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RBI/FEMA

1) SUBMISSION OF STATUTORY RETURNS (SLR-FORM VIII) IN XBRL PLATFORM

RBI has decided to move the reporting of SLR from PCRPCD to XBRL (Extensible Business Reporting Language) platform and advised to submit the returns (Form VIII) in XBRL from the month of April 2017. - *[Ref: DBR.CO.No.Ret.BC/66/12.07.144/2016-17, dated 11th May, 2017]*

2) RBI NOTIFIES MINIMUM QUALIFICATIONS AND EXPERIENCE FOR APPOINTMENT OF CFO AND CTO IN BANKS

Noting that Chief Financial Officer (CFO) and Chief Technology Officer (CTO) in banks' management structure plays a crucial role in strengthening and sustaining the banks' risk governance framework, RBI has advised that banks, while inviting applications for these positions, stipulate, at a minimum, the qualifications and experience for the CFO and CTO as detailed in the Annexure to this Circular. Banks may, however, prescribe additional

qualifications and experience as they deem fit, taking into account the risk profile, size and scale of operations. -

[DBR.Appt.No.BC.68/29.67.001/2016-17, dated 18th May, 2017]

3) RBI MANDATES RATING BY TWO COMPANIES FOR CORPORATE BONDS PCE

The RBI made changes to the partial credit enhancement (PCE) framework for corporate bonds, making it mandatory for companies to get the paper rated by two agencies throughout its lifetime. Also, the rating reports, including the initial ones and subsequent, should disclose both standalone credit rating without taking into account the effect of PCE as well as the enhanced credit rating taking into account the effect of PCE. - *[DBR.No.BP.BC.70/21.04.142/2016-17, dated 18th May, 2017]*

4) CONTINUATION OF INTEREST SUBVENTION SCHEME FOR SHORT-TERM CROP LOANS ON INTERIM BASIS DURING THE YEAR 2017-18

RBI vide its Circular FIDD. CO. FSD. BC. No 9/05.02.001/2016-17 dated August 4, 2016 advised the continuation and implementation of the Interest Subvention Scheme for the year 2016-17. As regards the Scheme for the year 2017-18, Ministry of Agriculture & Farmers Welfare, Government of India (GoI) has informed that they have initiated the process for continuation of the Interest Subvention Scheme. In view of this, GoI decided, as an interim measure, to implement the Interest Subvention Scheme for the year 2017-18 till further instructions are received, on the terms and conditions approved for the Scheme for 2016-17. -

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*[FIDD.CO.FSD.BC.No.29/05.02.001/2016-17,
dated 25th May, 2017]*

5) SUBMISSION OF ANNUAL INFORMATION RETURN RELATING TO ISSUE OF BONDS FOR ₹ 5 LAKH OR MORE UNDER SECTION 285 BA OF INCOME TAX ACT, 1961

The RBI has observed that a few Agency banks were submitting Annual Information Returns (AIR, now changed to Statement of Financial Transaction) in respect of Savings Bonds to Income Tax Authorities as well as to RBI. As RBI too, consolidates and submits this information to IT Department, and in order to avoid the duplication of data relating to Savings Bonds, Agency banks/SHCIL may henceforth ensure that the required information is furnished only to Public Debt Offices of the respective jurisdiction. They need not submit this information to Income Tax Authorities separately. - *[IDMD.CDD.No.3058/13.01.299/2016-17, dated 30th May, 2017]*

FOREIGN TRADE

1) EXPORT OF RED SANDERS WOOD

- (i) Time upto 30th April, 2019 has been allowed to the Government of Andhra Pradesh to finalize the modalities and complete the process of export of a located quantity of Red Sanders wood.
- (ii) Time upto 30th April, 2018 has been allowed to Directorate of Revenue Intelligence (DRI) to finalize the modalities and complete the process of export of allocated quantity of Red Sanders wood.
- (iii) Time upto 31st August, 2018 has been allowed to the Government of Maharashtra and Government of Tamil Nadu to finalize the modalities and

complete the process of export of respective allocated quantity of Red Sanders wood

- (iv) Time upto 30th April, 2018 has been allowed to complete the export of value added products (VAP) of Red Sanders wood by Government of Andhra Pradesh, either by itself or through any entity / entities so authorised by them for the purpose. - *[Notification No.8 /2015-2020, 23rd May, 2017, (DGFT)]*

2) CONSTITUTION OF GST FACILITATION CELL

For smooth rollout of GST, GST Facilitation Cell has been constituted at DGFT Headquarters and all regional offices of DGFT for addressing issues regarding GST in respect of Foreign Trade Policy. - *[Trade Notice No. 8/2018, 8th May, 2017, (DGFT)]*

3) SCOMET EXPORT PERMISSION FOR "STOCK AND SALE" PURPOSES

The provision for SCOMET export authorization for "Stock and Sale" has been clarified and the procedure to be followed when seeking permission for re-export/re-transfer of SCOMET items by stockist entity to ultimate end-user has been framed. - *[Public Notice No. 7/2015-20, 7th May, 2017, (DGFT)]*

CORPORATE

1) THE TIME LIMIT PRESCRIBED IN INSOLVENCY AND BANKRUPTCY CODE, 2016 FOR ADMITTING OR REJECTING A PETITION OR INITIATION OF INSOLVENCY RESOLUTION PROCESS IS MANDATORY.

The National Company Law Appellate Tribunal Company examined whether the time limit prescribed in Insolvency & Bankruptcy Code, 2016 for admitting or rejecting a petition or initiation of insolvency resolution process is mandatory.

The Appellate Tribunal has examined various provisions of IBC such as Section 7 (initiation of corporate insolvency resolution process by financial creditor); Section 9 (application for initiation of corporate insolvency resolution process by operational creditor); Section 10 (Initiation of Corporate insolvency process by Corporate applicant); Section 64(1); Section 16 (Appointment and tenure of interim resolution professional); Section 12 (time-limit for completion of insolvency resolution process); Section 33 (Initiation of liquidation). The Appellate Tribunal after examining the above stated provisions held the following:

(i) Time is the essence of the Insolvency and Bankruptcy Code 2016;

(ii) The Adjudicating Authority has different roles to play at different stages. One of such roles is administrative in nature when under Section 7(4), Section 9(5) and Section 10(4), the adjudicating authority is required to find out whether (i) the case is complete in terms of the provisions of Section 7(2), Section 9(2) or Section 10(2) or (ii) whether there is a defect i.e., application is not in order or it is incomplete. Otherwise, the role of adjudicating authority is judicial in nature particularly when it decides as to whether the Insolvency Resolution Process is to be initiated by admission of the application or by rejection of the same. As a judicial authority, in case the application is incomplete, it is also empowered to decide whether to grant 7 days' time to rectify the defects. In case the applications are admitted and resolution process starts, the Adjudicating Authority is required to pass judicial order under Section 13 and Section 14 of the Code and may order for public announcement in terms of

Section 15 and then to overcome the resolution process and finally, if so required, to pass order for liquidation.

(iii) The Appellate Tribunal determined the question on how to calculate time period of 14 days prescribed under Section 7(4), Section 9(5) and Section 10(4). The Appellate Tribunal held that 14 days period granted to the Adjudicating Authority under the provisions of the Code cannot be counted from the date of filing of the application but from the date when such application is presented before the Adjudicating Authority i.e., the date on which it is listed for admission/order. The Tribunal further observed that the object behind the time period prescribed under Section 7(5), Section 9(5) and Section 10(4) is to prevent the delay in hearing the disposal of the cases and adjudicating authority cannot ignore the provisions, however, in appropriate cases, for the reasons recorded in writing, it can admit or reject the petition after the period prescribed under Section 7 of Section 9 or Section 10.

(iv) The Tribunal further observed that the 7 days period for rectification of defects under Section 7(5), Section 9(5) and Section 10(4) are mandatory and on failure, applications are fit to be rejected.

(v) Section 12 lays down a time limit for completion of insolvency resolution process which is to be completed within 180 days from the date of admission of the application. An extension of the period of corporate insolvency resolution process can be granted by the Adjudicating Authority but it cannot exceed 90 days and cannot be granted more than once. In other-words, non-completion of insolvency resolution process within the time limit of 180 days + extended period of 90 days i.e., total 270 days will result in to initiation of liquidation proceedings under Section 33. Therefore, the time limit granted under Section 12 of the Code is mandatory. **–[JK Jute Mills Company Limited v. M/s Surendra Trading Company (Company**

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Appeal (AT) No. 09 of 2017, 1st May, 2017, (NCLAT)]

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SECURITIES

1) ONLINE REGISTRATION MECHANISM FOR SECURITIES MARKET INTERMEDIARIES.

SEBI has decided to operationalise SEBI Intermediary Portal for the intermediaries to submit all the registration applications online. The Portal shall include online application for registration, processing of application, grant of final registration, application for surrender/cancellation, submission of periodical reports, request for change in name and address other details, etc.

The intermediary portal is made operational for following intermediaries: (i) stock brokers; (ii) sub-brokers; (iii) merchant bankers (MB); (iv) Underwriters (UW); (v) Registrar to an Issue and Share Transfer Agents (STA); Debenture Trustee (DT); Bankers to an Issue (BTI) and Credit Rating Agency (CRA).

The Portal is being made operational for depository participants from May 31, 2017. SEBI has therefore clarified that all applications for registration/surrender/other request shall be made through SEBI Intermediary Portal only. The applications in respect of stock brokers/sub-broker and depository participants shall continue to be made through stock exchanges and depositories respectively.

The applicants will be separately required to submit relevant documents viz, declarations/undertakings required as part of application forms prescribed in relevant regulations, in physical form, only for records without impacting the online processing of application for registration.

Where the applications are made through stock exchanges/depositories, the hard copies of the applications made by the members shall be preserved by them and shall be made available to SEBI, when called for.

[SEBI/HO/MIRSD/MIRSD1/CIR/P/2017/38, 2nd May, 2017, (SEBI)]

2) DIGITAL MODE OF PAYMENT.

SEBI notified SEBI (Payment of Fees and Mode of Payment) (Amendment) Regulations, 2017 on March 06, 2017 to enable digital mode of payment (RTGS/NEFT/IMPS etc.) of fees/penalties/remittance/other payments etc. In order to identify and account such direct credit in the SEBI account, it has been decided that the various intermediaries / other entities shall provide the information to SEBI once the payment is made in the format attached with the Circular. *—[SEBI/HO/GSD/T&A/CIR/P/2017/42, 16th May, 2017, (SEBI)]*

3) POSITION LIMITS FOR DERIVATIVES ON EXCHANGES IN IFSC

SEBI (International Financial Services Centres) Guidelines, 2015 have permitted the dealing in currency derivatives by stock exchanges in IFSC. For cross-currency futures and options contracts (not involving Indian Rupee), the position limits for eligible market participants, per currency pair per stock exchange, shall be as follows:-

Trading Members (proprietary basis as well as clients' position): Gross open position across all contracts not to exceed 15% of the total open interest or USD 1 billion equivalent, whichever is higher.

Institutional Investors - Gross open position across all contracts not to exceed 15% of the total open interest or USD 1 billion equivalent, whichever is higher.

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Eligible Foreign Investors (as referred to in SEBI Circular IMD/HO/FPIC/CIR/P/2017/003 dated January 04, 2017) – Gross open position across all contracts not to exceed 15% of the total open interest or USD 1 billion equivalent, whichever is higher.

Other Clients – Gross open position across all contracts not to exceed 6% of the total open interest or USD 100 million equivalent, whichever is higher.

SEBI has mandated the stock exchanges to impose appropriate penalties for violation of position limits.

–[SEBI/HO/MRD/DRMNP/CIR/P/2017/43,
17th May, 2017, (SEBI)]

4) PERMISSIBLE INVESTMENTS BY PORTFOLIO MANAGERS, ALTERNATIVE INVESTMENT FUNDS AND MUTUAL FUNDS OPERATING IN IFSC.

SEBI vide the present Circular has amended Clause 9 (4) and Clause 22 (3) of SEBI (International Financial Services Centres) Guidelines, 2015. The effect of which is that portfolio managers, alternative investment fund or mutual fund respectively, operating in IFSC are permitted to invest in (a) securities which are listed in IFSC; (b) Securities issued by companies incorporated in IFSC; (c) Securities issued by companies incorporated in India or companies belonging to foreign jurisdiction, this is however subject to such conditions or guidelines that may be stipulated or issued by the Reserve Bank of India and Government of India from time to time.

SEBI has also clarified that such portfolio manager, alternative investment fund or mutual fund shall invest in India through the foreign portfolio investor route. –[SEBI/HO/MRD/DSA/CIR/P/2017/45, 23rd May, 2017, (SEBI)]

5) LISTING OF NON-CONVERTIBLE REDEEMABLE PREFERENCE SHARES (NCRPS)/ NON-CONVERTIBLE DEBENTURES (NCDs) THROUGH A SCHEME OF ARRANGEMENT.

SEBI vide Circular No. CFD/DIL3/CIR/2017/21 dated March 10, 2017 has laid down detailed requirements to be complied with by listed entities while undertaking schemes of arrangement for listing of Equity or Warrants. Since scheme of corporate restructuring may involve issuance of NCRPs and NCDs in lieu of specified securities [specified securities as defined in the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009], through present Circular SEBI has prescribed the listing guidelines for NCRPs/NCDs.

Conditions to be satisfied before the Scheme of Arrangement is submitted for Sanction by NCLT.

A listed entity, which has listed its specified securities, may seek listing of NCRPS/NCDs issued pursuant to a scheme of arrangement provided that it has complied with the following provisions: -

Eligibility for Seeking Listing of NCRPS/NCDs: A listed entity which has listed its specified securities may seek listing of NCRPS/NCDs issued pursuant to a scheme of arrangement only in case where (i) the listed entity is part of such scheme of arrangement; and (ii) such NCRPS/NCDs are issued to the holders of specified securities of such listed entity. SEBI further explained this through scenarios that may broadly get covered under this stipulation.

A listed entity, which has listed its specified securities, (demerged entity) demerges a unit and transfers the same to another entity (resultant entity), and the resultant entity issues NCRPS/NCDs to the holders of the specified securities of listed entity (i.e., demerged entity) as a consideration under the scheme of arrangement.

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A listed entity, which has listed its specified securities, (amalgamating entity) is merged with another entity (amalgamated entity), and the amalgamated entity issues NCRPS/NCDs to the holders of the specified securities of listed entity (i.e. amalgamating entity) as a consideration under the scheme of arrangement.

SEBI, in this regard however clarified, that only the NCRPS/NCDs issued to the holders of listed specified securities, *vide* the scheme of arrangement, would be eligible for seeking listing. Also, if same series/class of NCRPS/NCDs are also allotted to other investors, other than to the holders of listed specified securities as per the scheme of arrangement, then such NCRPS/NCDs would not be eligible for seeking listing.

Tenure/Maturity: The minimum tenure of the NCRPS/NCDs shall be one year.

Credit Rating: A credit rating agency registered with SEBI must have assigned NCRPS/NCDs such minimum credit rating, as specified for public issue of NCRPS and NCDs under SEBI (Issue and Listing of Non-Convertible Redeemable Preference Shares) Regulations, 2013 and SEBI (Issue and Listing of Debt Securities) Regulations, 2008, respectively.

Valuation Report: Valuation Report as prescribed as per Annexure I of SEBI Circular No. CFD/DIL3/CIR/2017/21 dated March 10, 2017, shall be required for the listing of NCRPS/ NCDs pursuant to the scheme of arrangement.

Disclosures in the Scheme of Arrangement: (a) Face Value & Price; (b) Dividend/Coupon: The terms of payment of dividends/Coupon including frequency etc; (c) Credit Rating; (d) Tenure/ Maturity; (e) Redemption: The terms of redemption, amount, date, redemption premium/discount,, and early redemption scenarios, if any; (f) Other embedded features (put option, call option, dates, notification times, etc); (g) Other terms of instruments (i.e., term sheet); and (h) Any other information/details pertinent for the investors.

Other Conditions: (a) Issue of NCRPS/NCDs should be in compliance with provisions relating to creation and maintenance of Capital Redemption Reserve/Debt Redemption Reserve; (b) all such NCRPS/NCDs shall be issued in dematerialised form only; (c) In case of NCDs, the issuer shall appoint Debenture Trustee and also create an appropriate charge or security; and (d) all provisions of SEBI (Issue and Listing of Non-Convertible Redeemable Preference Shares) Regulations, 2013 and SEBI (Issue and Listing of Debt Securities) Regulations, 2008 shall be complied with except for provisions related to making a public issue, or making a private placement, or filing of offer document etc. – **[CIR/IMD/DF/50/2017, 26th May, 2017, (SEBI)]**

6) CONDITIONS TO BE SATISFIED AFTER SCHEME IS APPROVED AND AT THE TIME OF APPLYING FOR RELAXATION UNDER SUB-RULE (7) OF RULE 19 OF SCRA.

To avail exemption of Sub-rule (7) of Rule 19 of SCRA for listing of NCRPS/NCDs a detailed application and compliance report as per the format specified in Annexure 1 of the present Circular, duly certified by company secretary and Managing Director confirming compliance with the present Circular and SEBI Circular dated 10th March, 2017 (mentioned above) is required to be submitted. SEBI can stipulate further condition as deemed necessary for the specific application. The circular will be applicable for all draft schemes filed with the stock exchanges after the date of this Circular. – **[CIR/IMD/DF/50/2017, 26th May, 2017, (SEBI)]**

7) FOR A SCHEME TO BE CATEGORIZED AS CIS IT HAS TO FULFILL FOUR

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CONDITIONS OF SECTION 11AA OF SEBI ACT.

Appellant Pancard Clubs Limited ('Appellant') launched and operated schemes which were in nature of Collective Investment Scheme (CIS). The Appellants had approached Securities Appellate Tribunal against the order of SEBI directing refund of monies to the tune of Rs.7,035 crores and wind up CIS operated by them under the guise of time sharing business for violating Section 12(1B) of the SEBI Act read with Regulation 3 of the CIS Regulations.

SEBI alleged that Appellants launched the scheme without registering themselves under Regulation 3 of the CIS Regulation as a Collective Investment Management Company (CIMC). Appellants argued that the scheme offered by them was a holiday plan and was not CIS as it did not satisfy the criteria required to be classified as a CIS.

The Tribunal noted and explained that according to Section 11AA of the SEBI Act, four conditions need to be satisfied before a Scheme could be classified as CIS. First, monies collected by investors are pooled and utilized for the purpose of the scheme; second, investors contribute to the scheme with the intention of receiving profits in the form of money, produce or property; third, the contributions from investors are being managed on their behalf; and fourthly, the investors have no control over the day to day management and operations of the scheme. Further, Section 12(1B) of the SEBI Act requires a CIS certificate of registration before a CIS could be launched and Regulation 3 prohibits any entity other than a collective investment management company from floating or sponsoring a CIS.

The Tribunal answered affirmative to the question of whether the holiday scheme/plan floated by the Appellants falls under the category of CIS by fulfilling the above four conditions. The Tribunal held that the scheme involved pooling of funds and utilizing the proceeds towards expanding the scheme,

the option of 'surrender' under the scheme allowed investors to avail amounts higher in value than initial investments rather than room rights under the holiday scheme which was availed by almost 97% of investors, investors contributions were managed by the Appellants and the day to day management of the scheme rests with the Appellants and not the investors. Thus, the scheme was categorized as CIS by the Tribunal and the Order of SEBI was upheld directing the Appellants to return the money collected. *–[Pancard Clubs Limited and Others v. SEBI, 12th May, 2017, (SAT)]*

COMPETITION

1) THERE IS NO APPEAL AGAINST ORDERS PASSED BY CCI UNDER SECTION 26 OF THE COMPETITION ACT.

On the issue of admission of appeal, the Competition Appellate Tribunal clarified that orders passed under Section 27 of the Competition Act, 2002, regarding violation of Section 3 and 4 of the Act are appealable and not orders passed under Section 26(8) where the Competition Commission of India (CCI) is not satisfied of any violation of the Act, and thus there is nothing to appeal against. The Appellate Tribunal also noted that jurisdiction of the Tribunal is clearly drawn in Section 53A(1)(a) of the Competition Act and though the scheme of section 26 is unclear the Appellate Tribunal is in no position to intervene. *– [Saurabh Tripathy v. CCI and other, 15th May, 2017, (Competition Appellate Tribunal)]*

INDIRECT TAXES

a. CUSTOMS

1) RATES OF BCD ON INDUSTRIAL GRADE PALM STEARIN (CRUDE, RBD OR OTHER) MADE EFFECTIVE

Notification No. 12/2012 dated 17.03.2012 amended so as to make effective rates of BCD on industrial grade palm stearin (crude, RBD or other) which were earlier classifiable under sub-heading 3823 11 and are now classifiable under 1511 90 30 consequent to the amendments carried out *vide* the Finance Act, 2017. - *[Notification No. 18 /2017-Customs, dated 9th May, 2017]*

2) TARIFF PREFERENCES UNDER THE INDIA-CHILE PREFERENTIAL TRADE AGREEMENT (PTA) EXPANDED

Notification No. 101/2007 – Customs dated 11th September 2007 amended so as to notify the expanded schedule of tariff preferences under the India-Chile Preferential Trade Agreement (PTA). - *[Notification No. 19/2017-Customs, dated 16th May, 2017]*

3) CONDITIONS FOR EXEMPTION FOR MEGA POWER PROJECTS EASED

Notification no. 12/2012-Customs dated 17.03.2012 amended so as to extend the time period for furnishing the final Mega power project certificate from 60 months to 120 months and to extend the period of validity of security in the form of Fixed Deposit Receipt or Bank Guarantee from 66 months to 126 months, in case of provisional mega power projects. - *[Notification No. 20/2017-Customs, dated 16th May, 2017]*

4) EXEMPTION FROM IMPORT DUTY ON CUT & POLISHED DIAMONDS DURING PERIOD 9TH MARCH, 2012

The Central Government has noted that there was a general practice of not levying duty on re-import of cut and polished diamonds that had been exported for certification and grading, during the period 9 March 2012 to 1 March 2017 when there was no exemption notification for such import. In view of this, the customs duties on such imports have been waived under Section 28A of the Customs Act 1962. - *[Notification No. 21/2017-Customs, dated 22nd May, 2017]*

5) DHAMRA PORT NOTIFIED FOR IMPORT AND EXPORT

Notification 62/94 –Customs (N.T), dated 21.11.1994 amended so as to allow unloading of imported goods and loading of export goods or any class of such goods at Dharma Port, Odisha. - *[Notification No. 44 /2017-Customs (N.T.), dated 11th May, 2017]*

6) VALMIKINAGAR NOTIFIED AS A LAND CUSTOMS STATION

Notification 63/94-Customs (N.T), dated 21.11.1994 amended so as to notify Valmikinagar in West Champaran District, Bihar as a Land Customs Station for the Nepal border and to designate the route by which goods are to be taken between this point and the hinterland. - *[Notification No. 50 /2017-Customs (N.T.), dated 24th May, 2017]*

7) EXTENSION OF LEVY OF ADD ON VISCOSE FILAMENT YARN

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Levy of anti-dumping duty, imposed on Viscose Filament Yarn originating in or exported from China PR under Notification No. 23/2012-Customs (ADD), dated 04.05.2012 extended for a further period of one year i.e. upto and inclusive of 03.05.2018. - **[Notification No. 14/2017-Customs (ADD), dated 3rd, May, 2017]**

8) ADD ON ELASTOMERIC FILAMENT YARN

Definitive anti-dumping duty levied on import of Elastomeric Filament Yarn from China PR, South Korea, Taiwan and Vietnam for a period of five years (unless revoked, superseded or amended earlier) in pursuance of final findings of the Directorate General of Anti-Dumping & Allied Duties dated 24.03.2017. - **[Notification No. 15/2017-Customs (ADD), dated 3rd, May, 2017]**

9) EXTENSION OF LEVY OF ADD ON PARTIALLY ORIENTED YARN

Levy of anti-dumping duty, imposed on Partially Oriented Yarn (POY) originating in or exported from China PR under Notification No. 22/2012-Customs (ADD), dated 02.05.2012 extended, for a further period of one year i.e., upto and inclusive of 01.05.2018 - **[Notification No. 16/2017-Customs (ADD), dated 9th, May, 2017]**

10) ADD ON HOT ROLLED FLAT PRODUCTS OF ALLOY OR NON-ALLOY STEEL

Definitive anti-dumping duty levied, on Hot Rolled Flat Products of alloy or non-alloy steel originating in or exported from China PR, Japan, Korea RP, Russia, Brazil or Indonesia for a period of five years (unless revoked, superseded or amended earlier) from the date of imposition of the provisional anti-

dumping duty, that is, 8th August, 2016. - **[Notification No. 17/2017-Customs (ADD), dated 11th, May, 2017]**

11) ADD ON COLD ROLLED FLAT PRODUCTS OF ALLOY OR NON-ALLOY STEEL

Definitive anti-dumping duty levied, on Cold Rolled Flat Products of alloy or non-alloy steel originating in or exported from China PR, Japan, Korea RP, or Ukraine for a period of five years (unless revoked, superseded or amended earlier) from the date of imposition of the provisional anti-dumping duty, that is, 17th August, 2016. - **[Notification No. 18/2017-Customs (ADD), dated 12th, May, 2017]**

b. CENTRAL EXCISE

1) CONDITIONS FOR EXEMPTION FOR MEGA POWER PROJECTS EASED

Notification No. 12/2012-Central Excise dated 17.03.2012 amended extending the time period for furnishing the final Mega power project certificate from 60 months to 120 months and extending the period of validity of security in the form of Fixed Deposit Receipt or Bank Guarantee from 66 months to 126 months, in case of provisional mega power projects. - **[Notification No. 8/2017-Central Excise, dated 16th May, 2017]**

2) CBEC CLARIFIES THAT ROUND-THE-CLOCK PRESENCE OF CENTRAL EXCISE OFFICERS IN THE CIGARETTE FACTORIES IS NOT MANDATORY BUT DIRECTORY

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The CBEC has clarified that round-the-clock presence of Central Excise officers in the cigarette factories is not mandatory but directory. The Circular interprets the law to point out that the presence of a Superintendent of Central Excise is required only for assessment of duty and countersigning of invoice at the time of removal of the goods. In view of this there is no requirement of round-the-clock posting of central excise officers to supervise production: discreet vigilance can be maintained by the preventive wing of the central excise formations. This Circular overrides earlier circulars or instructions in the manual on the matter. - *[Circular No. 1055/04/2017-CX, dated 1st May, 2017]*

c. SERVICE TAX

1) EXEMPTION OF LIFE INSURANCE SERVICES UNDER 'PRADHAN MANTRI VAYA VANDANA YOJANA'

Notification No. 25/2012-ST dated 20.06.2012 amended so as to exempt life insurance services under 'Pradhan Mantri Vaya Vandana Yojana' from service tax. - *[Notification No. 17/2017-Service Tax, dated 4th May, 2017]*

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INTELLECTUAL PROPERTY RIGHTS

1) DELHI HIGH COURT SET ASIDE ITS AD-INTERIM EX-PARTE ORDER PASSED AGAINST THE DEFENDANTS ON THE GROUND THAT THE PLAINTIFF DID NOT REACH THE COURT WITH CLEAN HANDS

The Plaintiff by *inter-alia* submitting that it came to know about the infringement of its mark 'Paramount' by the Defendants in the year 2017 got an ad-interim ex-parte order against the Defendants restraining them from providing and offering goods, distributing, advertising directly or indirectly dealing in identical or allied/cognate goods under the impugned trade mark/trade name/corporate name or domain name comprising of the mark PARAMOUNT or any other mark which is deceptively similar. The counsel for the Defendants contended that the Plaintiff has obtained the ex-parte order in his favour by concealing material facts. Counsel for the Defendant showed to the Court through documentary evidence that the plaintiff was very much aware of the defendants since 2009 as the Plaintiff filed his opposition to the trademark application of the Defendants in the year 2009. It was also showed that in the year 2012, the parties were in active negotiations with one another. It was contended that since the Plaintiff has not come to the Court with clean hands, he is not entitled to any equitable relief. The Court in the facts and circumstances of the case set aside the ex-parte order as the plaintiff failed to establish a prima-facie case in his favour and Court found balance of convenience in favour of the defendant. - *[Paramount Surgimed Limited V/S Paramount Bed India Private Limited & Ors., dated 25th May, 2017 (Delhi HC)]*

2) CALCUTTA HIGH COURT ENDS SPARTAN POKER DOMAIN NAME DISPUTE BY ALLOWING SPARTAN ONLINE TO USE 'THESPARTANPOKER'

The Plaintiffs and the Respondents had entered into a joint venture to carry on their poker gaming business under 'www.spartanpoker.com'. When disagreements arose between the parties, the Plaintiff No.1 was removed from the Board of Directors and

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the Respondents then incorporated a new company, 'Spartan Online Pvt. Ltd.' and launched a website under the name 'www.thespartanpoker.com'. Plaintiff No.1 then initiated trademark opposition proceedings to said trademark applications. The Calcutta High Court rejected the plea from Plaintiff No.1's Pokerguru to retain exclusive rights to the brand 'Spartan Poker'. The court observed that Spartan Online Pvt. Ltd. cannot be asked to refrain from using the domain name thespartanpoker.com or the brand 'Spartan Poker', as the domain 'www.spartanpoker.com' was not identified with the Plaintiff no.1. The court also observed that not only the Respondents applied for the registration of 'Spartan' prior to the Plaintiff but Plaintiff no.1 had incurred no substantial expenditure apart from the registration of the domain name. The court has however stated that due to the existence of a quasi-partnership arrangement between the two groups, Plaintiff No.1 may be able to claim a share in the profits until 4th December 2016, the day he claimed he was launching a competing poker website. - *[Rajat Agarwal & Ors V/S. Spartan Online Pvt. Ltd. & Ors, dated 12th May, 2017 (Calcutta HC)]*

3) DELHI HIGH COURT REITERATED THE ESSENTIAL CHARACTERISTICS OF A PASSING OFF ACTION.

Delhi HC quoted 1980 RPC 31 Erven Warnink B.V. v. J. Townend & Sons (Hull) Ltd., and stated the essential characteristics of a passing off action as under:

(1) misrepresentation, (2) made by a person in the course of trade, (3) to prospective customers of his or ultimate consumers of goods or services supplied by him (4) which is calculated to injure the business or goodwill of another trader (in the sense that this is a reasonably foreseeable consequence and (5) which causes actual damage to a business or goodwill of the trader by whom the action is

brought or (in a quia timet action) will probably do so. - *[Foodcraft India Private Limited V/S Saurabh Anand Trading as Urban Palette Restaurants & Ors., dated 9th May, 2017 (Delhi HC)]*

CONSUMER

1) IN CONSTRUING TERMS OF A CONTRACT OF INSURANCE THE WORDS USED THEREIN MUST BE GIVEN PARAMOUNT IMPORTANCE.

In December 2004, the Complainant obtained a marine cargo policy from the Petitioner insurance company. Thereafter, the Complainant imported certain chemicals from Korea. The cargo arrived safely at Kandla port but on its transit from Gujarat to Hyderabad, the cargo truck met with an accident and the entire cargo was destroyed. The Petitioner repudiated the claim on two grounds namely, the sum insured under the policy had been exhausted and that proper precaution was not taken post-accident. The Commission examining the terms of the insurance contract found that each and every consignment must be declared before dispatch and there was no liberty with the Complainant to pick and choose as to which consignment could be covered or not. Thus the failure of this special condition in the insurance contract allowed the insurance company to repudiate the claim. - *[National Insurance Company Limited v. A.S. Moosani & Co., 19th May, 2017, (NCDRC)]*

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