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RBI & FEMA

(1) RBI GRANTS EXEMPTION FROM LARGE EXPOSURES FRAMEWORK [LEF]

The Reserve Bank of India [“RBI”] has decided to exempt exposure to foreign sovereigns or their central banks that are subject to a 0% risk weight from LEF.

(Source: RBI Notification No. RBI/2020-21/104 dated 24.02.2021)

(2) RBI ISSUES MASTER DIRECTION ON DIGITAL PAYMENT SECURITY CONTROLS

RBI has notified the Master Direction on Digital Payment Security Controls which provides that the Regulated Entities [“RE”] shall formulate a policy for digital payment products and services with the approval of their Board. The policy shall be reviewed periodically, at least on a yearly basis. Further, RE shall incorporate appropriate processes into its governance and risk management programs.

(Source: RBI Notification No. RBI/2020-21/74 dated 28.02.2021)

(3) RBI ISSUES MASTER DIRECTION FOR HOUSING FINANCE COMPANIES

RBI has notified the Master Direction for Housing Finance Companies [“HFC”]. It has directed that all non-deposit taking HFCs with asset size of ₹100 crores and above and all deposit taking HFCs

(irrespective of asset size) shall pursue liquidity risk management.

(Source: RBI Notification No. RBI/2020-21/73 dated 17.02.2021)

(4) RBI PROVIDES REMITTANCE TO INTERNATIONAL FINANCIAL SERVICES CENTRES [IFSC] UNDER THE LIBERALISED REMITTANCE SCHEME



RBI has decided to permit resident individuals to make remittances under LRS to IFSCs set up in India under the Special Economic Zone Act, 2005. However, AD Category - I Banks, while allowing such remittances, shall ensure compliance with all other terms and conditions, including reporting requirements prescribed under the Scheme.

(Source: RBI Notification No. RBI/2020-21/99 dated 16.02.2021)

FOREIGN TRADE

(1) DGFT ISSUES TRADE NOTICE FOR ISSUANCE OF CERTIFICATE OF ORIGIN

The Directorate General of Foreign Trade [“DGFT”] has issued a trade notice for issuance of the certificate of origin through the common digital platform.

(Source: DGFT Trade notice no. 42/2020-21 dated 19.02.2021)

(2) DGFT LAUNCHES ONLINE E-CERTIFICATE MANAGEMENT SYSTEM FOR IMPORTS



विदेश व्यापार महानिदेशालय
DIRECTORATE GENERAL OF
FOREIGN TRADE

DGFT has introduced an online e-Certificate Management System, as a part of IT Revamp for processing certain applications. From 22.02.2021 onwards, application for I Card, Free Sale and Commerce Certificate, and Status Holder Certificate shall be filed online.

(Source: DGFT Trade notice No. 41/2020-21 dated 15.02.2021)

(3) AMENDMENT IN IMPORT EXPORT CODE RELATED PROVISION UNDER CHAPTER-1 AND 2 OF FOREIGN TRADE POLICY, 2015-2020

DGFT has amended the provisions related to Import-Export Code (IEC). Application for issuance of e-IEC can be made directly on the DGFT portal since the process of filing application and updating IEC have been made completely online. An IEC holder shall ensure that details in IEC are updated every year online. The consequence of the non-updation of IEC will be the deactivation of IEC.

(Source: DGFT Notification no. 58/2015-2020 dated 12.02.2021)

(4) DGFT INTRODUCES ONLINE E-TARIFF RATE QUOTA [TRQ] SYSTEM FOR IMPORTS



DGFT has issued a trade notice for introduction of a new online module – e-TRQ System for

processing e-TRQ applications w.e.f 08.02.2021. All applicants seeking TRQ for imports are required to submit their application online under “e-Tariff Rate Quota” in the Import Management System, through the importer’s dashboard on the DGFT Website

(Source: Trade Notice No. 40/2020-2021 dated 04.02.2021)

CORPORATE LAWS

(1) EXTENSION OF SCHEME OF AMALGAMATION AND MERGERS TO START-UPS AND SMALL COMPANIES



The Ministry of Corporate Affairs [“MCA”] has notified the Companies (Compromises, Arrangements, and Amalgamations) Amendment Rules, 2021 to specify that a scheme of merger or amalgamation under Section 233 of the Act may be entered into between any of the following class of companies, namely:-

- (i) two or more start-up companies; or
- (ii) one or more start-up company with one or more small company.

(Source: MCA Notification G.S.R 93(E) dated 01.02.2021)

(2) MCA REVISES THRESHOLD LIMITS FOR SMALL COMPANIES

MCA has revised the definition of small companies by notifying the Companies (Specification of Definitions Details) Amendment Rules, 2021.

The prescribed threshold limits for the paid-up capital have now been increased from “not exceeding to fifty lakh rupees” to “not exceeding two crore rupees” and for the turnover from “not exceeding two crores” to “not exceeding twenty crore rupees”.

(Source: MCA Notification No. G.S.R 92(E) dated 01.02.2021)

(3) INCENTIVES TO ONE PERSON COMPANIES (OPCS)

MCA has notified the Companies (Incorporation) Second Amendment Rules, 2021, relaxing the provisions with respect to OPCs. The changes are as follows:

- The OPCs can now be incorporated by persons residing outside India.
- For a person to be a resident in India, the threshold limit has now been reduced to 120 days from 182 days.
- OPCs are no longer required to wait for a minimum period of 2 years to undergo a conversion.

(Source: MCA Notification G.S.R. 91(E) dated 01.02.2021.)

(4) PRODUCER COMPANIES RULES, 2021

MCA has notified Producer Companies Rules 2021, which specifies rules for change in registered office from one state to another and investment in general reserves.

(Source: MCA Notification G.S.R. 112(E) dated 11.02.2021)

(5) COMPANIES (SHARE CAPITAL AND DEBENTURES) RULES, 2021

MCA has reduced the prescribed minimum threshold period of acceptance of rights issue shares from 15 days to 7 days, with effect from 01.04.2021.

(Source: MCA Notification No. G.S.R. 113(E) dated 11.02.2021.)

(6) COMPANIES (SPECIFICATION OF DEFINITION DETAILS) RULES, 2014

MCA has amended the definition of Listed Companies and notified that the following companies shall not be treated as listed companies:

- Unlisted public companies which have listed their non-convertible debt securities issued on private placement basis.
- Unlisted public companies which have listed their non-convertible redeemable preference shares issued on private placement basis.
- Private companies which have listed their non-convertible debt securities on private placement basis on a recognized stock exchange.
- Public companies which have not listed their equity shares on a foreign stock exchange.

(Source: MCA Notification G.S.R. 123(E) dated 19.02.2021)

(7) CASE LAW: SHIKHA SHARMA BAGGA VS UNION OF INDIA AND ANR (DELHI HIGH COURT)

- A petition was filed challenging the non-availability of the field for Advocates to register companies and Limited Liability Partnerships (LLPs) on the MCA portal.
- The portal only permits Chartered Accountants, Company Secretaries and Cost & Work Accountants to register and undertake incorporation of companies and LLPs as practising professionals. However, in 2014, the Companies Act, 2013 was amended to permit advocates to file documents for incorporation of companies. For the purpose of said amendment, an Advocate is required to first register as practising professional.
- However, the said amendment was not reflected on the MCA portal. Hence, the petitioner sought the consequential amendment to be reflected in the MCA tool kit.
- Herein, Delhi High Court, in an interim order held the absence of fields for lawyers for registration as professionals to be discriminatory.

*(Source: W.P.(C) 1665 & CM APPL.
4747/2021 dated 08.02.2021)*

SECURITIES LAWS AND CAPITAL MARKETS



(1) REVISED DISCLOSURE FORMATS UNDER PROHIBITION OF INSIDER TRADING REGULATIONS

The Securities and Exchange Board of India [“SEBI”] has issued revised disclosure formats under Regulation 7 of SEBI (Prohibition of Insider Trading) Regulations, 2015.

*(Source: Circular No. SEBI/HO/
ISD/ISD/CIR/P/2021/19 dated 09.02.2021)*

COMPETITION LAWS

(1) COMPETITION COMMISSION OF INDIA HAS ISSUED COMPETITION COMMISSION OF INDIA (MANNER OF RECOVERY OF MONETARY PENALTY) REGULATIONS, 2011



The Competition Commission of India [“CCI”] has issued (Manner of Recovery of Monetary Penalty) Amendment Regulations, 2021. As per the said amendment Regulations, upon receipt of demand notice, the enterprise shall pay the penalty, through challan as set out in Form II appended to these Regulations, in favour of Pay & Accounts Officer (PAO), Ministry of Corporate Affairs.

*(Source: CCI notification no. R-40007/Reg-
Recovery/Notification/2021-CCI, dated
16.02.2021)*

INDIRECT TAXES AND CUSTOMS

I. GST

(1) STANDARD OPERATING PROCEDURE (SOP) FOR IMPLEMENTATION OF PROVISION OF SUSPENSION OF REGISTRATIONS

The Central Board of Indirect Taxes and Customs [“CBIC”] has implemented SOP for provision of suspension of registrations, which provides that, where any significant differences or anomalies indicating contravention of the provisions of the Act or the Rules made thereunder, leading to cancellation of registration of the said person are noticed, his registration shall be suspended, and an intimation shall be sent in FORM GST REG-31 and a show-cause notice must be issued.

The said person would be required to reply to the jurisdictional officer against the notice in FORM GST REG-18 within 30 days.

*(Source: Circular No. 145/01/2021-GST dated
11.02.2021)*

(2) CBIC EXTENDS DUE DATE FOR FILING GST ANNUAL RETURNS

CBIC has extended the due date for filing of annual returns GSTR-9 and GSTR-9C for Financial Year 2019-20 to 31st March 2021.



(Source: Notification No. G.S.R. 142(E). dated 28.02.2021)

(3) CLARIFICATION ON APPLICABILITY OF DYNAMIC QUICK RESPONSE (QR) CODE ON B2C INVOICES

CBIC has issued a clarification with respect to applicability of Dynamic (QR) Code on B2C invoices and other compliances.

(Source: Circular no. 146/02/2021-GST dated 23.02.2021)

(4) CASE LAW: RAM AUTO V. COMMISSIONER OF CENTRAL TAXES & CENTRAL EXCISE (MADRAS HIGH COURT)

- Ram Auto herein referred to as the 'Petitioner' has filed GST TRAN-1 in time but have erroneously entered the details under wrong column, hence, he was not given the due benefit of Input Tax Credit (ITC).
- The petitioner filed a writ petition claiming relief of ITC. The High Court held that the ITC claim cannot be denied merely on account of entering the wrong details in the wrong columns. Hence, the petitioner cannot be denied of the said relief of ITC.

(Source: W.P (MD) No.15531 of 2020 dated 16.02.2021)

II. Customs

(1) CUSTOMS TARIFF (IDENTIFICATION, ASSESSMENT AND COLLECTION OF COUNTERVAILING DUTY ON SUBSIDIZED ARTICLES AND FOR DETERMINATION OF INJURY) AMENDMENT RULES, 2021

The designated authority shall, from time to time, review the need for continued imposition of the countervailing duty and shall, if it is satisfied that there is no justification for the continued imposition of such duty or additional duty, recommend to the Central Government for its withdrawal.

(Source: Notification No.11/2021-Customs (N.T.) dated 01.02.2021)

(2) CASE LAW: TRANSPPEED LOGISTICS PVT. LTD. VS COMMISSIONER OF CUSTOMS (CESTAT DELHI)

Regulation 10(n) of the Customs Broker Licensing Regulation requires that the Custom Broker should verify the identity details and the functioning of the client using reliable and independent means and data. In the current case, no physical verification was happened. The Commissioner, hence, committed an error in holding that the appellant failed to ensure the compliance of the impugned provision. CESTAT, herein, came up with the order, that Regulation 10(n) does not mandate physical verification.

(Source: CUSTOMS APPEAL NO. 51729 OF 2019 dated 23.02.2021)

INTELLECTUAL PROPERTY RIGHTS

(1) CASE LAW: MAKE MY TRIP (INDIA) PRIVATE LTD. V. M/S TRAVELOGY & ORS



Dil toh roaming hai

Make my trip (India) herein, referred to as 'Plaintiff' filed a suit seeking a decree of permanent injunction restraining M/S Travelogy, ('Defendants'), and all its subsidiaries and business

affiliates from using the plaintiff's word marks or any deceptive variant resemblance of the same. The Delhi High Court herein granted the relief of permanent injunction against one of the Defendants who had no objection to the decree.

(Source: CS (COMM) 524/20202 Order dated 17.02.2021)

(2) CASE LAW: BAJAJ ELECTRICALS LTD. V. URBAN FOODMART INDIA PVT. LTD. & ORS.



REGISTERED TRADEMARK OF
BAJAJ



UNREGISTERED LOGO OF URBAN
FOOD MART 'BAJAJ SUPERMART'

- Bajaj Electricals Ltd. ('Plaintiff') have been using the mark 'Bajaj' since 1961 and the mark has also gained the status of a well-known mark.
- Urban Foodmart India Pvt. Ltd. ('Defendant') started a retail food chain by the name 'Bajaj Supermart' and filed a trademark application for the same. This created confusion among the general public.
- Herein, Bombay High Court passed an interim order restraining the Defendants from using the impugned word mark, which resulted in commission of trademark infringement and passing off on Defendant's part. Hence, the Defendant was directed to remove all the sign marks and on shopping bags and other packing materials, etc. within a period of 3 months.

(Source: COMIP (L) No. 2517 of 2021 dated 03.02.2021)

ENVIRONMENT LAWS



(1) CASE LAW: THE NATIONAL GREEN TRIBUNAL UPHOLDS THE POLLUTER PAYS PRINCIPLE

- The three-member Bench of the National Green Tribunal ["NGT"] upheld the penalty of Rs. 57.96 lakhs imposed on M/s NTPC Ltd. on the 'polluter pays' principle.
- The Bench advocated that the polluter pays principle must be invoked for damaging the environment.
- The Tribunal further observed that the compensation received from NTPC would be utilised for the restoration of the environment according to the action plan prepared for the aforesaid purpose.

(Source: NGT Appeal no. 05/2021, dated 18.02.2021)

[End of Newsletter]
