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RBI & FEMA

1) FOREIGN EXCHANGE MANAGEMENT (NON-DEBT INSTRUMENTS) (THIRD AMENDMENT) RULES, 2020

The Ministry of Finance has notified the Foreign Exchange Management (Non-debt Instruments) (Third Amendment) Rules, 2020 to insert a new rule 2A which specifies that these rules shall be administered by the Reserve Bank of India (RBI), and RBI may interpret and issue such directions, circulars, instructions, clarifications, as it may deem necessary, for effective implementation of the provisions of these rules without consulting the central government.

Also, entries related to Air Transport Services and Other Conditions under Schedule I of the Foreign Exchange Management (Non-debt Instruments) Rules, 2019 have been amended.

(Source: Egazette- Notification No. S.O. 2442 (E) dated 27th July 2020)

2) RBI HAS ISSUED CIRCULAR REGARDING FAIR PRACTICE CODE FOR ARC

RBI has issued Circular 2020-21/13 dated 16th July, 2020 regarding Fair Practice Code [“FPC”] for Asset Reconstruction Companies [“ARC”]. In view of Section 9 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002, ARCs registered with the RBI are advised to adopt FPC so as to ensure transparency and fairness in their operations. The said circular provides the following guidelines to be followed by ARCs:

- a) To follow transparent and non-discriminatory practices in acquisition of assets.
- b) The invitations for auctions are to be extended publicly to enable participation of maximum prospective buyers in the process of sale of secured assets. ARCs must comply with Section 29A of Insolvency and Bankruptcy Code, 2016 while dealing with prospective buyers.
- c) To release all securities on repayment of dues or on realization of the outstanding amount of loan, subject to any legitimate right or lien for any other claim they may have against the borrower. In case of exercise of right of set off, the borrower shall be given notice about the same.
- d) To not resort to harassment of the debtor in the matter of recovery of loans and ensure the adequate training of staff to deal with customers in an appropriate manner.
- e) To keep the information confidential and restrict themselves to not disclose the same to except when (i) required by law; (ii) there is duty towards public to reveal information; or (iii) there is borrower’s permission.
- f) ARCs, as principals, are responsible for the actions of their Recovery Agents.
- g) The Recovery Agents are mandated to observe strict customer confidentiality.

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- h) ARCs should ensure that Recovery Agents do not induce adoption of uncivilized, unlawful and questionable behaviour or recovery process.
- i) ARCs should constitute Grievance Redressal machinery within their organisations.

(Source: RBI.gov.in dated 16th July 2020)

3) EXEMPTION FROM REGISTRATION AS NBFC – ALTERNATIVE INVESTMENT FUND (AIF)

As per para 5 of Master Directions on Exemptions from the provisions of RBI Act, 1934, Venture Capital Funds registered under section 12 of the Securities and Exchange Board of India Act, 1992 and not holding or accepting public deposit are exempted from the provisions of RBI Act, 1934 w.r.t registration as NBFC and also from RBI guidelines issued for NBFCs.

Upon enactment of Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012, words “Venture Capital Fund Companies” were substituted with “Alternative Investment Fund Companies”. Hence, the exemptions shall be extended to the AIFs.

(Source: RBI Circular- DOR (NBFC).CC . PD .No.115 / 03.10.001 / 2020-21 dated 10th July 2020)

4) EXTENSION OF TIMELINE FOR FINALIZATION OF AUDITED ACCOUNTS OF NBFCs

As per para 18(2) of the Master Direction on Systemically Important Non-Deposit taking Company and Deposit taking Company (Reserve Bank) Directions, 2016 and Non-Systemically Important Non-Deposit taking Company

(Reserve Bank) Directions, 2016, every applicable NBFC has to finalise its balance sheet within a period of 3 months from the date to which it pertains.

In view of the on-going situation, RBI has allowed every applicable NBFC to finalise its balance sheet within a period of 3 months from the date to which it pertains, or any date as notified by SEBI for submission of financial results by listed entities.

(Source: RBI Circular- DoR (NBFC) (PD) CC. No. 114/03.10.001/2020-21 dated 6th July 2020)

5) CREDIT FLOW TO MICRO, SMALL AND MEDIUM ENTERPRISES SECTOR

Government of India, vide Gazette Notification S.O. 2119 (E) dated June 26, 2020, has notified new criteria for classifying the enterprises as Micro, Small and Medium enterprises consisting of the following:

- Classification of enterprises
- Composite criteria of investment and turnover for classification
- Calculation of investment in plant and machinery or equipment
- Calculation of turnover

(Source: RBI Circular- FIDD.MSME & NFS.BC.No.3/06.02.31/2020-21 dated 2nd July 2020)

6) DISTRESSED ASSETS FUND - SUBORDINATE DEBT FOR STRESSED MSMEs

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As the credit facilities extended under the Subordinate Debt scheme for Stressed MSMEs are backed by a guarantee from Credit Guarantee Fund Trust for Micro and Small Enterprises (CGTMSE), as a special dispensation, it has been decided to permit the banks to reckon the funds infused by the promoters in their MSME units through loans availed under the captioned scheme as equity/quasi equity from the promoters for debt-equity computation.

(Source: RBI Circular-DoR. BP. BC. No. 01 / 21.04.048/2020-21 dated 1st July 2020)

7) SPECIAL LIQUIDITY SCHEME FOR NBFCs/HFCs

The Government of India has approved a scheme to improve the liquidity position of NBFCs/HFCs through a Special Purpose Vehicle (SPV) to avoid any potential systemic risks to the financial sector. To be eligible under the Scheme, the specified conditions should be met.

The SPV will purchase the short-term papers till September 30, 2020 from eligible NBFCs/HFCs, who shall utilise the proceeds under this scheme solely for the purpose of extinguishing existing liabilities. The instruments will be CPs and NCDs with a residual maturity of maximum 3 months.

(Source: RBI Circular- DoR (NBFC) (PD) CC.No.113/03.10.001/2020-21 dated 1st July 2020)

8) BANKS SET ASIDE INR 13,653 CRORE AS A MORATORIUM PROVISION

Indian Banks set aside INR 13.653 Crore for moratorium provisions and COVID-19 deferrals in March, 2020 quarter. Earlier in April, the Reserve Bank of India stipulated that banks must make an additional 10% provision on loan accounts with a 90 days moratorium facility over a two-quarter period, 5% each in the quarters of March and June 2020. Further, based on the total interest received in March, State Bank of India, HDFC, ICICI Bank, Bank of Baroda and Axis Bank have announced COVID provision of INR 9,023.7 Crore which builds up 66.1 per cent of the total COVID provisioning of the sample.

(Source: The Economic Times)

9) SUPREME COURT REFUSES TO EXTEND THE VALIDITY OF CHEQUES

The Hon'ble Supreme Court has refused to extend the validity period of cheques by saying that it is on sole discretion of Reserve Bank of India to decide. The bench in its decision held that there is no provision in Statute as to expiry of time period of Cheque i.e., 3 months. However, the same is prescribed in the rules laid down by RBI. Therefore, it will be on at the discretion of RBI to extend or not extend such time period. The Hon'ble Court also reminded the importance of RBI, and said that, the entire banking system functions on the basis of time prescribed by RBI.

(Source: Live Law)

10) BOMBAY HIGH COURT: RBI MORATORIUM CIRCULAR NOT APPLICABLE TO MUTUAL FUNDS

Zee Learn Limited moved to the Hon'ble High Court against UTI Asset Management Company

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which holds 650 unlisted redeemable non-convertible debentures issued by it in 2015. The redemption date of these NCD is 8th July, 2020. Zee Learn Ltd submitted this should be extended to a date later than 3 months, after the Government allows schools to reopen. In this regard, the Hon'ble Bombay High Court held that the circular allowing banks to grant moratorium on term loans is not applicable to mutual funds and debentures.

(Source: Bloomberg Quint)

FOREIGN TRADE

1) AMENDMENT IN EXPORT POLICY OF PERSONAL PROTECTION EQUIPMENT /MASKS

Directorate General of Foreign Trade (“DGFT”) amended Schedule 2 of the ITC (HS) Export Policy, 2018 related to the export of Personal Protection Equipment/Masks, incorporating earlier amendments, as under:

- The export policy of 2/3 Ply Surgical masks, Medical Goggles is amended from “Prohibited” to “Restricted” category and export of Face Shields has been made “free”.
- A monthly export quota of 4 crore units per month has been fixed for 2/3 Ply Surgical masks and 20 lakh units per month for Medical Goggles for issuing export licenses to eligible applicants as per the criteria to be separately issued in a Trade Notice.

(Source: DGFT Notification No. 21 /2015 – 2020 dated 28th July, 2020)

2) AMENDMENT IN EXPORT POLICY OF PERSONAL PROTECTION EQUIPMENT / MASKS

Surgical drapes, isolation aprons, surgical wraps and X-Ray gowns have been removed from prohibition under the medical coveralls of all classes and categories.

(Source: DGFT Notification No. 20 /2015 - 2020 dated 21st July, 2020)

CORPORATE

1. EXTENSION IN DUE DATE FOR FILING ANNUAL RETURN ON FOREIGN LIABILITIES AND ASSETS (FLA)

The RBI has extended the due date for filing of annual return on Foreign Liabilities and Assets (FLA) for the year 2019-20 till 14.08.2020.

(Source: RBI FLAIR, dated 29th July 2020)

2. COMPANIES (INDIAN ACCOUNTING STANDARDS) AMENDMENT RULES, 2020

The Ministry of Corporate Affairs (“MCA”) has notified the Companies (Indian Accounting Standards) Amendment Rules, 2020, to amend the

Companies (Indian Accounting Standards) Rules, 2015. The Amendments have been made to the following:

- Ind AS 1 related to Presentation of Financial Statements;
- Ind AS 8 related to Accounting Policies, Changes in Accounting Estimates and Errors;
- Ind AS 10 related to Events after the Reporting Period;
- Ind AS 34 related to Interim Financial Reporting;
- Ind AS 37 related to Provisions, Contingent Liabilities, and Contingent Assets;
- Ind AS 103 related to Business Combinations;
- Ind AS 107 related to Financial Instruments i.e. Disclosures;
- Ind AS 109 related to Financial Instruments; and
- Ind AS 116 related to Leases.

(Source: MCA, dated 24th July 2020)

3) FORM PAS-6 CAN BE FILED ELECTRONICALLY W.E.F. 15TH AUGUST, 2020

MCA has notified that Form PAS-6 shall be available for filing as E- Form w.e.f. 15th July, 2020. Form PAS-6 if filed by Companies for Reconciliation of Share Capital Audit Report on half yearly basis.

(Source: MCA Update dated 16th July, 2020)

4) A MODIFIED VERSION OF BANKRUPTCY SCHEME FOR BANKRUPT MSME'S TO BE NOTIFIED SOON

The Central Government in order to rescue bankrupt Micro Small and Medium Enterprises [“MSMEs”] is working on a special resolution plan. The Government announced Special Liquidity Scheme under Atmanirbhar Bharat Package.

In furtherance to this Scheme, the Ministry of Corporate Affairs is finalizing the plan under the IBC and it will be notified soon. The Scheme is to be notified under section 240A of the IBC and will envisage a modified version of the bankruptcy scheme for small business. This amendment is expected to release pandemic-hit MSMEs from distress.

(Source: Live Mint, dated 13th July 2020)

5) PROVISION OF DECLARATION OF 'COUNTRY OF ORIGIN' ON PRODUCTS COMPULSORY FOR COMPANIES AND E-COMMERCE

All the State Governments have been directed to strictly enforce the provision of declaration of 'country of origin' for all manufacturers, importers, packers and e-commerce players. In January 2018, the Central Government amended

the Legal Metrology (Packaged Commodities) Rules, 2011 and added a new provision mandating declaration of 'country of origin'. If this provision is strictly complied with, consumers can make an informed decision. All e-commerce sites have to display it on their website under sub-rule 10 of rule 6 of the Legal Metrology (Packaged Commodities) Rules, 2011. On violation of this provision, section 36 of the Legal Metrology Act provides penalty of up to INR 1 lakh and also an imprisonment for a term of one year. To address the consumer concerns the Central Consumer Protection Authority ["CCPA"] has also been set up. The CCPA will have the powers to inquire or investigate matters relating to violations of consumer rights or unfair trade practices *suo motu*, or on a complaint received, or on a direction from the Central Government.

(Source: The Economic Times dated 10th July 2020)

6) INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (INSOLVENCY PROFESSIONALS) (SECOND AMENDMENT) REGULATIONS, 2020

Regulation 12(1)(a) of Insolvency Regulations has been amended which states that a company, a registered partnership firm or a limited liability partnership may be recognized as an Insolvency Professional Entity (IPE) if its sole objective is to provide support services to insolvency

Professionals (IP). Earlier the Regulations allowed only those IPEs to be registered to provide services to IPs who are its partners or directors.

(Source: Notification No. IBBI/2020-21/GN/REG061 dated 3rd July, 2020)

7) DISCUSSION PAPER ON RESTRICTING THE NUMBER OF ASSIGNMENTS TO BE HANDLED BY IP

This discussion paper deals with the issue of number of assignments handled by Insolvency Professionals (IPs) under the Corporate Insolvency Resolution Process (CIRP) and Liquidation (including Voluntary Liquidation) Process under the Insolvency and Bankruptcy Code, 2016 (the Code).

An IP has to protect and preserve the value of the property of the CD and manage the affairs of the CD as a going concern with full responsibility as he replaces the Board.

While, the Code of Conduct for IPs stipulated vide IP Regulations provides that an IP must refrain from accepting too many assignments, if he is unlikely to be able to devote adequate time to each of his assignments, neither the Code nor the Board has put any restriction on number of assignments to be handled by an IP at a given point of time.

It is proposed to issue necessary guidelines to IPs advising them to limit the maximum number of assignments handled by them [under CIRP/Liquidation (including Voluntary Liquidation) process under the Code], to five, at a given point of time, subject to the same being in line with the matrix given below:

Turnover of CD	No.*
<= Rs. 1000 crore	5
> Rs.1,000 crore < = Rs.5,000 crore	4
> Rs.5,000 crore < = Rs.10,000 crore	3
> Rs.10,000 crore	2
> Rs. 50,000 crore	1

(*Maximum no of assignments permitted)

(Source: Notification dated 1st July, 2020)

SECURITIES

1) SEBI EXTENDS DEADLINE FOR FILING QUARTER RETURN

SEBI has given one month relaxation i.e. till 15th September to listed companies for submitting quarterly results of June. The relaxation extends to submission of financial results for half year as well as financial year that ends or ended during the period of 30th June to 15th September, 2020. Initially, the last date for result submission was 14th August, 2020 but due to rapid spread of the COVID-19 virus this deadline has been extended. (Source: SEBI, Circular No. SEBI / HO / CFD /CMD1/CIR/P/2020/140, dated 29th July 2020)

2) SEBI HAS RELAXED PROCEDURAL MATTERS RELATING TO TAKEOVER AND BUY- BACK

SEBI issued Circular No. 139/2020 dated 27th July, 2020 through which it has relaxed the provisions of SEBI (SAST) Regulations, 2011 and SEBI (Buy- Back of Securities) Regulations, 2018.

These relaxations are for open offers and buy back through tender offers opening upto 31st December, 2020. Earlier the extension was provided up to 31st July, 2020 but keeping the pandemic in mind such further extension has been made. (Source: SEBI, Circular No. SEBI/HO/CFD/DCR2/CIR/P/2020/139, dated 27th July 2020)

3) RELAXATIONS PROVIDED IN PROCEDURAL MATTERS OF ISSUE AND LISTING

SEBI vide Circular No. 136/2020 dated 24th July, 2020 has extended the strict enforcement of Issue of Capital Disclosures Requirements, [“ICDR”] Regulations 2018 pertaining to right issue up to 31st December, 2020. Earlier according to Circular No. 78/2020 dated 6th May, 2020 relaxation was provided till 31st July, 2020 with respect to the aforesaid regulations.

(Source: SEBI, Circular No. SEBI / HO / CFD / DIL/1/CIR/P/2020/136, dated 24th July 2020)

4) SEBI HAS REVISED THE FORM OF REPORTING OF PIT VIOLATIONS TO STOCK EXCHANGES

SEBI has amended vide Notification No. 23/2020 dated 17th July 2020, SEBI Prohibition of Insider Trading [“PIT”] Regulations, 2015. The aforesaid regulations primarily focus on protecting the interests of the investors. The format of reporting violations has been revised to promote the development and regulation of securities market. It is clarified that where there is any violation of code of conduct of the PIT Regulations, it is the

duty of the listed companies, intermediaries and fiduciaries to promptly inform the stock exchanges regarding such violations. These violations must be reported in such form and manner as specified by SEBI from time to time. Further, if any amount is collected by the listed companies, intermediaries and fiduciaries by violation of PIT regulations, such amount will be remitted to the board for supporting Investor Education and Protection Fund which is administered by SEBI.

(Source: SEBI)

5) SEBI HAS ALLOWED OFFER FOR SALE AND RIGHT ENTITLEMENT TRANSACTIONS

Securities Exchange Board of India has issued Circular No. 133/2020 dated 23rd July, 2020 vide which it has declared that the trading window restrictions will not apply to offer for sale and right entitlement transactions. In this regard, the stock exchanges have been advised to notify the aforesaid to all the listed entities and publicize the same on their website.

(Source: SEBI, Circular No. SEBI / HO / ISD / ISD / CIR / P / 2020 / 133, dated 23rd July 2020)

6) SEBI HAS ISSUED CLARIFICATION ON COLLECTION OF MARGIN MONEY

The SEBI issued Circular No. 2020/127 dated 20th July, 2020 with respect to verification of upfront collection of margin money from its clients. In the equity derivative and currency derivative segments, Stock Exchanges ["SE"] / Clearing Corporations ["CC"] have mandated Clearing Members and Trading Members to

collect applicable margins from its clients on upfront basis. The objective is to enable uniform verification of upfront collection and to levy penalty across afore-mentioned segments. It has been decided that the SE/ CC shall adopt the framework specified for regular monitoring and for penalizing non collection of margins from the clients. *(Source: SEBI, Circular No. SEBI / HO / MRD2 / DCAP / CIR / P / 2020 / 127 dated 20th July 2020)*

7) SEBI PROVIDED RELAXATION IN COMPLIANCE OF REGULATIONS ILDS, NCRPS AND COMMERCIAL PAPERS

SEBI vide Circular No. 121/2020 dated 15th July, 2020 permitted issuers to use available financials as on December 2019. This permission is for issuers who have issued Non-Convertible Debentures ["NCD"] / Non-Convertible Redeemable Preference Share ["NCRPS"] / Commercial Paper ["CP"] on or after 1st July, 2020 and intend to propose to list such issued NCDs/NCRPS/CPs on or before 31st July, 2020. Issue and Listing of Debt Securities ["ILDS"] Regulations, NCRPS Regulations and circulars related to listing of CPs, require an issuer to submit its latest audited financials which should not be older than 6 months. Compliant listed entities are however, permitted to use unaudited financials with limited review in lieu of audited financial for the stub period but on the condition that unaudited financials should not be older than 6 months.

(Source: SEBI)

8) MANDATORY FOR MLD ISSUERS TO APPOINT AMFI VALUATION AGENCY

SEBI *vide* Circular No. 120/2020 dated 13th July, 2020 has mandated that Market Linked Debentures [“MLD”] shall be carried out by agency appointed by the Association of Mutual Fund of India [“AMFI”] for valuation purposes. Para 4.f (i) of the said circular now binds the issuer to appoint a third-party valuation agency which shall be an AMFI appointed as valuation agency.

(Source: SEBI Circular No. 120/2020 dated 13th July, 2020)

9) SEBI SIGNS MEMORANDUM OF UNDERSTANDING WITH CBDT

SEBI *vide* Press Release No. 38/2020 dated 8th July, 2020 signed Memorandum of Understanding [“MOU”] with Central Board of Direct Taxes [“CBDT”] for data exchange between the two organizations. The MOU will facilitate the data sharing and information between CBDT and SEBI on automatic and regular basis. The MOU will ensure that both CBDT and SEBI have a seamless linkage for data exchange. Furthermore, on request and *suo motu* basis they will also exchange any information available in their databases, for purpose of carrying out inspection, investigation, scrutiny and prosecution. A Data Exchange Steering Group has also been constituted, which will periodically review the data exchange status and take measures to improve the effectiveness of its mechanism. The MOU comes into effect immediately.

(Source: SEBI Press Release No. 38/2020 dated 8th July, 2020)

10) SEBI RELAXES COMPLIANCES WITH RESPECT TO ISSUE AND LISTING OF MUNICIPAL DEBT REGULATIONS

SEBI *vide* Circular No. 116/2020 dated 7th July 2020 has decided to provide relaxation with respect to Issue and Listing of Municipal Debt Securities [“ILDM”] Regulations. It has also been decided to partially modify the clause 7 of the Circular dealing with investor grievance report, financial results and accounts maintained by issuer under ILDM Regulations and further the timelines for submission has been extended till 31st July 2020.

(Source: SEBI Circular No. 116/2020 dated 7th July 2020)

11) SEBI NOTIFIES AMENDMENT IN INVESTMENT ADVISOR REGULATIONS

SEBI *vide* Press Release No. 37/2020 dated 3rd July 2020 has notified amendment in SEBI (Investment Advisers) Regulations, 2013. These amendments are intended to strengthen the regulatory framework for investment advisers. The amendment includes segregation of advisory & distribution activities, implementation services, agreement between investment adviser and client, fees and eligibility criteria for investment advisers.

(Source: SEBI Press Release No. 37/2020 dated 3rd July 2020)

12) SOP PREPARED FOR TRADING AND CLEARING MEMBERS

SEBI *vide* Circular No. 115/2020 dated 1st July 2020 has prepared the Standard Operating

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Procedures [“SOPs”] in consultation with Stock Exchange [“SC”], Clearing Corporations [“CC”] and Depositories to harmonize the action amongst them in a time bound manner. SEBI has specified the Early Warning Mechanism to prevent diversion of client’s securities and consequential action(s) to be initiated by SE, CC and depositories. The notice includes membership structure of Trading Member and Clearing Member across every segment.

(Source: SEBI Circular No. 115/2020 dated 1st July 2020)

13) SEBI EXTENDS COMPLIANCE DEADLINE FOR REITs AND INVITs

SEBI has extended the due date for regulatory filings and compliance for business trusts including Real Estate Investment Trusts [“REITs”] and Infrastructure Investment Trusts [“INVITs”] by a month above the timeline given by the regulator in March, 2020. This temporary relaxation is given due to the impact of COVID-19 pandemic.

(Source: The Economic Times dated 1st July, 2020)

COMPETITION

1) CCI APPROVES ACQUISITION OF KRISHNAPATNAM PORT COMPANY LIMITED BY ADANI PORTS AND SPECIAL ECONOMIC ZONE LIMITED

CCI approved the proposed combination of acquisition of equity shareholding along with management control of Krishnapatnam Port Company Limited (KPCL) by Adani Ports and Special Economic Zone Limited (Adani Ports).

(Source: PRESS RELEASE No. 19/2020-21 dated 22th July, 2020)

2) CCI APPROVES ACQUISITION OF 49% OF THE TOTAL EQUITY SHARE CAPITAL OF ODISHA POWER GENERATION CORPORATION LIMITED (OPGC) BY ADANI POWER LIMITED (APL)

CCI approved the proposed combination of acquisition of 49% of the total equity share capital of OPGC by APL.

(Source: PRESS RELEASE No. 20/2020-21 dated 30th July, 2020)

3) CCI APPROVES ACQUISITION BY ACESO COMPANY PTE. LTD. (ACESO) IN HEALTHCARE GLOBAL ENTERPRISES LIMITED (HCG)

CCI approved the proposed Combination related to an acquisition of upto 58.92% stake in HCG by Aceso by way of (i) subscription to equity shares and warrants (representing the right to subscribe to the equity shares) and (ii) an open offer to the public shareholders as per the regulations of SEBI.

(Source: PRESS RELEASE No. 18/2020-21 dated 15th July, 2020)

4) CCI APPROVES THE ACQUISITION IN:

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- **ESCORTS LIMITED (ESCORTS) BY KUBOTA CORPORATION (KUBOTA); AND**
- **KUBOTA AGRICULTURAL MACHINERY INDIA PRIVATE LIMITED (KAI) BY ESCORTS**

The Proposed Combination is relating to acquisition of 9.09% of the total issued, subscribed and paid-up share capital of Escorts by Kubota. Upon completion of capital reduction process by Escorts, this will constitute 10% of its total issued, subscribed and paid-up share capital. Further, Escorts will acquire 40% shareholding in KAI. Accordingly, Kubota and Escorts will hold 60-40% shareholding respectively in KAI.

(Source: PRESS RELEASE No. 17/2020-21 dated 10th July, 2020)

5) CCI APPROVES THE PROPOSED COMBINATION INVOLVING EROS INTERNATIONAL PLC (EROS PLC), STX FILMWORKSINC (“STX”) AND MARCO ALLIANCE LIMITED (MARCO)

CCI approved a transaction in which it is proposed that an indirectly wholly owned subsidiary of Eros Plc will merge into STX, with STX continuing to be the surviving entity.

In the second step, the Hony Group, through Marco, an existing investor in STX, will subscribe to certain shares of the merged entity.

With the completion of the transaction, it is expected that Eros, STX and Marco will directly or indirectly acquire an economic and voting

interest along with certain other rights, in the combined entity.

(Source: PRESS RELEASE No. 16/2020-21 dated 8th July, 2020)

INDIRECT TAXES

a. GST/ Customs

1) AMENDMENT IN THE ALL INDUSTRY RATES OF DUTY DRAWBACK

The Central Government has made certain amendments in the All Industry Rates [“AIR”] of Duty Drawback *vide* Notification No. 56/2020-Customs dated 13th July, 2020. Duty Drawback has been enhanced for leather foot wears, and gold jewellery mentioned under chapter 64 and chapter 71, respectively. Further, it is clarified that cars with automated manual transmission will be included in the tariff and shall be eligible to claim same Duty Drawback as given to cars with manual transmission. These changes became effective from 15th July 2020.

(Source: CBIC)

2) REVISED FORMAT/SCHEME FOR E-INVOICE IN FORM GST INV-1

The CBIC has notified the Central Goods and Services Tax (Ninth Amendment) Rules, 2020 to provide the revised the format/scheme for E-Invoice for businesses with a turnover of Rs 500 Crore or more under GST.

(Source: CBIC Notification No. 60/2020 dated 30.07.2020)

3) THE DELHI GOODS AND SERVICES TAX (TENTH REMOVAL OF DIFFICULTIES) ORDER

The Government of Delhi has notified the Delhi Goods and Services Tax (Tenth Removal of Difficulties) Order, 2019 to prescribe that the annual return for the period from 01.07.2017 to 31.03.2018, shall be furnished on or before 31.01.2020.

As per Rule 44 of the Delhi Goods and Services Tax Act, 2017, every registered person other than an Input Service Distributor, a person paying tax under section 51 or 52, a casual taxable person and a non-resident taxable person, is required to furnish an electronic annual return in the prescribed form, on or before the 31st of the December following the end of the financial year.

(Source: CBIC Order No. 10/2019 dated 27.07.2020)

4) EFFECTIVE DATE OF PROVISIONS OF DELHI GOODS AND SERVICES TAX (AMENDMENT) ACT, 2019

The Governor of National Capital Territory of Delhi has appointed 01.01.2020 as the date on which the provisions of sections 3 to 6, 8, 9, 11, 12 and 21 of the Delhi Goods and Services Tax (Amendment) Act, 2019 shall come into force. Relevant amendments have been given below:

Section 5: Every registered person shall undergo authentication or furnish proof of possession of Aadhar Number in the prescribed manner u/s 25(6A).

Section 9: A registered person may transfer any amount from electronic cash ledger under Delhi GST Act to electronic cash ledger for integrated tax, central tax, state tax or cess.

Section 12: Amount transferred from electronic cash ledger under Delhi GST Act to electronic cash ledger under CGST Act or IGST Act shall be transferred by Government to Central Tax Account or Integrated Tax Account or Cess Account (Inserted through Section 53A)

Section 21: Penalty has been prescribed for contravention of Anti-profiteering Measure u/s 171.

(Source: Notification No. 01/2020- State Tax dated 14th July 2020)

5) GOVERNMENT EXTENDS GST RETURN FILING DATE FOR COMPOSITION DEALERS

The Central Board of Indirect Taxes and Customs has extended the due date, for filing of annual return, by composition dealers, for the F.Y. 2019-2020, till 31st August, 2020. The tax payers, whose

turnover is less than 1.5 Crore can opt GST Composition Scheme. This Scheme is beneficial for manufacturers and traders as they are required to pay GST @ 1%. For restaurants, which do not serve alcohol rate of GST is @ 5%. *(Source: The Economic Times, dated 14th July 2020)*

6) ALCOHOL BASED HAND SANITIZERS TO ATTRACT 18% GST

The Advance Ruling Authority [“AAR”] has said that a GST of 18% will be levied on alcohol based hand sanitizers. In response to this, Springfield India Distilleries approached Goa bench of AAR to clarify classification of hand sanitizers supplied by the company. Springfield India Distilleries argued, that the product is taxed @ 12% as per GST law. They further argued that, Alcohol based sanitizers should be exempted from GST, as it falls under the ambit of “essential commodity”. According to some experts, hand sanitizers have been a matter of debate as there is no explicit clarification on its category yet. It is because of its composition and uses that multiple entries are given to the product and there is a need for controlled legislation on this subject. *(Source: The Economic Times, dated 14th July 2020)*

7) GST DEPARTMENT MERGED DAMAN AND DIU AND DADAR AND NAGAR HAVELI

The Union Territories, Dadra and Nagar Haveli and Daman and Diu have merged into forming a single State Code for GST registration. The effect to this merger has been given through Trade Notice No. 28/2020-21 dated 13th July, 2020.

There shall be a single State Code i.e. State Code-26 for persons registered under GST laws in these UTs, and existing users with GSTIN-25 will also be reissued new code. It comes into effect from 1st August, 2020.

(Source: CBIC, Trade Notice No. 28/2020-21, dated 13th July 2020)

8) CBIC EXTENDS DUE DATE FOR GSTR-4

As per Notification No.59/2020 dated 13th July, 2020, due date of GSTR-4 has been extended till 31st August, 2020 for the F.Y. 2019-2020. The notification was issued by CBIC by exercising power under section 148 of the CGST Act, 2017.

(Source: CBIC Notification No. 59/2020, dated 13th July 2020)

9) CBIC EXTENDS LAST DATE FOR RE-IMPORTS OF DIAMONDS

Central Board of Indirect Taxes and Customs [“CBIC”] vide Notification No. 30/2020 dated 10th July, 2020 has extended the last date of re-imports by 3 months. This extension is granted for– importing diamonds between 1st February 2020 to 31st July 2020. The indirect tax board has extended the deadline of re–importing of cut and polished diamonds sent abroad for certification and grading. CBIC has exempted payment of BCD and IGST, during the course of re-import during the extended period. This facility is available to exporters with average annual export turnover of INR 5 Crore for the last preceding 3 years. *(Source: CBIC Notification No. 30/2020 dated 10th July 2020.)*

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10) CUSTOM STATION TO SET UP TURANT SUVIDHA KENDRAS

All Custom Stations will be setting up Turant Suvidha Kendras by 15th July 2020. The CBIC said it will act as the sole physical interface point with custom officers for physical submission of documents. Further, CBIC stated that this step is being taken in addition to the pan India faceless assessment. This reform is being introduced for speedy clearance of goods at air and sea ports.

(Source: The Economic Times dated 8th July 2020)

11) COMPANIES FILE WRIT PETITION IN DELHI HC FOR RETROSPECTIVE AMENDMENT IN GST LAWS

Many Companies have brought an action against the Government in the Delhi High Court because they were not allowed their claims of the transitional tax credits. These companies have filed a writ petition for retrospective amendment in the GST framework. The firms claim that the government changed the law banning companies from using tax credit if they had just "forgotten" about it after several companies started claiming it and even approached the courts. When the nation moved from old tax regime to GST, a onetime transition of credit was allowed to companies to set off the taxes paid during the old tax regime against the future GST liabilities. The Government was able to bring the amendment only after the judgment of Delhi High Court which favours the taxpayers. Henceforth, the government has challenged the Delhi High Court judgment in Apex Court, whose hearing is pending.

(Source: The Economic Times, dated 2nd July 2020)

12) GST COLLECTIONS RECOVERED AFTER A RECORD LOW IN MARCH

The GST collections have improved in June after a record drop in March, 2020. The Ministry of Finance declared that the mop up for May, collected in June, stood at INR 90,917 Crore. This accounts for a 46.6% increase from April while being a 9% drop from previous year. The GST collected in the first quarter of F.Y. 2020-2021 was 59% of the revenue collected in the last year. The decline in GST revenue was due to halt of business activities caused by nationwide lockdown. The collections indicate that revival is on its way and mop can be seen in coming months. Further, a marginal increase in GST revenue can be seen due to returns filed by large taxpayers with annual turnover of more than INR 5 Crore, for the month February, March and April in June.

(Source: Bloomberg Quint dated 2nd July 2020)

13) NEW STAMP DUTY NORMS EFFECTIVE FROM 1ST JULY

The Amendment in the Indian Stamp Act, 1899 comes into effect from 1st July, 2020. It creates an obligation on stock exchanges, depositories, and authorized clearing corporations to collect stamp duty on transfer of securities like Equity shares, Debentures and Mutual Fund Units. Stamp Duty will now be charged at a rate of 0.005% on debentures on issuance and 0.0001% in case of

transfer and re-issue. However, there will be no stamp duty on Government Securities. The amendment establishes a specific national stamp duty rate for securities, including units of mutual funds.

(Source: The Bloomberg Quint, dated 1st July 2020)

INTELLECTUAL PROPERTY RIGHTS

1) TRADEMARK "ISKCON" QUALIFIES TO BE A WELL-KNOWN TRADEMARK

The Hon'ble Bombay High Court in the matter of *International Society for Krishna Consciousness (ISKCON) vs Iskcon Apparel Pvt. Ltd. & Anr* held that "ISKCON" was indeed a Well-Known Trademark in India and would fall within the ambit of Section 2(1)(zg) of the Trade Marks Act, 1999.

The matter relates to infringement of plaintiff's registered trademark "ISKCON" and passing off suit against an Iskcon Apparel ("IA"), a clothing manufacturer selling products under the brand name ISKCON. The plaintiff prayed for an order that "ISKCON" was a Well-Known Trademark. The plaintiff claimed and proved that they created the name "ISKCON" for the first time and were established in the year 1966 in New York, and with the passage of time they have created a global presence, including in India.

On the basis of the above-mentioned interpretations, the Court was of the opinion that the trademark "ISKCON" is a coined trademark which is associated exclusively with the Plaintiff, it

undoubtedly deserves the highest degree of protection, and qualifies to be recognised as a Well-Known Trademark.

(Source: Commercial IP Suit (L) No. 235 of 2020)

2) ITC CANNOT CLAIM MONOPOLY OVER TRADEMARK "MAGIC MASALA"

The Hon'ble Madras High Court, in the matter of "M/s ITC Limited vs. Nestle India Limited" held that no party can claim monopoly over laudatory terms or terms which are common to trade.

ITC Ltd (Sunfeast Yippee Noodles) filed a suit against Nestle India Ltd. (Maggi Noodles) restraining them to use the mark "Magic Masala". Both the parties in the suit are in similar business of instant noodles. ITC claimed that "*Magic Masala*" is an essential element of their trademark "*Sunfeast Yippee! Noodles Magic Masala*" and that Nestle had forged their brand "Magic Masala" and were selling their instant noodles under the brand "Magical Masala" which is phonetically similar.

The court observed that "*Both the words 'Magic' and its derivative 'Magical' are common to the trade. Therefore, neither the plaintiff nor the defendant can claim any monopoly over the expression 'Magic' or 'Masala' for they are common words in Indian culinary and Indian food industry*". Further the court held that "*ITC has used the expression "Magic Masala" in a laudatory manner to praise the "Masala" in the sachet. Laudatory epithet cannot be given monopoly or protection as has been held by Courts... Since it is a laudatory word, it can never be monopolised.*"

(Source: C.S.No.231 of 2013)

ENVIRONMENT

1) CENTRAL POLLUTION CONTROL BOARD (CPCB) EXTENDS THE DUE DATE FOR FILING ANNUAL RETURN AND ANNUAL REPORT UNDER E-WASTE MANAGEMENT RULES

CPCB has extended the due date for filing of annual return in Form 3 by all stakeholders from 30.06.2020 to 31.08.2020.

(Source: CPCB notification dated 14.07.2020)

2) NATIONAL GREEN TRIBUNAL (NGT) DIRECTED CLOSURE OF POLLUTING UNITS IN 3 MONTHS

NGT has directed the CPCB to close the polluting industries in “critically polluted” and “severely polluted” areas across the country within 3 months. NGT expressed its view by saying that economic development cannot take place at the cost of public health.

Further, NGT has clarified that white and green or non-polluting industries which were not causing any pollution would not be affected by the order.

(Source: Times of India)

3) NGT ORDERS BAN ON PETCOKE, FURNACE OIL

NGT, in the matter Sumit Kumar Vs State of Himachal Pradesh & Others dated 16/07/2020, held that the use of Petcoke and furnace oil by the industries adversely impacts the environment. NGT has directed the CPBC to file an action taken report on the matter within four months and ban the use of Petcoke and furnace oil and substitute then with clean alternatives.

(Source: Times of India)

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