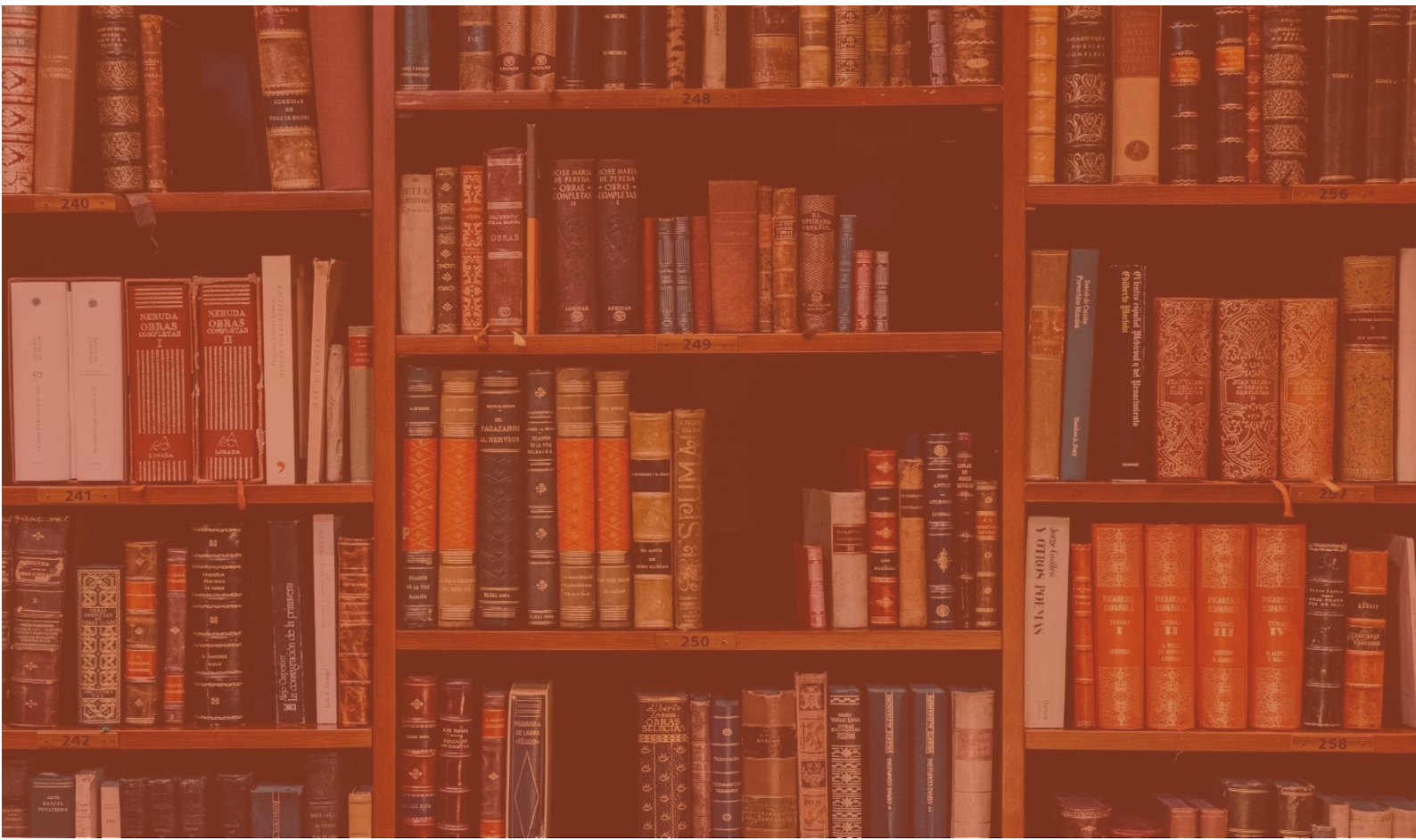

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H Recognitions and Industry Rankings

1. Thought Leadership & Legal Insight – Noteworthy Publications by Our Professionals

- **Top Court to RBI on Master Direction: You say fraud, we say prove it – Amol Sharma, Associate Partner & Associate Partner**

  This article deals with the right of the borrowers to be heard before their account is classified as fraudulent, taking note of the relevant judgments of High Courts & Supreme Court in this regard.

  Read Article

- **No GST on transfer of leasehold rights – Sadhav Mishra, Partner**

  This article analyses the impact of the judgment passed by the Gujarat High Court on goods & service tax, in which it was held that 'transfer of interest on immovable property' could not be equated with 'supply of services' under the GST Act.

  Read Article

- **Irrevocable vs. Revocable Power of Attorney: Supreme Court's Definitive Ruling – Aniket Sawant, Associate Partner & Parvathi Menon, Senior Associate**

  This article deals with test for determining the irrevocability of power of attorney, as contemplated under section 202 of the Indian Contract Act.

  Read Article

2. Resight India Report 2025: SNG & Partners Recognized Among Top Law Firms

SNG & Partners has been recognized in the Resight India Report 2025 in the following categories:

1. **Resight four-star law firms**
2. **Resight 100 law firms**
3. **RSGI's top-rated law firms for social responsibility, 2025**

Resight India is RSGI's intelligence platform offering in-depth analysis, profiles, and insights on over 100 Indian law firms, global India practices, legal buyers, and market trends. The above-mentioned rankings are based on RSGI's reputation surveys, business maturity ratings, and client reviews,

reflecting our commitment to legal excellence, business integrity, and social responsibility. We thank our clients, colleagues, and peers for their continued trust and support.

3. 14th Annual Legal Era - Indian Legal Awards 2024-25

The Legal Era Awards are among the most prestigious recognitions in the Indian legal community, celebrating legal finesse and the pursuit of excellence by honouring India's leading lawyers and law firms. We are honoured to share that our Firm and our Partners have been recognized at the 14th Annual Legal Era - Indian Legal Awards 2024–25 in the following categories.

Firm Recognitions

i. Banking & Financial Services Law Firm of the Year

Individual Recognitions:

i. **Rajesh Narain Gupta,** Founder & Chairman **– Lawyer of the Year – Private Client**
ii. **Amit Aggarwal,** Managing Partner (Corporate & Non-Contentious Group) **– Lawyer of the Year – Banking & Financial Services**
iii. **Sadhav Mishra, Partner & Head of Real Estate – Lawyer of the Year – Real Estate**

Picture taken at Legal Era Awards, April 2025 in New Delhi

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