

INDEX

RBI & FEMA	... 2
Foreign Trade	... 2
Corporate Laws	... 3
Securities Laws and Capital Markets	... 5
Competition Laws	... 6
Indirect Taxes and Customs	... 7
Intellectual Property Rights	... 8
Environment Laws	... 8

RBI & FEMA

(1) RBI ISSUES FRAMEWORK FOR STRENGTHENING GRIEVANCE REDRESS MECHANISM IN BANKS

The Reserve Bank of India [“RBI”] has issued the framework for strengthening grievance redress mechanism in banks. The framework comprises of enhanced disclosures of complaints, and intensive review by RBI of the grievance redress mechanism. The redress of complaints will continue to be cost-free for the customers of banks and members of public.

(Source: RBI Circular No. 01/13.01.013/2020-21 dated 27.01.2021)

(2) RBI ISSUES FOREIGN EXCHANGE MANAGEMENT (EXPORT OF GOODS AND SERVICES) (AMENDMENT) REGULATIONS, 2021

RBI has notified amendment regulations to provide supplemental exemptions to the exporter from furnishing the declaration of export in case of re-export of leased aircraft/helicopter and/or engines/auxiliary power units.

(Source: RBI Notification No. FEMA 23(R)/(4)/2021-RB dated 08.01.2021)

(3) RBI ISSUES RISK BASED INTERNAL AUDIT (RBIA) FRAMEWORK

RBI has advised that the Internal Audit Function of the banks shall have sufficient authority, stature and independence. Also, banks should ensure that

Internal Audit Function shall not be outsourced, and it shall have the requisite skills to audit all the areas of the bank.

(Source: RBI Notification No. RBI/2020-21/83 dated 05.01.2021)

(4) RBI INTRODUCES LEGAL ENTITY IDENTIFIER FOR LARGE VALUE TRANSACTIONS IN CENTRALISED PAYMENT SYSTEMS



RBI has introduced the Legal Entity Identifier (LEI) system which is used to uniquely identify parties to the financial transactions worldwide, for all payment transactions of value of ₹50 crore and above, undertaken by non-individuals entities using RBI run Centralised Payment Systems viz. Real Time Gross Settlement (RTGS) and National Electronic Funds Transfer (NEFT).

(Source: RBI Notification No. 901/06.24.001/2020-21 dated 05.01.2021)

FOREIGN TRADE

(1) AMENDMENT IN IMPORT POLICY OF COAL AND INCORPORATION

The Directorate General of Foreign Trade [“DGFT”] has introduced the Coal Import Monitoring System (CIMS) from 01.02.2021, that would require coal importers to submit advance information in an online system for import and obtain an automatic registration number.

(Source: DGFT Notification no. 56 / 2015-20 dated 28.01.2021)

(2) DGFT LAUNCHES ONLINE E-PRC SYSTEM FOR APPLICATIONS SEEKING POLICY / PROCEDURE RELAXATION



विदेश व्यापार महानिदेशालय
DIRECTORATE GENERAL OF
FOREIGN TRADE

DGFT has introduced a new module i.e., online e-PRC System for seeking relaxation of provisions of Foreign Trade Policy (FTP) in terms of Para 2.58 of FTP.

(Source: DGFT Trade notice No. 38 / 2020-21 dated 15.01.2021)

(3) AMENDMENT IN IMPORT POLICY AND CONDITION OF ITEMS CLASSIFIED UNDER CHAPTER 41 & 43 OF ITC (HS), 2017, SCHEDULE – I (IMPORT POLICY).

The import policy of items such as reptiles, mink, fox, and fur skins is amended from prohibited to free, subject to Wildlife (Protection) Act, 1972. A new policy condition is added which states that imports are subject to compliance with the health protocol for import of hides and skin or sanitary conditions.

(Source: DGFT Notification no. 55/2015-2020 dated 07.01.2021)

(4) DGFT ISSUES TRADE NOTICE REGARDING CYBER FRAUD COMPLAINTS



DGFT has issued the trade notice for the increasing number of cyber frauds which are causing bilateral trade disputes. The problem of cyber fraud can be resolved by implementing security protocols such as Sender Policy Framework (SPF), Domain Keys Identified Mail

(DKIM) and Domain-based Message Authentication, Reporting and Conformance (DMARC). These protocols are for standard email signatures, which meet various safety issues, and must be implemented to ensure the best possible deliverability.

(Source: Trade Notice No. 36/2020-2021 dated 04.01.2021)

(4) INSERTION OF A POLICY CONDITION FOR ITEMS UNDER CTH 33074900 OF CHAPTER- 33 OF ITC (HS), 2017, SCHEDULE-I (IMPORT POLICY)

DGFT has inserted a policy condition against preparations for perfuming or deodorizing rooms, including odoriferous preparations. The amended policy condition states that import of odoriferous preparations that do not operate by burning is “free”.

(Source: DGFT Notification no. 54/2015-2020 dated 01.01.2021)

CORPORATE LAWS

(1) NO ADDITIONAL FEE FOR FILING OF E-FORM AOC-4

The Ministry of Corporate Affairs [“MCA”] has provided relaxation on the levy of additional fee for filing of e-forms AOC-4, AOC-4 (CFS), AOC-4 XBRL and AOC-4 Non XBRL *w.r.t.* financial year ended 31.03.2020 till 15.02.2021.

(Source: MCA Notification dated 28.01.2021)

(2) COMPANIES (INCORPORATION) (AMENDMENT) RULES, 2021

MCA has amended Rule 41 of the Companies (Incorporation) Rules, 2014 relating to the approval of conversion of public company into private company by the Regional Director.

(Source: MCA Notification No. G.S.R 44(E) dated 25.01.2021)

(3) COMPANIES (CORPORATE SOCIAL RESPONSIBILITY) (AMENDMENT) RULES, 2021



The key takeaways from the Corporate Social Responsibility (“CSR”) amendment rules have been provided below:

- Every entity who undertakes any CSR activity shall file e-form CSR-1 *w.e.f.* 01.04.2021.
- CSR activities shall be undertaken by the specified implementation agencies only.
- The Chief Financial Officer (CFO) shall certify that the funds have been utilised for the CSR purpose only.
- The Board shall disclose the composition of the CSR Committee, and CSR Policy and Projects approved by the Board on their website, if any, for public access.

(Source: MCA Notification G.S.R. 40(E) dated 22.01.2021.)

(4) CASE LAW: AZIM HASHAM PREMJI V. INDIA AWAKE FOR TRANSPARENCY



A Complaint was filed against Azim Premji (Petitioner) for violation of Section 447 of the Companies Act, 2013. It was held that the complainant was neither Registrar of Companies (“ROC”) nor a shareholder of the company or a person authorized by the Central Government to file the complaint, therefore, the complaint was dismissed as no other person can initiate any

criminal proceeding against a company for the offence committed under the Act of 2013.

(Source: Writ petition No. 10140 of 2020 dated 18.01.2021 of the Karnataka High Court)

(5) SCHEME FOR CONDONATION OF DELAY FOR COMPANIES RESTORED ON ROC BETWEEN 1ST DECEMBER, 2020 AND 31ST DECEMBER, 2020 U/S 252 OF THE COMPANIES ACT, 2013

MCA has issued the Scheme which shall come into effect from 01.02.2021, granting relaxation to such companies *w.r.t.* filing of e-forms (except SH-7 and charge related documents) up to 31.03.2021, without levying any additional fee.

(Source: MCA Circular dated 15.01.2021)

(6) RELAXATION IN HOLDING AGM THROUGH VIDEO CONFERENCING (VC) OR OTHER AUDIO VISUAL MEANS (OAVM)

MCA has allowed companies to hold their AGMs through VC/OAVM on or before 31.12.2021, which were due to be held in the year 2020 or 2021.

(Source: MCA Circular No. 02/2021 dated 13.01.2021.)

(7) E-FORM CFSS-2020

The Companies who have availed the benefit of Companies Fresh Start Scheme (CFSS) shall file an e-form ‘CFSS 2020’ which has been made available *w.e.f.* 16.01.2021, within 6 months from the end of the scheme.

(Source: Clarification on MCA General Circular No 12/2020)

(8) INCLUSION OF SPENDING ON COVID-19 UNDER CSR ACTIVITY

MCA has notified that spending of CSR funds for carrying out awareness campaigns / programmes or public outreach campaigns on Covid-19 vaccination programme is an eligible CSR activity under item no. (i), (ii) and (xii) of Schedule VII of the Companies Act, 2013.

(Source: MCA Circular No. 01/2021 dated 13/01/2021)

(9) CASE LAW: ANJALI BHARGAVA & ANR. V. UNION OF INDIA & ANR.

- The petitioners prayed to the Hon'ble High Court of Delhi to reactivate their Director Identification Number (DIN) and Digital Signature Certificate (DSC) to enable them to avail benefit of Companies Fresh Start Scheme, 2020 (CFSS, 2020).
- The Hon'ble Delhi High Court set aside the director's disqualification and ordered reactivation of DIN & DSC stating that the introduction of the CFSS is a step for 'providing a fresh start' and, continuation of the disqualification would defeat the Scheme and its purpose.

(Source: Appeal no. W.P. (C) 11264/2020 & CM APPL. 35094/2020 dated 06/01/2021 of the High Court of Delhi)

SECURITIES LAWS AND CAPITAL MARKETS



(1) RELAXATION WITH RESPECT TO RIGHTS ISSUES

The Securities and Exchange Board of India ["SEBI"] has granted relaxation for right issues opening up to 31.12.2020. This relaxation has been further extended till 31.03.2021.

(Source: SEBI Circular SEBI / HO / CFD / DIL1 / CIR / P / 2021 / 13 dated 19.01.2021)

(2) RELAXATIONS WITH RESPECT TO COMPLIANCES OF SEBI (LODR) REGULATIONS, 2015

SEBI has extended the relaxations in respect of sending physical copies of annual report to shareholders and requirement of proxy for general meetings held through electronic mode, for listed entities, till December 31, 2021.

(Source: Circular No. SEBI/HO/CFD/CMD2/CIR/P/2021/11 dated 15.01.2021)

(3) CASE LAW: IN RE. DWITIYA TRADING LIMITED (SEBI)

- SEBI observed that Dwitiya Trading Limited had mis-utilised its funds raised through the issue of preferential shares and a part of the said funds was transferred to certain entities for purchasing shares from the said entities, which included Jahman Dealers Pvt. Ltd ("Noticee"). SEBI, thereafter, issued summons to the Noticee, to which it failed to pay any attention/heed.
- The Noticee, by not responding to three summonses that were issued upon him and non-cooperation with the investigation process, had violated section-15A (a) of SEBI Act, 1992.
- As a result, SEBI, by the power conferred in it by section-15I, imposed a monetary penalty of Rs. 5,00,000 on the Noticee.

(Source: SEBI Adjudication no. Order/GR/KG /2020-21/10150 dated 22/01/2021)

COMPETITION LAWS

(1) CASE LAW: COMPETITION COMMISSION OF INDIA ("CCI") DISMISSES PLEA ACCUSING GOOGLE OF ANTI-COMPETITIVE PRACTICES



- CCI has recently dismissed a plea which was filed against Google that it has abused its dominant position as a major platform.
- The plea stated that Google’s integration of Google Meet into Gmail goes against the provisions of Section 4(2)(e) of the Competition Act, 2002 (Abuse of dominant position).
- CCI examined the plea and held that Google does not force its users to use Google Meet, and there were no consequences for not using it. A Gmail user had the free will to use any video conferencing app they wish like Zoom, Skype, Cisco Webex, We Conference, Microsoft Teams etc.

(Source: CCI Case no. 39 of 2020, dated 29.01.2021)

(2) CASE LAW: BAR COUNCIL OF INDIA (BCI) NOT AN 'ENTERPRISE': COMPETITION COMMISSION DISMISSES COMPLAINT ALLEGING ABUSE OF DOMINANCE BY BCI



- It was alleged that the Rules of Legal Education, 2008, a part of Bar Council of India (“BCI”) Rules imposes maximum age restriction of 30 years on candidates belonging to General category from pursuing legal education.

- It was also alleged that the BCI members who are managing the affairs were misusing the council's dominant position in controlling legal education in the country.
- CCI held that BCI appears to be discharging its regulatory functions and it cannot be said to be an ‘enterprise’ as per the Competition Act, 2002.

(Source: CCI Case no. 50 of 2020, dated 2.01.2021)

INDIRECT TAXES AND CUSTOMS

I. GST



(1) DELHI GOVERNMENT EXTENDS THE DUE DATE FOR FURNISHING DECLARATION IN FORM ITC-04

The time limit for furnishing the declaration in FORM GST ITC-04 has been extended till the 30.11.2020, in respect of goods dispatched to a job worker or received from a job worker, during the period from July, 2020 to September, 2020.

(Source: Notification No. 87/2020 – State Tax dated 27.01.2021)

(2) CASE LAW: NIPUN A. BHAGAT V. STATE OF GUJARAT

- Nipun A. Bhagat (Petitioner) is an ex-director of Dolphin Metals (India) Ltd. and is a director in another company named Bhagat Marketing Pvt. Ltd.

- The Revenue (Respondent) blocked the Input Tax Credit (ITC) available in the e-credit ledger of the Petitioner in order to recover dues of tax & interest of Dolphin Metals.
- The Hon'ble Gujarat High Court directed the Respondent to unblock the ITC lying in the e-credit ledger of the Petitioner, since he was an ex-director that too of a public company.

(Source: R/Special Civil Application No. 14931 of 2020, dated 04.01.2021)

(3) THE CENTRAL GOODS AND SERVICES TAX (AMENDMENT) RULES, 2021

- If a person has not filed form GSTR-3B for preceding two months, his GSTR-1 shall now be blocked.
- For quarterly tax return filers- if a person fails to furnish GSTR-3B for preceding quarter, he shall not be allowed to file GSTR-1 of the subsequent quarter.

(Source: Notification No. 01/2021–Central Tax dated 01.01.2021)

(4) SECTIONS OF FINANCE ACT, 2020 BROUGHT INTO FORCE

The Notification seeks to bring into force Sections 119, 120, 121, 122, 123, 124, 126, 127 and 131 of Finance Act, 2020. Now, the registered persons can claim ITC of the debit notes relating to the previous year issued in current year even after the due date of GSTR 3B or Annual Return which-ever is earlier.

(Source: CBIC Notification No. 01/2021–Central Tax dated 01.01.2021)

II. CUSTOMS

(1) CUSTOMS (AUTHORITY FOR ADVANCE RULINGS) REGULATIONS, 2021

The Central Board of Indirect Taxes and Customs [“CBIC”] has decided to rescind the Customs (Advance Ruling) Rules, 2001. Further, CBIC has published the Customs Authority for Advance Rulings Regulations, 2021 which specifies the powers of the authority, form and manner of filing

an application before the authority for advance ruling.

(Source: Notification No. 01/2021 – Customs (N.T.) dated 04/01/2021)

(2) REMISSION OF DUTIES AND TAXES ON EXPORTED PRODUCTS (“RODTEP”) SCHEME

The scheme seeks to refund duties/taxes/levies at the central/ state and local levels which has not already been exempted or remitted or given as credit to exporters, at notified rates, in an exporter's ledger account.

(Source: D.O. No. 50/CH(IC)/2020 dated 18.01.2021)

INTELLECTUAL PROPERTY RIGHTS

(1) CASE LAW: CUTIS BIOTECH V. SERUM INSTITUTE OF INDIA PVT. LTD.



- Cutis Biotech (Plaintiff), a pharmaceutical drug manufacturer and seller based in Maharashtra, filed a suit in the civil court seeking a restraining order against Serum Institute of India Pvt. Ltd. (Defendant) from using the trademark ‘Covishield’ as it claimed that it is a prior user of the trademark.
- The commercial court in Pune in its order rejected the plea of the Plaintiff to restrain the Defendant from using the said mark for its vaccine.

(Source: Commercial Suit No. 1/2021; CNR No. MHPU01-000107-2021 Order dated 30.01.2021)

(2) CASE LAW: MR JOHN HART JR. & ANR. V. MR. MUKUL DEORA

- Mr John Hart Jr. (Plaintiff), a Hollywood producer filed a plea alleging copyright infringement, seeking grant of injunction order against the release of the film 'The White Tiger'.
- The Plaintiff approached the court less than 24 hours before release of the film on OTT platform.
- The Hon'ble Delhi High Court held that an injunction was unnecessary, and that the plaintiff could be monetarily compensated later if they succeeded in the case and directed the defendants to keep detailed accounts of earnings made by the film.

(Source: CS (COMM) 38/2021 & IA1167/2021 & 1168/2021 dated 21.01.2021)

ENVIRONMENT LAWS

(1) CASE LAW: REPORT RECEIVED FROM STATE LEVEL MONITORING COMMITTEE, KERALA, CONSTITUTED BY NGT VIDE ORDER DATED 16.01.2019 IN O.A. NO. 606/2018, HEADED BY JUSTICE A.V.R. PILLAI, FORMER JUDGE OF KERALA HIGH COURT

- The Principal Bench of National Green Tribunal ["NGT"] pulls up Kerala Government for its failure in administration and non-compliance of Solid Waste Management Rules (SWM) Rules, 2016, which is causing pollution in Bharampuram Solid Waste Processing Plant.
- The State Government had miserably failed to comply with the Solid Waste Management Rules, 2016.
- However, the Tribunal went ahead to observe that the least expected measure from State is to place order for execution of legacy waste bio-mining, landscape of area of plantation, development of bio-diversity park, rectification of

compost plant and continuous monitoring by the authorities.

(Source: NGT Original Application no. 514/2019, dated 21.01.2021)

(2) BY VIRTUE OF COVID-19, THE PERIOD FROM 01.04.2020 TO 31.03.2021 WILL NOT BE CONSIDERED FOR PURPOSE OF CALCULATING THE PERIOD OF VALIDITY OF PRIOR ENVIRONMENTAL CLEARANCES

Via amendment, a new sub clause has been inserted basis which the period from the 1st of April, 2020 to the 31st March, 2021 will not be considered for the purpose of calculation of the period of validity of Terms of Reference granted under the provisions of this notification.

(Source: MoEF&CC Notification No. S.O.221 (E), dated 18.01.2021)

(3) CASE LAW: NGT ISSUES DIRECTION ON IMPLEMENTATION OF E-WASTE MANAGEMENT RULES BY STATE POLLUTION CONTROL BOARD AND CENTRAL POLLUTION CONTROL BOARD

BACKGROUND: The Rules governing collection, storage and processing of the e-waste are implemented under E-Waste (Management) Rules, 2016. The questions which came to light were as to whether there is due enforcement of the principle of Extended Producer Responsibility (EPR) and other procedures under E-waste management rules.

DIRECTION: NGT held that "There are huge gaps in compliance of rules which are being more held in breach than observance showing the authorities charged with the obligation of ensuring pollution free environment in poor light. There are clear governance deficits on the subject and higher authorities are not adequately concerned about the plight of citizens on account of such serious violation to the detriment of health of citizens. Environment crimes are as serious, if not more, as case of assaults but there are no adequate actions".

(Source: Original Application no. 512/2018, dated 15.01.2021)

(4) CASE LAW: HON'BLE SUPREME COURT TAKES SUO MOTU COGNIZANCE OF POLLUTION IN YAMUNA RIVER, ISSUES NOTICE TO THE STATE OF HARYANA.

- On the major causes of water pollution in the cities, the bench observed that *"surface water resources such as rivers, ponds and lakes where effluents are discharged from local bodies are highly polluted. Such discharge of human sewage and other pollutants results into deterioration in chemical, physical and biological properties of water. All these processes lead to degradation of natural environment."*
- In view of this, the bench has issued notice to the States of Uttarakhand, Himachal Pradesh, Haryana, Delhi and Uttar Pradesh along with the Ministry of Environment, Forest and Climate Change, Ministry of Housing and Urban Affairs and Central Pollution Control Board.

(Source: Writ petition no. 8/2021, dated 13.01.2021)

(5) CASE LAW: PLASTIC PENS ARE COVERED UNDER THE STATUTORY FRAMEWORK OF PLASTIC WASTE MANAGEMENT RULES



- The NGT observed that plastic pens are covered under the meaning of "plastic" as provided in Rule 3(o) of the Plastic Waste Management Rules, 2018 and therefore, they are also covered by the statutory framework of the said Rules.
- The bench also directed the Ministry of Environment, Forest and Climate Change to finalize the Extended Producers' Responsibility (EPR) mechanism. It also directed the Central Pollution Control Board to coordinate with the

Pollution Control Boards of other States and State Level Monitoring Committee on its implementation.

(Source: Original Application no. 29/2020, dated 08.01.2021)

[End of Newsletter]
