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RBI & FEMA

1. ADHERENCE TO FAIR PRACTICES CODE AND OUTSOURCING GUIDELINES BY BANKS AND NBFCs SOURCING LOANS OVER DIGITAL LENDING PLATFORMS

The Reserve Bank of India [“RBI”] has stated that banks and NBFCs, irrespective of whether they lend through their own digital lending platforms or through outsourced lending platforms, must adhere to the Fair Practices Code guidelines in letter and spirit.

Further, wherever banks and NBFCs engage digital lending platforms as their agents to source borrowers and/ or to recover dues, they must follow the following instructions:

a) Names of digital lending platforms engaged as agents shall be disclosed on the website of banks/ NBFCs.

b) Digital lending platforms engaged as agents shall be directed to disclose upfront to the customer, the name of the bank/ NBFC on whose behalf they are interacting with him.

c) Immediately after sanction but before execution of the loan agreement, the sanction letter shall be issued to the borrower on the letter head of the bank/ NBFC concerned.

d) A copy of the loan agreement along with a copy each of all enclosures quoted in the loan agreement shall be furnished to all borrowers at the time of sanction/ disbursement of loans.

e) Effective oversight and monitoring shall be ensured over the digital lending platforms engaged by the banks/ NBFCs.

f) Adequate efforts shall be made towards creation of awareness about the grievance redressal mechanism.

(Source: RBI Notification No. RBI/2019-20/258 dated 24th June 2020)

2. FOREIGN EXCHANGE MANAGEMENT (MODE OF PAYMENT AND REPORTING OF NON - DEBT INSTRUMENTS) (AMENDMENT) REGULATIONS, 2020

RBI has amended Regulation 3.1, Schedule II (Investments by FPI's), Para B - Remittance of sale proceeds to omit the statement that “sale proceeds (net of taxes) of units of investment vehicles other than domestic mutual fund may be remitted outside India”. Further, in Schedule VIII (Investment by a PROI in an Investment Vehicle), Para A - Mode of payment, RBI has inserted “For an FPI or FVCI, amount of consideration may be paid out of their SNRR account

for trading in units of Investment Vehicle listed or to be listed (primary issuance) on the stock exchanges in India”.

(Source: RBI Notification No. FEMA. 395 (1)/2020-RB dated 15th June 2020)

3. RBI RELEASES DISCUSSION PAPER ON ‘GOVERNANCE IN COMMERCIAL BANKS IN INDIA’

RBI has released a Discussion Paper on ‘Governance in Commercial Banks in India’ for public comments. The objective of the discussion paper is to align the current regulatory framework with global best practices while being mindful of the context of domestic financial system. Major highlights of the paper are as follows:

- Empower the Board of Directors to:
 - set the culture and values of the organisation;
 - recognise and manage conflicts of interest;
 - set the appetite for risk and manage risks within the appetite;
 - improve the supervisory oversight of senior management.
- Empower the assurance functions through various interventions.
- Achieve clear division of responsibilities between the Board and the management.
- Encourage the separation of ownership from management.

(Source: RBI Press Release dated 11th June 2020)

4. DRAFT FRAMEWORKS FOR SALE OF LOAN EXPOSURES AND SECURITISATION OF STANDARD ASSETS

RBI has issued two draft documents for public comments - the ‘Draft Framework for Securitisation of Standard Assets’ and ‘the Draft Comprehensive Framework for Sale of Loan Exposures’. These guidelines are applicable to all Scheduled Commercial Banks (excluding Regional Rural Banks); All India Financial Institutions (NABARD, NHB, EXIM Bank, and SIDBI); and, all Non-Banking Financial Companies including Housing Finance Companies.

Salient features of the draft securitisation guidelines are:

- Only transactions that result in multiple tranches of securities being issued reflecting different credit risks will be treated as securitisation transactions, and accordingly covered under these guidelines.
- In line with the Basel III guidelines, two capital measurement approaches have been proposed: Securitisation External Ratings Based Approach (SEC-ERBA) and Securitisation Standardised Approach (SEC-SA).
- Further, a special case of securitisation, called Simple, Transparent and Comparable (STC) securitisations, has been prescribed with clearly defined criteria and preferential capital treatment.
- The definition of securitisation has been modified to allow single asset securitisations.

- Securitisation of exposures purchased from other lenders has been allowed.
- Carve outs have been provided for Residential Mortgage Backed Securities (RMBS) in prescriptions regarding MHP, MRR and reset of credit enhancements.
- A quantitative test for significant transfer of credit risk has been prescribed for derecognition for the purpose of capital requirements, independent of the accounting derecognition

Salient features of the draft framework for sale of loans are:

- Sale of standard assets may be by assignment, novation or a loan participation contract (either funded participation or risk participation) whereas the sale of stressed assets may be by assignment or novation.
- Direct assignment transactions shall be subsumed as a special case of these guidelines.
- Requirement of MRR for sale of loans has been done away with.
- The price discovery process has been deregulated to be as per the lenders' policy.
- Stressed assets may be sold to any entity that is permitted to take on loan exposures by its statutory or regulatory framework.
- Some of the existing conditions for sale of NPAs have been rationalised.
(Source: RBI Press Release dated 8th June 2020)

FOREIGN TRADE

1. LAUNCH OF NEW DGFT PLATFORM AND DIGITAL DELIVERY OF IEC RELATED SERVICES

As part of Digital India programme and for Ease of Doing Business, the Director General of Foreign Trade ["DGFT"] has undertaken an initiative to revamp its services delivery mechanisms to promote and facilitate foreign trade. As a step in that direction, the first phase of a new digital platform of DGFT is scheduled to Go-Live on 13th July 2020. The platform will become accessible through the existing website: <https://www.dgft.gov.in>.

The user profile can be used by the IEC holders to engage with DGFT and its services. This will enable the users to electronically file their applications related to IEC, AA, EPCG, including amendments & redemption, monitoring the status of the applications, raising queries, replying to the deficiencies etc., among other services related to the Foreign Trade policy.

(Source: Trade Notice No. 16/2020-21 dated 25th June 2020)

2. EXTENSION OF VALIDITY OF AEO CERTIFICATIONS

The Central Board of Indirect Taxes and Customs ["CBIC"] has extended the validity of all the AEO certificates expiring between 01.03.2020 and 31.05.2020 till 30.06.2020, except for those entities against which a negative report is received during this period.

(Source: CBIC Circular No. 27/2020 dated 2nd June 2020)

3. INCREASE IN DURATION OF VALIDITY OF MEIS/SEIS SCRIPS AND RELAXATION IN LAST DATES FOR FILLING APPLICATIONS UNDER MEIS/SEIS

The Ministry of Commerce & Industry has extended the validity of the Duty Credit Scrips issued between 01.03.2018 and 30.06.2018 till 30.09.2020.

Merchandise Exports from India Scheme (MEIS) applications which attracted a late cut as on 01.03.2020, the period between 01.03.2020 and 30.06.2020 shall not be counted.

For Services Exports from India Scheme (SEIS) applications with respect to services provided in the FY 2017-18, 5% late cut as was applicable on 31.03.2020, shall continue to be applicable for applications submitted till 30.06.2020, and thereafter 10% late cut would be applicable for applications submitted till 31.03.2021.

(Source: Public Notice No. 08/2015-2020 dated the 1st June, 2020)

CORPORATE

1. MCA EXPANDS THE SCOPE OF CSR ACTIVITIES

The Ministry of Corporate Affairs ["MCA"] has decided to widen the scope for Corporate Social Responsibility ["CSR"] by including in its definition the contributions to the Central Armed Police Forces and Central Para Military Forces veterans and their dependents, including widows. Earlier, CSR had limited operations benefiting veterans of the army, navy, and air force, and their dependents and widows of battle only. Nearly 80

per cent of CSR funds have already been pledged to address the Covid-19 pandemic for the current fiscal period, according to a Crisil report.

(Source: The Economic Times)

2. MCA PROVIDES EXTENSION FOR REGISTRATION OF INDEPENDENT DIRECTORS

MCA has provided an extension of 3 months for registration of details of Independent Directors of a company. The due date for such registration is now 30th September 2020.

(Source: MCA, Notification, dated 23rd June 2020)

3. MCA PROVIDES RELAXATION FOR BOARD MEETINGS

MCA has further extended the relaxation provided for Board Meetings to be conducted through Video Conferencing ["VC"] and Other Audio and Visual Means ["OAVM"] till 30th September 2020. Further, it has decided to approve the financial statements of various companies through VC or OAVM.

(Source: MCA, Notification No. 23rd June 2020)

4. COMPANIES GET AN EXTENSION FOR DEPOSIT REPAYMENT AND DEBENTURE RESERVE NORMS

MCA has provided 3 month extension to companies for setting aside a part of the deposits and debentures maturing in F.Y.2021 in a specific account which is a statutory requirement under Companies Act, 2013. The circular extends time from 30th June 2020 to 30th September 2020. The extension is regarding the creation of Debenture Redemption Reserve ["DRR"] which has to be

created before the end of April every year. This deposit shall not be less than 15% of the debentures maturing in that particular year and investment could be made in the form of bank deposits, corporate bonds, Central or State Government securities. Furthermore, companies which accept deposits from its members shall have to deposit not less than 20% of such deposits maturing in the current and subsequent financial year to a scheduled bank in an account called Deposit Repayment Reserve Account.

(Source: Live Mint, Circular No. 24/2020, dated 19th June 2020)

5. RELAXATION IN FILING OF FORMS FOR CREATION AND MODIFICATION OF CHARGE

MCA has provided relaxation with respect to filing of forms in relation to creation or modification of charge under the Companies Act, 2013. The scheme is applicable for filing form in CHG -1 and CHG - 9 by a company or charge holder and where the date of creation and modification of charge is before 1st March 2020. The timeline for filing such form is as per section 77 of the Companies Act 2013. Where the form is filed before 1st March 2020, the period from 1st March 2020 to 30th September 2020 shall not be recognized for the purpose of counting 120 days under section 77 of the Act.

(Source: MCA, Circular No. 23/2020, dated 17th June 2020)

6. CLARIFICATION ON PASSING ORDINARY & SPECIAL RESOLUTIONS

MCA has extended time frame for companies to conduct Extraordinary General Meetings [“EGM”] through Video Conferencing [“VC”] or Other Audio Visual Means [“OAVM”] or transact

items through postal ballot up to 30th September 2020. Earlier, the timeframe was till 30th June 2020 whereby the companies were to hold EGM through VC or OAVM after passing ordinary and special resolution.

(Source: MCA, Circular No. 22/2020, dated 15th June 2020)

SECURITIES

1. TIMELINE EXTENSION FOR PORTFOLIO MANAGER GUIDELINES

The Securities Exchange Board of India [“SEBI”] vide Circular No. 111/2020 dated 29th June 2020 has declared an extension of the timeline for compliance regarding ‘Guidelines for Portfolio Managers’. The regulations are therefore to apply with effect from 1st October 2020. The SEBI circular contains information regarding Fees and Charges, Direct On-Boarding of Clients by Portfolio Managers, Nomenclature ‘Investment Approach’, Periodic Reporting by Portfolio Managers, Reporting of Performance by Portfolio Managers Disclosure Documents and Supervision of Distributors Applicability. *(Source: SEBI, Circular No. 111/2020, dated 29th June 2020)*

2. RELAXATION FOR BOARD AND AUDIT COMMITTEE MEETINGS

SEBI has further extended the relaxation of maximum time gap between two board/audit committee meetings to 31st July 2020. According to the guidelines, the board of directors or the

audit committee must meet at least four times a year, with a maximum period between any two meetings being 120 days. This relaxation was given for the meetings between 1st December, 2019 and 30th June, 2020, which were held or proposed.

(Source: Live Mint, Circular No. 110/220, dated 26th June 2020)

3. SEBI RELEASES GUIDELINES FOR ORDER-TO-TRADE RATIO FOR ALGORITHMIC TRADING

SEBI has issued guidelines for Order-to-Trade Ratio [“OTR”] for algorithmic trading. According to the changes brought in the system it could be appropriate for stock exchanges to implement additional slabs upto OTR 2000 (from current OTR 500), and more than 2000 for OTR. With deterrent incremental penalty, these slabs can be implemented, which stock exchanges can agree to jointly. In the third instance of OTR being 2000 or more, the member concerned shall not be allowed to place any orders on the next trading day for the first 15 minutes as a cooling-off action in the last 30 days (rolling basis). Earlier, SEBI had advised stock exchanges to introduce effective economic disincentives for the high daily OTR of some trading members' orders.

(Source: SEBI)

4. SEBI PROVIDES EXTENSION FOR SUBMITTING ASC REPORT

SEBI has provided an extension of one more month till 31st July 2020 for submission of Annual Secretarial Compliance [“ASC”] Report for the F.Y. 2019-2020 by listed entities. Earlier, SEBI had

extended the stated deadline by one month from 31 May 2020 to 30 June 2020.

(Source: SEBI Circular No. 2020/109, dated 25th June 2020)

5. SEBI PRESS RELEASE ANNOUNCES RELAXATION FOR LISTED COMPANIES HAVING STRESSED ASSETS

SEBI has decided to relax the pricing methodology for preferential issue by listed companies claiming that it has stressed assets. Many companies which have stressed assets should now be able to assess prices not less than the average weekly high and low volume weighted average of the associated stock shares over the 2 weeks preceding the applicable date. Furthermore, allottees of preferential issue in such eligible companies will be exempted from making open offer if the acquisition exceeds the prescribed threshold or if the open offer is warranted as a result of a change in control, under Takeover regulations.

(Source: SEBI, Press Release No. 35/2020, dated 23rd June 2020)

6. TEMPORARY RELAXATION IN PROCESSING OF DOCUMENTS OF FPI

SEBI has announced an extension for the temporary relaxations in processing of documents to Foreign Portfolio Investors [“FPI”] due to COVID-19. This relaxation shall be extended till 31st August 2020. SEBI

has further instructed Custodians and Designated Depository Participants to notify its FPI clients of the contents of this circular.
(Source: SEBI Circular No. 104/2020, dated 23rd June 2020)

7. UNIT HOLDERS OF INFRASTRUCTURE INVESTMENT TRUST AND REAL ESTATE INVESTMENT TRUST MEET THROUGH VIDEO CONFERENCING

SEBI has stated that the facility of VC and OAVM shall be available for the conduct of annual meeting of the unit holders during the calendar year 2020. The VC and OAVM facilities are also available for other annual meetings until 30 September 2020.
(Source: SEBI, Circular No. 102/2020, dated 22nd June 2020)

8. RELAXATION IN TIMELINES FOR COMPLIANCE WITH REGULATORY REQUIREMENTS

SEBI has extended the timelines for compliance for client fund reporting, internal audit report, compliance certificate for margin trading, update in PAN of directors and KMP etc. The deadline has been extended till 31st July 2020.
(Source: SEBI, Circular No. 2020/101, dated 19th June 2020)

9. SEBI AMENDS TAKEOVER AND QIP REGULATIONS TO FACILITATE CORPORATE FUNDRAISING

SEBI has amended the takeover regulations to enhance the creeping acquisition limit for Promoters of a listed company. The shareholders who own 25% or more of the shares or voting rights in a company can now increase their shareholding by up-to 10% in a year as against the earlier 5% limit. The increase in limit is only permitted via a preferential issue of equity shares. SEBI has also relaxed the provisions for voluntary open offer. Earlier, a shareholder holding 25% or more voting rights was permitted to make voluntary open offer only if he had not acquired any shares through creeping acquisition route in preceding 52 weeks. This condition has been relaxed till 31st March 2021. Further SEBI has reduced the gap between two Qualified Institutional Placements by listed entity to two weeks compared to the existing regulations that demand a gap of six weeks between the 2 issues. It is believed that these relaxations will enable listed companies to tide over cash flow issues created due to COVID-19 pandemic.
(Source: Bloomberg Quint, dated 16th June 2020)

10. SEBI RELAXES COMPLIANCE NORMS FOR NON-CONVERTIBLE DEBENTURES

SEBI has decided to extend the relaxation period given to issuers who intended or proposed to list their Non-convertible debentures for disclosure of financial results. The relaxation has been extended till 30th June, 2020.

(Source: SEBI, Circular No. 2020/098, dated 8th June, 2020)

11. ALTERNATIVE INVESTMENT FUND AND VENTURE CAPITAL FUND GETS RELAXATION IN COMPLIANCE REQUIREMENTS

In the light of COVID-19 pandemic, SEBI has decided to extend the timelines for regulatory filings for Alternative Investment Funds [“AIF”] and Venture Capital Funds [“VCF”]. Now AIF and VCF may submit regulatory filings for the month ending March, April, May and June on or before 7th August 2020.

(Source: SEBI, Circular No. 2020/92, dated 4th June 2020)

12. FRAMEWORK FOR REGULATORY SANDBOX

SEBI has decided to introduce a framework for “Regulatory Sandbox”. Under this sandbox framework, entities regulated by SEBI will be given certain facilities and flexibilities to experiment with Financial Technologies [“Fin Tech”] solutions for a

limited timeframe in a live environment and on a limited set of real customers. Such features are to be supplemented with the requisite investor security and risk reduction safeguards. Further, SEBI believes that encouraging the use of Fin Tech can act as an instrument to further develop and maintain, fair and transparent securities market ecosystem.

(Source: SEBI, Circular No. 2020/95, dated 5th June, 2020)

13. FACILITY TO VIEW STATUS DEFICIENCY IN CLAIM APPLICATIONS

SEBI has clarified that investors/ applicants whose claim applications up to INR 5,000/- were found deficient are again requested to check the status of their claim applications online and rectify the deficiencies if any before 31st July, 2020.

(Source: SEBI, Press Release No. 32/2020, dated 2nd June, 2020)

14. REPORT SUBMITTED BY THE WORKING GROUP ON SOCIAL STOCK EXCHANGE

SEBI has submitted recommendations on social stock exchanges. This will allow Non-Profit Organization to directly list on Social Stock Exchange [“SSE”] through issuance of bonds. For this purpose, a new minimum reporting standard has also been proposed for organizations to raise funds under SSE. Arrangement of funding mechanisms have

been recommended for social venture funds. Since SSE is a new concept in India, the working group has had a series of consultations with various stakeholders including voluntary organizations, social enterprises and philanthropic organizations in order to assess the difficulties faced by them in raising and donating funds.

(Source: SEBI, Press Release No. 31/2020, dated 1st June 2020)

COMPETITION

1) CCI APPROVES ACQUISITION OF 9.99% STAKE IN JIO PLATFORMS BY JAADHU HOLDINGS LLC

The proposed combination envisages acquisition of approximately 9.99% stake in Jio Platforms Limited (“**Jio Platforms**”) by Jaadhu Holdings LLC (“**Jaadhu**”). Jaadhu is an indirect wholly owned subsidiary of Facebook. Jio Platforms is a company organised and existing under the laws of the Republic of India, and a subsidiary of RIL. Jio Platforms owns (directly or indirectly) and operates digital applications and holds controlling investments in certain technology related entities. Jio Platforms also holds 100% of the issued and outstanding share capital of Reliance Jio Infocomm Limited (“**RJIL**”). RJIL is a public limited company incorporated in India, and is a licensed telecommunications operator, providing

telecommunications services to users across the country.

(Source: PRESS RELEASE No. 15/2020-21 dated 24th June, 2020)

2) CCI APPROVES ACQUISITION OF METSO OYJ’S (“METSO”) MINERALS BUSINESS BY OUTOTEC OYJ (“OUTOTEC”)

The Proposed Combination relates to acquisition of Metso’s minerals business (“Metso Minerals”) by Outotec. All such assets, rights, debts, and liabilities of Metso that relate to, or primarily serve, its minerals business (comprising the mining, aggregates, minerals consumables, minerals services, pumps, and recycling businesses) will be acquired by Outotec. The Proposed Combination will be achieved by way of a partial demerger of Metso Minerals pursuant to the Finnish Companies Act. In return for the transfer of Metso Minerals to Outotec, the shareholders of Metso will receive newly issued shares in Outotec and hold the majority of the new entity’s shares (about 78%). The remainder of the shares will be held by the shareholders of Outotec. The combined entity will operate under the name Metso Outotec. The remainder of Metso’s business, i.e., Metso’s flow control business (essentially valves for process industries) will continue to exist independently under the name ‘Neles’.

(Source: PRESS RELEASE No. 14/2020-21 dated 18th June, 2020)

3) CCI APPROVES PROPOSED ACQUISITION BY MACRITCHIE INVESTMENTS PTE. LTD. (MACRITCHIE) IN 91STREETS MEDIA TECHNOLOGIES PRIVATE LIMITED (91STREETS), ASCENT HEALTH AND WELLNESS SOLUTIONS PRIVATE LIMITED (ASCENT) AND API HOLDINGS PRIVATE LIMITED (API)

The Proposed Combination relates to acquisition of certain percentage of compulsorily convertible debentures, compulsorily convertible preference shares or/and common shares of 91Streets, Ascent and API. MacRitchie is an investment holding company, an indirect wholly owned subsidiary of Temasek Holdings (Private) Limited. 91Streets inter alia owns technology and intellectual property required to develop an e-commerce platform. Ascent is engaged in the (online as well as offline) wholesale B2B sale and distribution of pharmaceutical, over the counter FMCG and nutraceutical products. API is a company incorporated in India and is not engaged in any business.

(Source: PRESS RELEASE No. 13/2020-21 dated 12th June, 2020)

4) CCI APPROVES PROPOSED MERGER BETWEEN PEUGEOT S.A AND FIAT CHRYSLER AUTOMOBILES N.V.

CCI approved the proposed Combination which pertains to merger between Peugeot S.A. (“PSA”) and Fiat Chrysler Automobiles N.V. (“FCA”). PSA is a publicly listed limited liability company incorporated in France. It is the holding company of a French-based group, which is mainly an

original equipment manufacturer and dealer of motor vehicles, passenger cars as well as light commercial vehicles. FCA is incorporated under the laws of the Netherlands. It is a global automotive group engaged in designing, engineering, manufacturing, distributing and selling vehicles, components and production systems worldwide.

(Source: PRESS RELEASE No. 12/2020-21 dated 4th June, 2020)

INDIRECT TAXES

a. GST/ Customs

1) CBIC EXTENDS E-WAY BILLS VALIDITY

Central Board of Indirect Taxes [“CBIC”] has extended the validity of e-way bills issued before the lockdown period until 30th September 2020, which earlier had been set to expire during the period of 20th March to 15th April 2020. Furthermore, the Board has prolonged the time limit regarding issuance of order and appeals including refunds till 31st August 2020 for the Tax Authorities. This would be the Board’s third extension granted aimed for providing aid in faster goods transport within the country. *(Source: The Economic Times)*

2) FILING OF NIL GST STATEMENT THROUGH SMS

The Government has allowed filing of NIL GST statement in form GSTR-1 through SMS with

effect from first week of July 2020. This would dramatically improve the ease of GST enforcement for more than 12 lakh registered taxpayers who would otherwise have to log into their account on the popular portal and then file their statement of outbound supplies in GSTR-1 form per month or quarter. Taxpayers with NIL liability now don't need to log in to the GST Portal and can apply their NIL statement in GSTR-1 form via SMS.

(Source: The Economic Times)

3) GST TO BE LEVIED ON DEVELOPED LAND SOLD AS PLOTS

The Authority of Advance Ruling [“AAR”] has passed a ruling that sale of developed plots will attract GST as these shall be covered under the clause “construction of a complex intended for sale to a buyer”. Primary amenities for a plot, such as drainage line, water line, electricity line, etc are to be provided by an applicant. AAR said that such cost will be covered under “Construction Services” and shall be included in cost of land while calculating the GST.

(Source: The Economic Times)

4. INPUT TAX CREDIT CANNOT BE AVAILED ON GST FOR HIRING VEHICLES FOR EMPLOYEE TRANSPORTATION

The AAR of Himachal Pradesh has said that companies cannot claim Input Tax Credit [“ITC”] for GST paid on hiring commercial vehicles for transportation of employees. Although such facility is provided for ladies and specially-abled persons but is non-obligatory under law therefore will not be included under ITC. AAR has declared that ITC can be availed only on those goods or

services or both which are an obligation for the employer to provide to its employees under any law.

(Source: The Economic Times)

5. PAPER LESS CUSTOMS ELECTRONIC COMMUNICATION OF SHIPPING BILLS AND GATEPASS TO CUSTOMS BROKERS AND EXPORTERS

In its attempt to support the “faceless, contact less, paperless customs” the department decided to focus on digital copies of the shipping bills and remove the necessity of taking bulky prints from the service centre. The CBIC *vide* Circular No. 30/2020 dated 22nd June 2020 announced that just the digital copy of shipping bill would be transmitted electronically to the exporter and the current practice of printing copies of the said document and maintaining a docket in custom House shall stand discontinued. *(Source: CBIC, Circular No. 30/2020 dated 22nd June 2020)*

INTELLECTUAL PROPERTY RIGHTS

1. IPAB HELD MYLAN'S “SOXPLAT” TRADEMARK TO BE DECEPTIVELY SIMILAR TO SUN PHARMA'S TRADEMARK “OXIPLAT”

In the matter of “*Sun Pharma Laboratories Ltd v. Agila Specialties Pvt Ltd*”, the Plaintiff i.e. Sun Pharma Laboratories Ltd. filed a petition for removal of the trade mark SOXPLAT on the basis of Sun Pharma's prior registration and use of the distinctive trade mark OXIPLAT. Sun Pharma argued that the mark of Mylan Pharma Lab. Ltd. (Mylan) is structurally, visually and phonetically

similar to Sun Pharma's prior used and registered trademark. The plaintiff argued that there was extensive commercial use of the trademark OXIPLAT by Sun Pharma and the mark had acquired goodwill and reputation while Mylan argued that the mark OXIPLAT is an abbreviation of a generic salt and has already been used in the market.

The Intellectual Property Appellate Board ("IPAB") held that Sun Pharma has been able to make a strong case in its favour and that the mark OXPLAT is a coined word and was registrable. The trademark of the Mylan SOXCLAT is deceptively similar. If rival trademarks of both the parties are compared as a whole, they are similar. Sun Pharma is prior in adoption and usage of the Trademark than Mylan and other third parties'.

(Source: Sun Pharma Laboratories Ltd v. Agila Specialties Pvt Ltd, decided on 18th June 2020 by IPAB)

2. AD-INTERIM INJUNCTION GRANTED RESTRAINING USE OF THE MARK 'TATAAR & SONS'

In the matter of "Tata Sons Pvt. Ltd v. Dilip Kumar Ghotiya", the plaintiff, Tata Sons Pvt. Ltd, claimed that the defendant had filed an application for registration of the deceptively similar mark 'TATAAR & SONS' to sell their products in the similar categories as TATA products such as tea, coffee, spices, etc. However, the defendant argued that the Delhi High Court did not have territorial jurisdiction because the defendant was based in Rajasthan. The plaintiff proved that the defendant is also marketing and selling its products through online trade directory, that is, IndiaMart.com and the products were available in other states too including Delhi. Considering the above facts, the Hon'ble High Court of Delhi passed an order

granting interim injunction in favor of the plaintiff in a case of trademark infringement of the 'TATA' mark.

(Source: Tata Sons Pvt. Ltd vs Dilip Kumar Ghotiya, decided on 17th June 2020)

3. HINDUSTAN UNILEVER LIMITED V. ENDURANCE DOMAINS TECHNOLOGY LLP & ORS

In the matter of *Hindustan Unilever Limited v. Endurance Domains Technology LLP & Ors*, the plaintiff Hindustan Unilever Limited prayed for suspension and ensuring the continued suspension of and block access to: (i) Fraudulent Domain Name i.e. 'hulcare.co.in', 'info@hulcare.co.in', 'info@unilevercare.co.in', 'unilevercare.org.in' and associated e-mail addresses. The Hon'ble Bombay High Court stated that the entire process of domain registration is automated and requires no manual intervention. It was observed that domain name registrars viz. Endurance, GoDaddy, Porkbun, etc, can suspend certain domain name registrations but cannot block access to them. The blocking access can be undertaken by a government agency such as the Department of Telecommunications. The Hon'ble Court passed an order to allow the plaintiff to communicate with the domain registrars and request (without the intervention of the Court) relief for suspension of any infringing domain name registrations and the suspension of any web hosting privileges.

(Source: Interim Application No. 1 of 2020 in LC-VC-GSP-24 of 2020 decided on: 12.06.2020)

ENVIRONMENT

1. UNIFORM FRAMEWORK FOR EXTENDED PRODUCERS RESPONSIBILITY

The Ministry of Environment, Forest & Climate change *vide* its notification in June 2020, has issued guideline document on Uniform Framework for Extended Producers Responsibility under Plastic Waste Management Rules, 2016.

Comments on the guideline document may be sent at ad.raju@nic.in, gupta.dharmendra@gov.in on or before 31st July, 2020.

(Source: Notification dated June 2020)

2. COVID 19 BIOMEDICAL WASTE TRACKING APP

The Central Pollution Control Board [“CPCB”], Ministry of Environment, Forest & Climate change has launched a Mobile Application known as “COVID 19 Biomedical Waste Tracking App”. CPCB has also issued a User Manual for the aforesaid Android Mobile Application. The application can be used by users such as waste generators, waste handlers, common biomedical waste treatment facilities and pollution control boards for waste tracking. All Biomedical waste generator entities are required to register through this Application.

(Source: Circular dated 28 June 2020)

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