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RBI & FEMA -

- *A.P. (DIR Series) Circular No. 100, dated 4th February, 2014* : RBI relaxed the rules governing third party payments for export and import transactions through authorized foreign exchange dealer. Under the liberalized Rules, the limit of USD 100 thousand to be eligible for third party payment for import of goods stands withdrawn. Also, in view of the difficulties faced by exporters / importers in meeting the condition “firm irrevocable order backed by a tripartite agreement should be in place”, it has been decided that this requirement may not be insisted upon in case where documentary evidence for circumstances leading to third party payments / name of the third party being mentioned in the irrevocable order/ invoice has been produced (subject to certain conditions).
- *DBOD.No.BP.BC.96/21.06.102/2013-14, dated 11th February, 2014* : RBI has imposed new curbs on banks investing in their group companies in a bid to mitigate the financial risk from concentration of business and issued Guidelines on Management of Intra-Group Transactions and Exposures. The cap is aimed at ensuring that banks maintain arm’s length relationship in dealings with their own group entities, meet minimum requirements with respect to group risk management and group-wide oversight, and adhere to prudential limits on intra-group exposures.
- *A.P. (DIR Circular) No. 102, dated 11th February 2014* : RBI has amended the Form FC-GPR required to be filed for reporting issue of shares by the Indian investee company to foreign investor, requiring mention of investee company’s incorporation details as well of status of investment, viz. Greenfield vis-à-vis Brownfield.
- *A.P. (DIR Series) Circular No.103, dated 14th February, 2014* : RBI have been receiving representations related to Advance Authorisation (AA) / Duty Free Import Authorisation (DFIA). Taking into account these representations RBI has issued certain clarifications which come into force with immediate effect.
- *A.P. (DIR Series) Circular No.107, dated 20th February, 2014* : RBI has allowed Indian companies which are small scale industrial unit and which are not engaged in any activity or in manufacture of items included in Annex A, to issue shares or convertible debentures to a person resident outside India, to the extent of 24% of its paid -up capital subject to certain

conditions. It also allowed industrial units not into MSE to issue shares in excess of 24 per cent of its paid up capital with approval of the government.

- *IDMD/PCD/No. 11/14.01.01/2013-14, dated 26th February, 2014* : RBI has decided to dispense with the extant practice of Banks/ PDs/ Co-operative banks approaching RBI for fixing of prudential limits for transactions in Call / Notice Money Market. Banks may now, with the approval of their Boards, arrive at the prudential limits for borrowing/lending in Call/Notice Money Market in terms of the IDMD Master Circular dated July 01, 2013.

FOREIGN TRADE

- *Notification No 67 (RE-2013) / 2009-2014, dated 12th February, 2014, (DGFT)*: Export of Arms and related material to Government of Iraq has been permitted subject to 'No Objection Certificate' from the Department of Defence Production.
- *DGFT Public Notice No.50/(RE 2013)/2009-14, dated 14th February, 2014, (DGFT)*: Operation of following SIONs pertaining to product group "Chemicals & Allied Products" have been suspended- SION- A-84; SION- A-197; SION A-2287; SION A-2476; SION A-2583; SION A-3139.
- *Notification No 69 (RE-2013) / 2009-2014, dated 19th February, 2014, (DGFT)*: The existing Foreign Trade Policy 2009-14 (RE-2013) was to remain in force until 31.3.2014. To provide continuity in policy environment, this is being extended beyond 31.3.2014 until further orders.
- *Notification No 70 (RE-2013) / 2009-2014, dated 20th February, 2014, (DGFT)*: Additional time of 3 years for fulfilment of EO may be allowed to the concerned EPCG Authorization holder, if such holder receives relief under Corporate Debt Restructuring mechanism.
- *Policy Circular No 13 (RE-2013/2009-14, dated 24th February, 2014, (DGFT)*: In compliance with interim order of High Court of Andhra Pradesh, the maize importers under Tariff Rate Quota would have to satisfy 'Actual User' condition till the writ petition is finally disposed off or until further order
- *Notification No 71 (RE-2013) / 2009-2014, dated 27th February, 2014, (DGFT)*: A new Table 3 has been added in Appendix 37 D which would be entitled to additional benefits. Export of Products/Sectors of high export intensity/employment potential (which are not covered under present Focus Product Scrip List) would be incentivized @ 2 % of FOB value of exports (in free foreign exchange) under FPS when exported to the Linked Markets (countries), which are not covered in the present FMS list. Such products will be listed in Table 2 or Table 3 of

Appendix 37D of HBPv1, for exports made from 27.8.2009 onwards, unless a specific date of export/period is specified by public notice/notification.

- *Public Notice No.53/(RE 2013)/2009-14, dated 27th February, 2014, (DGFT)*: The products mentioned in the notice are included in Table 3 of Appendix 37D (Market Linked Focus Product Scheme) for export made with effect from 1.03.2014 to 31.8.2014.

CORPORATE

- *P.S.Venkatachalam v. Samuthralakshmi Spinners, dated 5th February, 2014, (High Court of Madras)*: From the Scheme of Regulations 22, 23 and 44, it is clear that the Company Law Board Regulations 1991 entitle only the main petitioner to file a counter reply to a reply filed by one or more of the respondents. Regulation 23 does not enable a co-respondent to file a counter reply to a reply filed by the respondent. The only possibility for the appellant is to try to fall back upon Regulation 44 which deals with inherent powers. Once the question on hand is covered by the express provisions of the Regulation 23, the area becomes an occupied territory into which the inherent powers cannot encroach.
- *Dr. J.S. Gambhir v. Millennium Health Institute and Diagnostics Pvt., dated 11th February, 2014, (High Court of Delhi)*: In the present case, the company had accepted that the applicant had tendered his resignation and an affidavit to this effect was placed on record much prior to the Official Liquidator was appointed as a Provisional Liquidator. Appellant had communicated his unequivocal intention to relinquish his office as a Director of the company. In view of the settled law that, unless articles provide otherwise, the acceptance of resignation submitted by a Director is not necessary for the same to take effect, it is clear that the applicant had demitted office as a Director much prior to the Official Liquidator being appointed as a Provisional Liquidator. In this view, no liability for non-performance of any obligation as a Director on the relevant date can be imposed on the appellant.
- *Revell Gmbh & Co. Kg v. M/s Fore Square Retail Private Ltd., dated 21st February, 2014, (High Court of Delhi)*: The respondent contended that the goods supplied by the petitioner were hazardous, sub-standard and also defective. This defence raised was held to be unsustainable and raised at a later date only to avoid the payments due to the petitioner. If the creditor's debt is bona fide disputed on substantial grounds, the court should dismiss the petition and leave the creditor first to establish his claim in an action, lest there is danger of abuse of winding up procedure. In cases of genuine disputes, a winding up petition would not be maintainable, however, in the present case, the disputes raised by the respondent are neither substantial nor bonafide. Winding up petition was not maintainable.

SECURITIES

- *CIR/MRD/DMS / 05 /2014, dated 7th February, 2014, (SEBI):* Depository System Review Committee (DSRC) which was constituted by SEBI to undertake a comprehensive review of the depository system of Indian Securities market, as a first measure has issued guidelines to be adopted by depositories with regard to the inspection of depository participants (DPs).
- *CIR/IMD/FIIC/4/2014, dated 14th February, 2014, (SEBI):* The Reserve Bank of India has reduced the existing sub-limit for FII/QFI investment in Commercial Papers from USD 3.5 billion to USD 2 billion. Eligible investors shall be permitted to invest upto US\$ 2 billion in Commercial Papers within the Corporate Debt limit of US\$ 51 billion.
- *Sanjay Kumar Tayal v. SEBI, dated 11th February, 2014, (SAT):* Since investigation was conducted on reference from RBI, it was held that where violations committed by any person fall within the domain of two authorities constituted under two statutes, then both authorities would be justified in initiating action against that person. In such a case, if one authority for any reason does not initiate proceedings, then, inaction by one authority would not vitiate proceedings initiated by another authority. Liability to pay penalty for violating SEBI Act and regulations made thereunder is not dependent on RBI initiating proceedings and imposing penalty for alleged violations of RBI guidelines.
- *Balwinder Singh, Prop. Of Gogia Investments v. SEBI, dated 11th January, 2014, (SAT):* Appellant had indulged in wash trades/self-trades/fictitious trades; which are manipulative/unfair/fraudulent in nature, as no actual beneficial ownership of shares was changed, in such transactions and are only meant to create false and misleading appearance of trading in securities market and thus Appellant by indulging into such kinds of transactions, violated provisions of Regulations 3 and 4(2)(g) of PFUTP Regulations. Penalty of Rs. 10 Lac imposed.
- *M/s. Keynote Corporate Services Ltd. v. SEBI, dated 19th February, 2014, (SAT):* Appellant was the merchant banker of ESL. IPO was filed on 20-01-09 and final prospectus was filed with ROC on 20-02-09 and in between the two dates ICDs were taken for a total of 4 crores and immediately after receipt of proceeds of IPO, the ICDs were re-paid with interest from proceeds of issue. This was contrary to position stated in prospectus that no bridge loan facility has been availed that will be repaid from proceed. Thus Appellant failed to exercise due diligence and make adequate disclosures as Book Running Lead Manager (BRLM) to the issue. BRLM is expected to act in an independent and professional manner and should not rely only on Issuer Company to provide them with updates, if any. Due diligence on part of Merchant

Banker does not mean passively reporting whatever is reported to it but to find out everything that is worth finding out. Penalty of Rs.10 lac imposed.

- *Mr. Vinod Baid v. SEBI, dated 25th February, 2014, (SAT)*: GLL of which Appellant is director/promoter made false corporate announcements which were not implemented (non-implementation not announced either to BSE or public) to create artificial volume in the scrip of the company, which enabled Appellant to offload 9.60 lac shares through off market transactions to Mercury Fund Management Company Limited (MFMCL), which, in turn, sold 9,30,850 shares at inflated prices to innocent investors. Thus MFMCL and GLL were acting in collusive manner to dupe the investors in buying at prices artificially hiked.

COMPETITION

- *Re: Alleged cartelization in the matter of supply of spares to Diesel Loco Modernization Works, Indian Railways, Patiala, Punjab, dated 5th February, 2014, (CCI)*: Present case relates to tender which was floated for procurement of feed valves used in diesel locomotives. All the three vendors who are the OPs herein quoted an identical rates. Quotation of identical prices despite these units having been located in different geographical locations and different cost of production; filing of the bids on the same date and failure on the part of the OPs to provide any plausible explanation for any of the above and the past conduct of the bidders, it is sufficient to establish that the OPs entered into an agreement to determine prices besides rigging the bid. Penalty at the rate of 2% of the average turnover of the company was imposed.
- *M/s Arora Medical Hall, Ferozepur v. CDAF & Ors., dated 5th February, 2014, (CCI)*: Informant alleges that CDAF has made it mandatory for any chemist/ druggist, who wishes to take distributorship for medicines of a company in Ferozepur city, to take an NOC and Letter of Credit (LOC) from it by making a payment of Rs. 2100/- per company. Informant objected to the said rule and was expelled from the primary membership of Chemists & Druggists Association Ferozepur (CDAF). It was held that this amounts to not only limiting and controlling the supply of goods and provision of services but also driving existing competitors out of the market. Penalty @ of 10% of average turnover of last three years on all OPs.
- *Mr. Ramakant Kini v. Dr. L.H. Hiranandani Hospital, Powai, Mumbai, dated 5th February, 2014, (CCI)*: The insistence by Opposite party hospital on having only Cryobank to collect and store the umbilical cord for stem cells of new born child amounts to an exclusive agreement which is anti-competitive being in contravention of the provisions of section 3(1) of the Act as it had caused appreciable adverse effect on competition in the market of stem cell banking. Given the peculiar nature of the service like long term association resulting in tying in of the consumer for 21 years and the nascent stage of the market, such agreements foreclose the

competition in the stem cell banking market and create entry barriers for competitors depriving the final consumers of not only the quality or price of services offered but also the choice of which service provider they would like to contract with. Penalty imposed at 3% of average turnover of last three years.

INDIRECT TAXES

– CUSTOMS

- *Notification No. 04/2014 - Customs, dated 3rd February, 2014* : CBEC has decided to exempt customs duty on tunnel boring machines and parts required for assembly of tunnel boring machines.
- *Notification No. 05/2014 - Customs, dated 17th February, 2014* : As part of the interim budget exercise, the following exemptions are provided:
 - i. Human embryo has been exempted from basic customs duty if imported for non-commercial purposes.
 - ii. Pears and quinces have been exempted from customs duties in excess of 30%.
 - iii. The basic customs duty on certain kinds of fatty acids of edible grade has been reduced to 2.5%, and of non-edible grade to 7.5%.
 - iv. LNG / NG imported for use in the C2 C3 plant of ONGC in the Dahej SEZ have been exempted from customs duty.
 - v. For goods imported under exemption 12/2012-Customs for setting up or expansion of a mega power project, and if the mega power status certification by the Joint Secretary was provisional, the time limit for providing final certificate has been extended from thirty six months to sixty months, by amendment of condition 93 of the notification
 - vi. Tunnel excavation and lining equipment have been exempted by a generic entry in serial number 21 of list 16 to notification 12/2012-Customs, in place of specific items named for exemption in serial numbers 1, 2, 6, 16, and 20 of the said list, which now stand deleted.
 - vii. Specified goods required for construction of roads have been exempted from basic customs duty if exempted by the Ministry of Surface Transport or an authorized person.
 - viii. Palm stearin has been completely exempted from basic customs duty.
 - ix. The basic customs duty on stearin other than palm stearin, and on industrial fatty alcohols, has been reduced to 7.5%.
 - x. The concessional rate of duty on pulses has been extended till the end of September 2015.
 - xi. The basic customs duty on machinery for printing bank notes has been reduced to 5%.

- *Notification No. 10/2014 - Customs (N.T.), dated 10th February 2014* : The Baggage Declaration Form, effective from March 2014, will require an incoming passenger to declare Indian currency if he is carrying more than of value specified by RBI. This was Rs 7,500; it has been raised to Rs 10,000 by amendment made to Form I prescribed under the Customs Baggage Declaration Regulations 2013.
 - *Notification No. 01/2014 - Customs (SG), dated 26th February, 2014* : Safeguard duty levied on import of Sodium Nitrite into India at the rate 30% ad valorem minus anti-dumping duty payable (if any).
 - *Circular No. 05/2014 - Customs, dated 27th February, 2014* : Under the new custom baggage declaration regulation, it has been clarified that all incoming international passengers will have to declare their baggage in the format provided in these regulations. Indians will not be required to fill out the arrival (disembarkation) card of the Ministry of Home Affairs; but foreign nationals will have to fill the arrival card.
 - *CC v. M/s Hind Offshore Pvt Ltd, dated 14th February, 2014 (Bombay HC)* : Stay order passed by CESTAT was not only an order passed in exercise of jurisdiction u/s 129E of the Customs Act, 1962 dispensing with requirement of depositing duty and penalty but also in exercise of its inherent jurisdiction as an appellate authority. Revenue appeal rejected
 - *Yakub Ibrahim Yusuf v. CC, Mumbai, dated 21st January, 2014 (CESTAT)* : Matter remitted to the Commissioner for purpose of quantification of redemption fine. Department approaching High Court against the order after a gap of two years and even after filing the appeal 18 months have passed and department has not initiated any action to get the order stayed. Held that it is complete inertia on the part of the department in pursuing the matter to its logical conclusion and Department to comply with the order within one month.
 - *Gujarat Narmada Valley Fertilizers And Chemicals Ltd v. CC, dated 30th January, 2014 (Gujarat HC)* : Held that SCN is not without jurisdiction as SCN issued is for finalization of the classification on the basis of the proposal and the prima facie opinion of the department rejecting the classification presented by the petitioner therefore, this is not a case where recovery of duty under s. 28 of the Customs Act is preceded the finalisation of the classification.
- **CENTRAL EXCISE**
- *Notification No. 3/2014 - Central Excise, dated 3rd February, 2014* : CBEC has exempted dicalcium phosphate (DCP) of animal feed grade from excise duty; and also provided a concessional rate of duty for iron and steel for construction of railway or tramway tracks.

- *Notification No. 4/2014 - Central Excise, dated 17th February, 2014* : Notification No. 12/2012 - Central Excise dated 17.03.2012 amended to following effect -
 - i. Battery packs, battery chargers, AC/DC motor and AC/DC controller for electric vehicles and hybrid vehicles, and certain other specified items for hybrid vehicles are subject to a concessional rate of BCD of 6%, which is valid for a limited period. The period of validity of the said exemption has now been extended up to 31 March 2015.
 - ii. The excise duty on specified machinery, vehicles and vehicle chassis has been reduced by adding serial numbers 345 to 367 to the table of concessional rates in notification 12/2012-CE.
 - iii. The price ceiling of Rs 2000 for concessional rate of excise duty on mobile phone handsets has been removed. Now the concessional rate of duty of 6% is applicable to all mobile phone handsets if Cenvat credit on inputs or capital goods is taken, and the rate of 1% is applicable if Cenvat credit is not taken.
 - iv. Motor vehicles in the SUV category have been included in the concessional rates of excise duty notified.

- *Sharp Industries Ltd v. CCE, Thane-II, dated 23rd January, 2014* : There was a default in payment of duty beyond 30 days from due date and the appellant is willing to pay by utilizing CENVAT. Held that although what is required to be paid is to be construed as arrears of revenue the same have to be paid in cash only as per Rule 8(3A) of CER, 2002, any other interpretation will make the restriction meaningless. What is not allowed directly cannot be allowed/claimed indirectly. Therefore appellant to pay Rs.8 crores in cash and is free to take CENVAT of equivalent amount and utilize for future clearances.

- *CCE, Mumbai v. M/s N T B International Pvt Ltd, dated 18th February, 2014 (Bombay HC)* : Once a mistake apparent from the record is brought to the notice of the Tribunal, it is duty bound to correct the mistake in its order. In such cases, the Tribunal should not feel shy to accept that it had committed an error.

- *International Conveyors Ltd v. CCE & CC, dated 25th February, 2014 (SC)* : It is an admitted fact that the amount of duty paid by the appellant had never been passed over to the purchasers and the said fact has been duly recorded by the Deputy Collector. Held that Revenue attempt to recover refunded amount on the ground of unjust enrichment and irrelevant Supreme Court order. Party appeal allowed with costs.

– SERVICE TAX

- *Notification No. 3/2014 - Service Tax, dated 3rd February 2014* : It has been decided to waive past dues of service tax payable, for the period 10 September 2004 to 30 June 2012, on services provided by the authorized person or sub-broker to a member of a recognized or registered association in relation to a forward contract. This has been done under section 11C of the Central Excise Act, made applicable to service tax by section 83 of the Finance Act 1994. The said section 11C provides that where duty/tax was not levied by prevalent practice, it can be notified as waived for that period. Those who paid it can apply for refund.
- *CCE & CC, Aurangabad v. The Sanjivani (Takli) Sahakari Sakhar Karkhana Ltd., dated 15th January, 2014 (CESTAT)* : There is a constructive supply of manpower by the appellant to M/s. Bajaj therefore held that merely because the appellant collected only 75% of the salary paid to the employees, it does not take the appellant out of the purview of service tax liability. Even if the activity undertaken in a one-time transaction, conforming to the legal definition of supply of manpower, service tax liability would accrue.

INTELLECTUAL PROPERTY RIGHTS

- *DRS Logistics (Pvt.) Ltd. and Anr. v. PRS Agarwal Packers and Movers Pvt Ltd., dated 5th February, 2014 (Delhi HC)* : It was recognised that mark by name of caste or surname should be registered in case there was evidence of distinctiveness and in the present case the evidence placed on record concluded that marks of plaintiffs "Agarwal Packers and Movers", "DRS Packers and Movers", "DRS Logistics" and "DRS Group word/logo" are well known mark. HC was satisfied that in case injunction was not granted, plaintiffs would suffer irreparable loss. Accordingly defendants were restrained from using trade mark "Agarwal", "PRS Agarwal Packers and Movers", corporate name or part of corporate name, trade mark and domain names so as to infringe registered trademarks of plaintiffs.
- *Roche Products (India) Pvt Ltd v. Drugs Controller General of India, dated 5th February, 2014 (Delhi HC)* : In view of the structural and manufacturing complexities involved in the production of the biopharmaceuticals, a "Biosimilar" product can only be similar to the innovator biopharmaceutical product; it cannot be a generic equivalent of the innovator biopharmaceutical product. The Guidelines on Similar Biologics were issued in 2012 which provide for a detailed and structured process for comparison of similar biologic with the reference biologic. All the applications for manufacturing and marketing authorization of similar biologics in India are required to be evaluated on the basis of the standards set forth on the Guidelines and only products which have been approved under the said Guidelines should be allowed to be represented as biosimilar products.

- *Living Media India Ltd v. Alpha Dealcom Pvt Ltd., dated 19th February, 2014 (Delhi HC) :* Held that since the mark 'TODAY' has never been used by the plaintiffs for 'telecommunications and broadcasting' and In fact, the plaintiffs have not produced any evidence to show that the stand-alone mark 'TODAY' has been used at all. Similarly, the mark 'INDIA TODAY' has also not been used for any TV news channel ever since its registration in Class 38 in the year 2005 which shows that the plaintiff no.1 never intended to use this mark for the said services. Therefore the balance of convenience, which has a vital role to play in such like cases, is not in favour of the plaintiffs for the grant of interim injunction against defendants' mark 'NATION TODAY'.
- *Gati Ltd. v. Gati Dance Forum/Gati Forum Trust, dated 24th February, 2014 (Delhi HC) :* Plaintiff a logistics solutions provider company working under the Trade name "GATI" and Defendant a registered non-profit charitable trust promoting dance under the name "GATI DANCE FORUM". Held that injunction cannot be granted to plaintiff as both the parties are engaged in different fields of activities. No merchandise goods are involved in the business of the defendant. The chance of confusion and deception in the mind of customers of the both the businesses being different, is nil. "GATI" is not an invented or coined word, it is a common Hindi and Sanskrit word meaning 'movement'.

CONSUMER

- *Oriental Insurance Company Ltd. v. Delhi Assam Roadways Corporation, dated 3rd February, 2014, (NCDRC):* Complainant has not been able to make out a case to support his claim. He has failed to take reasonable care to protect the insured premises and the stock of raw materials kept therein and has further failed to comply with the mandatory and specific conditions of the policy relating to immediate notice of the loss to the police and to the Insurance Company. Also there has not been any violent and forcible entry of any outsider/burglar to commit theft. Complainant was held negligent and revision petition was allowed.
- *Smt. Munesh Devi v. The U.P. Power Corporation Ltd, dated 3rd February, 2014, (NCDRC):* The Complainant awarded a sum of Rs. 25 lac because of the death of her husband, caused due to the transformer installed and maintained by the Opposite Parties. The transformer of the Uttar Pradesh Power Corporation Ltd, arrayed as OP No.1, suddenly burst and the hot oil of the transformer fell upon her husband. He suffered 85% burns and succumbed to injuries. Dereliction on part of Ops was established.
- *M/s. Steel City Securities Ltd v. G.P. Ganesh & Ors., dated 3rd February, 2014, (NCDRC):* Respondents have nowhere pleaded in their complaint that they are doing the share trading business for self-employment nor it has been pleaded that the services provided by the

petitioner are being availed exclusively for the purpose of earning their livelihood by means of self-employment. It is well settled that the dispute between the parties relating to commercial purposes are excluded under the Act. Respondents are trading regularly in the share business which is commercial activity, under these circumstances, respondents would not fall under the definition of 'consumer' as per the Act.

- *National Insurance Co. Ltd. v. B. Venkataswamy, dated 6th February, 2014, (NCDRC)*: The current contractual obligation imposing the condition that the claims shall be intimated to the insurer, with prescribed documents within a specified number of days, is necessary for insurers for effecting various post-claim activities, like investigation, loss assessment, provisioning, claim settlement, etc. However, this condition should not prevent settlement of genuine claims, particularly, when there is delay in intimation or in submission of documents, due to unavoidable circumstances.
- *Kuldip Studley v. ICICI Prudential Life Insurance Company Ltd. & Ors., dated 6th February, 2014, (NCDRC)*: The revisional powers of the National Commission are derived from Section 21 (b) of the Act, under which the said power can be exercised only if there is some prima facie jurisdictional error appearing in the impugned order.
- *Life Insurance Corporation of India v. Archana Dayanand Vakade, dated 7th February, 2014, (NCDRC)*: In a Contract of Insurance, any fact which would influence the mind of a prudent insurer in deciding whether to accept or not to accept the risk is a "material fact". If the proposer has knowledge of such fact, he is obliged to disclose it particularly while answering questions in the proposal form. Any inaccurate answer will entitle the insurer to repudiate his liability because there is clear presumption that any information sought for in the proposal form is material for the purpose of entering into a Contract of Insurance.
- *M/s. Media Video Ltd v. Mrs. Asha, dated 12th February, 2014, (NCDRC)*: Appellate Court while deciding an appeal is required to deal with all the arguments raised by the appellant and as learned State Commission has not dealt with arguments of the appellant, it would be appropriate to remand the matter back to the learned State Commission for disposal by speaking order after dealing with all the contentions and arguments raised by the petitioner.
- *Mallikarjun Sakri v. BM, Oriental Insurance Co. Ltd., dated 13th February, 2014, (NCDRC)*: Report of a Surveyor being an important document has substantial evidentiary value unless it is displaced by more credible evidence to the contrary. The documents submitted by the Petitioner, namely, the bill indicating the repairs done carries more credibility than the Surveyor's report because it clearly indicates item-wise damage caused to the vehicle as also

the cost of repairs. It is also supported by an affidavit of the mechanic whereas no affidavit has been filed by the Surveyor to support its report.

- *Life Insurance Corporation of India v. Sri Hari, dated 14th February, 2014, (NCDRC)*: Insured can take advantage of Disability Certificate only if he has suffered disability which renders him incapable of any work, occupation or profession he could ever sufficiently do to earn wages, compensation or profits. The insured was a tailor and had sufficient working knowledge of that profession. Due to the injury suffered by him, he cannot work on foot pedal tailor machine. He cannot be expected to work as a labour or house keeper etc. If such an interpretation is given to this provision, then nobody would be able to get benefit of the accident benefit clause because the insurer would always come up with the plea that a person can do some cleaning work job or other menial job.
- *NCR Vehicles Pvt. Ltd v. Rais Ahmed, dated 20th February, 2014, (NCDRC)*: While deciding an application filed in such cases for condonation of delay, the Court has to keep in mind that the special period of limitation has been prescribed under the Consumer Protection Act, 1986 for filing appeals and revisions in consumer matters and the object of expeditious adjudication of the consumer disputes will get defeated if this Court was to entertain highly belated petitions filed against the orders of the Consumer Foras.
- *Shri Pavel Garg, Proprietor v. The New India Assurance Company Limited, dated 28th February, 2014, (NCDRC)*: In the present case that the appellant is guilty of withholding the fact that it had simultaneously filed separate set of complaints on the same cause of action before the State Commission, Chandigarh (UT) as well as State Commission, Haryana, which amounts to “Forum Hopping”.

ENVIRONMENT

- *The Times of India, dated 14th February, 2014* : NGT has directed the Centre to hold a meeting of all the states and prepare "composite" guidelines for preventing the pollution caused by straw burning, which allegedly is one of the reasons for the smog in Delhi.
- *The Economic Times, dated 14th February, 2014* : NGT has taken serious note of alarming pollution caused by thermal power plants in Vidarbha using inferior quality coal, in violation of ministry of environment and forests' norms.
- *The Times of India, dated 13th February, 2014* : NGT directed the Central Pollution Control Board (CPCB) and its Uttar Pradesh unit to inspect a sugar mill, a distillery and a dairy plant on whether they were discharging effluents into the Ganga River.

- *The Times of India, dated 21st February, 2014*: NGT reinforced a 2001 UP government order to preserve rapidly declining levels of groundwater in Ghaziabad and to restrict reckless concretization of urban areas.
- *The Times of India, dated 7th February, 2014* : NGT has issued stay upon discharge of untreated effluents into the Sahibabad drain besides restraining chopping of trees in Vaishali green belt.

OTHERS

- *State Of Rajasthan v. Parmanand & Anr, dated 28th February, 2014 (SC)* : A joint communication was made to the accused of the right available under Section 50(1) of the NDPS Act. It was held that the accused must be individually informed that under Section 50(1) of the NDPS Act, he has a right to be searched before a nearest gazetted officer or before a nearest Magistrate. A joint communication of the right may not be clear or unequivocal.
- *EMCO Ltd v. UOI, dated 11th February, 2014 (Bombay HC)* : It is most important that the litigant must have complete confidence in the process of litigation and that this confidence would be shaken if there is excessive delay between the conclusion of the hearing and delivery of judgment. Order passed after nine months of conclusion of hearing set aside and adjudicating authority directed to hear afresh and pass an order within reasonable time.

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