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RBI & FEMA

(1) RBI RELEASES FRAMEWORK FOR FACILITATING SMALL VALUE DIGITAL PAYMENTS IN OFFLINE MODE



The Reserve Bank of India (“RBI”) has published a framework for facilitating small value digital payment in offline mode. An offline digital payment means a transaction that does not require internet or telecom connectivity.

The framework allowing offline payments up to Rs 200 per transaction, subject to an overall limit of Rs 2,000. Under this new framework, such payments can be carried out face-to-face (proximity mode) using any channel or instrument like cards, wallets, mobile devices, etc. Such transactions would not require an Additional Factor of Authentication (AFA). Since the transactions are offline, alerts (by way of SMS and / or e-mail) will be received by the customer after a time lag.

The Offline mode of payment can be enabled only after obtaining specific consent of the customer. Customers shall enjoy protection under the provisions of circulars limiting customer liability issued by Reserve Bank (as amended from time to time).

(Source: RBI Press Release No 2021-2022/1483 dated 03-01-2022)

(2) RBI REVISES DEFINATION OF SMALL BUSINESS CUSTOMERS

RBI has revised the definition of Small Business Customers for prior circulars. The amendment has directed Commercial Banks other than Regional Rural Banks, Local Area Banks and Payments Banks shall refer to RBI Master Circular on Basel III Capital Regulations dated July 1, 2015, for the definition of Small Business Customers.

(Source: Notification No. - RBI/2021-22/151 DOR No. PRD. LRG. 79/21.04.098/ 2021-22, dated 06-01-2022)

(3) RBI ISSUES REGULATIONS FOR FACTORING BUSINESS

RBI has issued regulations under the amended Factoring Regulation Act, 2011. Government of India has recently amended the Factoring Regulation Act, 2011 (“the Act”) which widens the scope of companies that can undertake factoring business. The Bank has issued the following regulations:

- (i) Registration of Factors (Reserve Bank) Regulations, 2022 issued vide Notification No. DOR.FIN.080/CGM(JPS) – 2022 dated January 14, 2022.
- (ii) Registration of Assignment of Receivables (Reserve Bank) Regulations, 2022

Under the provisions of the regulations mentioned above, all existing non-deposit taking NBFC-Investment and Credit Companies (NBFC-ICCs) with asset size of ₹1,000 crore & above will be permitted to undertake factoring business subject to satisfaction of certain conditions.

(Source: RBI Press Release No 2021-2022/1576 dated 20-01-2022)

(4) RBI ISSUES MASTER CIRCULAR ON BANK FINANCE TO NON-BANKING FINANCIAL COMPANIES (NBFCs)

RBI has published a master circular on Bank Finance to Non-Banking Financial Companies (NBFCs) which shall be applicable to all Scheduled Commercial Banks (excluding Regional Rural Banks).

The ceiling on bank credit linked to Net Owned Fund (NOF) of NBFCs has been withdrawn in respect of all NBFCs which are statutorily registered with RBI and are engaged in principal business of asset financing, loan, factoring and investment activities.

Accordingly, banks may extend need based working capital facilities as well as term loans to all NBFCs registered with RBI and engaged in infrastructure financing, equipment leasing, hire-purchase, loan, factoring and investment activities.

(Source: RBI/2021-22/149DOR.CRE.REC. No.77/ 21.04.172/2021-22, dated 05-01-2022)

FOREIGN TRADE

(1) DGFT GRANTS FINAL OPPORTUNITY FOR IEC HOLDERS TO UPDATE THEIR IEC DETAILS ELECTRONICALLY WITHIN 31ST JANUARY 2022

The Directorate General of Foreign Trade [“DGFT”] on 14th January 2022 has provided an opportunity for IEC holders to update their IEC in this interim period till 31.01.2022, failing which the given IECs shall be de-activated from 01.02.2022. Any IEC where an online updated application has been submitted but is pending with the DGFT RA for approval shall be excluded from the de-activation list.

It may further be noted that any IEC so de-activated, would have the opportunity for automatic re-activation without any manual intervention or any visits to the DGFT RA. For

IEC re-activation after 31.01.2022, the said IEC holder may navigate to the DGFT website and update their IEC online. Upon successful updation the given IEC shall be activated again and transmitted accordingly to Customs system with the updated status.

DGFT has earlier mandated all IEC holders to ensure that details in their IEC is updated electronically every year during April-June period (for which no user charges were to be borne by the IEC holder). Based on representations received from the IEC holders who had not updated their IECs, the period of updation was extended upto 31.07.2021 and subsequently to 31.08.2021.

(Source: Trade Notice No. 31/2021-2022, dated 14-01-2022)

(2) DGFT REVISES THE IMPORT POLICY CONDITIONS FOR GOLD

DGFT vide notification dated 05.01.2022 has amended the import policy condition for gold. The amended policy allows import of gold in unwrought forms through nominated agencies notified by IFSCA for qualified jewellers through India International Bullion Exchange.

(Source: Notification No. 49/2015-2020, dated 05-01-2022)

(3) GENERAL AUTHORISATION FOR EXPORT OF CHEMICALS AND RELATED EQUIPMENT UNDER SCOMET LIST

DGFT vide circular dated 13 February 2022 has provided the procedure for applying for General Authorization for Export of Chemicals and related equipment under SCOMET List. Application shall be submitted through online SCOMET portal along with proforma- ANF 20.

The circular also provides post reporting requirements after grant of General Authorization for Export of Chemicals and related equipment under SCOMET List.

(Source: Notification No. 45/2015-2020, dated 13-01-2022)

CORPORATE LAWS

(1) THE COMPANIES (REGISTRATION OFFICES AND FEES) AMENDMENT RULES, 2022



The Ministry of Corporate Affairs ["MCA"] has issued Companies (Registration offices and fees) Amendment Rules, 2022 which shall come into effect from July 1, 2022.

The amendment has enhanced the additional fee and higher additional fee as levied under section 403 of the Companies Act, 2013, and specified under the table annexed to the Notification to 12 times and 18 times.

(Source: Notification No. F.No. 01/16/2013 CL-V (Pt-I), dated 11-01-2022)

(2) CASE LAW: DEVAS MULTIMEDIA PVT LTD. V ANTRIX CORPORATION LTD.

In this case, the Petitioner company, Devas Multimedia becomes the first company to be wound up in India for fraudulent activity under Section 271(1)(c) by the Supreme Court. The Apex court has upheld the order of the Karnataka NCLT and NCLAT of the winding up. *"The ground work was clearly done during the period from March 2003 to December 2004 before the company was formally incorporated. Immediately after incorporation, the Agreement dated January 28, 2005 was signed. Therefore, the first ingredient of Section 271(c) of the Companies Act, 2013, namely, the formation of the company for a fraudulent and unlawful purpose was clearly made out,"* the Court ruled.

(Source: Civil Appeal No.5766 of 2021 dated 17.01.2022)

SECURITIES LAWS AND CAPITAL MARKETS

(1) CASE LAW: M.V. Damania & Co. V SECURITIES AND EXCHANGE BOARD OF INDIA (SEBI) [SAT – MUMBAI]



In the present case, an appeal was preferred by MV Damania who is a certificated and authorized auditor and was on charges of fraud and negligence was charged and fined under Section 12 of SEBI Act, 1992 and Regulations 3 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003.

The Securities and Appellate Tribunal (SAT) was of the view that these provisions have been wrongfully attracted and the fines imposed are not based on sufficient evidence. As per the SAT, auditors are to be fined, only if there is a finding that auditors were instrumental in preparing false or manipulated accounts or have connived in the falsification of books of account. If not, for such evidence, then the SEBI can use the provisions for Professional Misconduct under ICAI provisions. Accordingly, SAT has set aside the penalty imposed by SEBI on auditors for negligently certifying the IPO proceeds.

(Source: M.V. Damania V SEBI (2022) 134 taxmann.com 257 (SAT- Mumbai), dated 17.01.2022)

(2) DISCLOSURE OBLIGATIONS OF LISTED ENTITIES IN RELATION TO RELATED PARTY TRANSACTIONS (RPTS)

The SEBI has notified the amendment dated November 22, 2021, under Regulation 23 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations (LODR), to be applicable to high value debt listed companies also.

The amendment specified the following disclosure obligations of listed entities in relation to Related Party Transactions with respect to specified securities:

- a. Information to be reviewed by the Audit Committee for approval of RPTs.
- b. Information to be provided to shareholders for consideration of RPTs and,
- c. Format for reporting of RPTs to the Stock Exchange.

(High-value debt-listed entities are those entities that have listed non-convertible debt securities and an outstanding value of such securities are Rs 500 crore and above)

(Source: Circular No. SEBI/HO/DDHS/DDHS_Div1/P/CIR/2022/0000000006, dated 07-01-2022)

(3) CLARIFICATION IN TIMELINE TO SUBMIT NOC FROM THE LENDING INSTITUTIONS FOR SCHEME OF ARRANGEMENT

The SEBI has Clarified that No Objection Certificate (NOC) from the lending scheduled commercial banks/ financial institutions/ debenture trustee shall be submitted before the receipt of the No objection letter from stock exchange for scheme of arrangement in terms of Regulation 37(1) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.

(Source: Circular No. SEBI/HO/CFD/SSEP/CIR/P/2022/003, dated 03-01-2022)

COMPETITION LAWS**(1) CCI APPROVES ACQUISITION OF SHARES IN SUTHERLAND GLOBAL HOLDINGS INC.**

The proposed combination pertains to the acquisition of Series C Preferred Stock convertible to common stock of Sutherland Global Holdings Inc. (Sutherland) in two tranches by the Coral Blue Investment Pte Ltd. (GIC Investor) subject to the fulfilment of relevant conditions.

GIC Investor is wholly owned by GIC Blue Holdings Pte. Ltd., an entity which is in turn wholly owned by GIC (Ventures) Private Limited. GIC Investor is a special purpose vehicle organized as a private limited company in Singapore. It is part of a group of investment holding companies managed by (i) GIC Special Investments Private Limited, which is wholly owned by GIC Private Limited and (ii) the Integrated Strategies Group of GIC.

Sutherland is a privately held holding company, incorporated in the United States of America. Sutherland operates as a holding company and is a global information technology service provider specializing in the provision of integrated business process outsourcing (BPO), business transformation, cloud, back office, and front office services, business process and technology management services. It operates through four indirect subsidiaries in India i.e., (i) Sutherland Global Services Private Limited; (ii) Sutherland Development Company Private Limited; (iii) Adventity Global Services Private Limited; and (iv) Sutherland Healthcare Solutions Private Limited.

(Source: Press Release No. 60/2021-22, dated 11.01.2022)

(2) CCI APPROVES ACQUISITION BY GLAXOSMITHKLINE HEALTH CARE OVERSEAS LIMITED AND GLAXOSMITHKLINE CONSUMER HEALTHCARE UK TRADING LIMITED (ACQUIRERS) OF SHAREHOLDING IN GLAXOSMITHKLINE ASIA PRIVATE KIMTED (TARGET) UNDER SECTION 31(1) OF THE COMPETITION ACT, 2002

The Proposed Combination involves collective acquisition of 100% shares of the Target by the Acquirers. Further, prior to the proposed combination, GSKAPL will acquire the trademarks pertaining to “Todex” and “Ostocalcium” brands in India alongwith the legal, economic, commercial, and marketing rights of such brands and other associated assets (GSK Consumer Brands) from GlaxoSmithKline Pharmaceuticals Limited.

GlaxoSmithKline Consumer Healthcare Overseas Limited is a wholly owned subsidiary of GlaxoSmithKline Consumer Healthcare Holdings (No.2) Limited (“GSK CH HoldCo”). It is a part of the overall GlaxoSmithKline (GSK) group, and its principal activity is to act as an investment holding company for GSK CH HoldCo and its subsidiaries.

GlaxoSmithKline Consumer Healthcare UK Trading Limited is a part of the overall GSK group and is a wholly owned subsidiary of GSK CH HoldCo. It is engaged in the distribution and sale of consumer healthcare products, manufacturing, marketing, providing management services to the consumer healthcare group and providing research and development services to other consumer healthcare companies within the GSK group.

GSKAPL is a consumer healthcare company that is engaged in the marketing and distribution of oral healthcare products under various brand names such as Sensodyne, Parodontax, Polident and over-the-counter medicines products under the brand names such as Crocin, ENO.

(Source: Press Release No. 62/2021-22, dated 21-01-2022)

(3) CCI IMPOSES PENALTY ON MARITIME TRANSPORT COMPANIES FOR INDULGING IN CARTELISATION

Competition Commission of India (‘CCI’) passed a final order against four maritime transport companies namely Nippon Yusen Kabushiki Kaisha (‘NYK Line’), Kawasaki Kisen Kaisha Ltd. (‘K-Line’), Mitsui O.S.K. Lines Ltd. (‘MOL’) and Nissan Motor Car Carrier Company (‘NMCC’) for indulging in cartelisation in the provision of maritime motor vehicle transport services to automobile Original Equipment Manufacturers (OEMs) for various trade routes. Amongst these

four companies, NYK Line, MOL and NMCC were lesser penalty applicants before CCI.

The evaluation of available evidence revealed that there was an agreement between NYK Line, K-Line, MOL and NMCC with the objective of enforcement of “Respect Rule”, which implied avoiding competition with each other and protecting the business of incumbent carrier with the respective OEM. To achieve the said objective, the maritime transport companies resorted to multi-lateral as well as bilateral contacts/ meetings/ e-mails with each other to share commercially sensitive information which, inter alia, included freight rates. They also aimed to preserve their position in the market and maintain or increase prices, including by resisting requests for price reduction from certain OEMs.

(Source: Press Release No. 63/2021-22, dated 24-01-2022)

(4) CCI APPROVES ACQUISITION OF SHARES OF FUTURE GENERALI INDIA LIFE INSURANCE COMPANY LIMITED (FGLIC) BY GENERALI PARTICIPATION NETHERLANDS N.V. (GPN), PURSUANT TO WHICH GPN’S SHAREHOLDING IN FGLIC WILL STAND INCREASED FROM 49% TO UPTO APPROX. 71%

The Proposed Acquisition relates to an increase in shareholding of an existing shareholder, i.e., Generali Participations Netherlands N.V. (GPN/Acquirer) in Future Generali India Life Insurance Company Limited (FGLIC/Target). GPN proposes to increase its equity shares of FGLIC, in tranches, pursuant to which GPN’s aggregate shareholding in FGLIC will stand increased from 49% to upto approx. 71% in the following steps:

- (i) by subscribing to equity shares of FGLIC, to be issued by FGLIC through a preferential allotment (First Tranche);
- (ii) by purchasing all of Industrial Investment Trusts Limited’s (IITL) shareholding of FGLIC (Second Tranche). IITL will completely exit FGLIC and will cease to be shareholder of FGLIC.; and

(iii) by subscribing to equity shares of FGLIC, to be issued by FGLIC through a preferential allotment (Third Tranche)

(Source: Press Release No. 61/2021-22, dated 21-01-2022)

INDIRECT TAXES AND CUSTOMS

(1) MINISTRY OF FINANCE NOTIFIED E-ADVANCE RULINGS SCHEME, 2022

The Ministry of Finance (MoF) has published the e-advance rulings Scheme, 2022 enabling taxpayers to file their application for advance ruling through e-mail.

This Scheme shall be applicable to applications of advance rulings made to the Board for Advance Rulings under sub-section (1) of section 245Q of the Act; or transferred to Board for Advance Rulings under sub-section (4) of section 245Q of the Act.

(Source: Circular No. 07/2022 [F. No. 370142/62/2021-TPL (Pat-I)] / SO 248(E), dated 18-01-2022)

(2) IMPLEMENTATION OF RULE 59(6) OF THE CGST RULES, 2017

The CBDT has notified the implementation of the amended Rule 59(6) of the CGST Rules, 2017, which provides that with effect from 1st January 2022 if a monthly filer has not filed the GSTR-3B for the preceding month, then such taxpayer will not be allowed to file the GSTR-1 for the subsequent month, till the GSTR-3B for the preceding month is filed.

This functionality will be implemented on the GST Portal shortly, after which the system will check the filing of preceding GSTR-3B before permitting to file GSTR-1 for the subsequent month.

(Source: Press Release No. 516, dated 04-01-2022)

(3) ADVISORY ON REVAMPED SEARCH HSN CODE FUNCTIONALITY

The Goods and Service Tax Network (GSTN) has notified the launch of revamped & enhanced version of Search HSN on the GST portal. The 'Search HSN' functionality has been revamped by linking it with e-invoice database and Artificial Intelligence tools.

-The Search HSN Code functionality has been enhanced.

-The facility is available at both pre-login and post login.

-In case taxpayers are not able to find HSN of any goods or services, then they can raise a ticket on GST self-service portal (<https://selfservice.gstsystem.in>). Further, taxpayers can also download the list of the entire list of HSN Codes along with their technical descriptions in excel format by clicking on link 'Download HSN in Excel Format'.

(Source: Advisory dated 06-01-2022)

(4) INTEREST CALCULATOR IN GSTR-3B

The GSTN as a facilitation measure for taxpayers & for assisting the taxpayers in doing a correct self-assessment, has notified a new functionality of interest calculator in GSTR-3B.

This functionality will arrive at the system computed interest based on the tax liability values declared by the taxpayers. The interest applicable, if any, on the tax liability declared in the GSTR-3B of a particular tax-period will be computed after the filing of the said GSTR-3B. This system computed interest values will be auto-populated in the Table-5.1 of the GSTR-3B of the next tax-period. The facility would be similar to the collection of Late fees for GSTR-3B, filed after the due date, posted in the next period's GSTR-3B.

(Source: Press Release No. 519, dated 08-01-2022)

(5) EMECURE PHARMACEUTICALS LTD (AAR MAHARASHTRA)

The major contention of the Emecure was two-fold i.e., on the applicability of the payment of GST on a canteen service and bus transportation service provided by the Company.

The AAR stated Section 7 of the CGST, "Section 7 of the CGST Act, 2017, states that, for a transaction

to qualify as supply, it should essentially be made in the course or furtherance of business, we find that the canteen services provided by the applicant to its employees cannot be considered as a “supply” under the relevant provisions of the CGST Act, 2017.” A similar note was made for the transport services provided by the organisation.

(Source: Advance Ruling No. GST-ARA-119/2019-20/B-03, dated 04.01.2022)

(6) V. S. PRODUCTS V UOI (KARNATAKA HC)

In the present case, a Notification raised in 2019 for levy of Central excise on tobacco manufactures was upheld, which was challenged by the Petitioner to have excessed charge and violative of Articles 246 and 246A which talk about application of GST charges.

The levy was justified by stating that Articles 246 and 246A can be applied simultaneously and the consumption of tobacco being a harmful product the Union of India can charge ‘extra’ taxes and charges on the basis of principles of morality.

(Source: 134 taxmann.com 126 (Karnataka HC), dated 04.01.2022)

INTELLECTUAL PROPERTY RIGHTS

(1) CALCUTTA HIGH COURT INJUNCTS BAIDYANATH AYURVED FROM DISPARAGING THE PRODUCTS AND THE TRADEMARK OF DABUR INDIA LIMITED

In a yet major ruling on the disparaging advertising issue, a Single Bench of Calcutta High Court has restrained Baidyanath Ayurved by injunctioning four of its advertisements that amounted to disparaging of Chyawanprash brands including Dabur India Limited. Plaintiffs had filed the instant suit for restraining Defendants from disparagement. Plaintiffs stated that the ads aired by Defendants were false, misleading, and spreading misinformation especially about the ingredients required for a Chyawanprash. Plaintiff stated that Baidyanath's comparison to other products in the market containing only 42 ingredients was said to be

false and thus, amounted to disparagement, since a minimum of 47 ingredients were required to make Chyawanprash. Defendants stated that the advertisements were well within the ambit of free speech or commercial speech under Article 19(1)(a) of the Constitution and that as per settled law, any curtailment of advertisements would affect this fundamental right. Defendants said that Plaintiffs having maximum market share, they cannot curtail other rival brands for advertising and promoting their products. Further, Defendants said that if such claims were to be accepted, then no other manufacturer would be able to advertise its product, because in doing so, it would necessarily mean that Dabur's product was being targeted. Further, it was highlighted that the advertisements do not refer to Dabur's product at all, but an unnamed fictitious product. The Bench of Justice Shekhar B Saraf, after referring to the case laws, held that when deciding an issue of disparagement, the Court must apply the reasonable man test. The court said that when Defendant highlights that other Chyawanprash contain only 42 ingredients, which is an untrue statement, it cannot claim right to free speech as the same is not allowed to communicate untruthful facts about the other rival product. The court ultimately said that if the mentioning of 42 ingredients be removed from the impugned advertisements, it can be allowed to air, and also the court said that the bottle/plastic container to be shown by Defendants in its advertisements must not depict the name of a particular brand, instead just mention the term "CHYAWANPRASH". Accordingly, the decision stands.

(Source: Dabur India Limited vs. Shree Baidyanath Ayurved Bhawan Pvt. Ltd., C.S. NO. 232/2021)

(2) MOONSHINE TECHNOLOGY PVT LTD V. TICKTOK GAMES PVT LTD

The Plaintiff initiated the suit against the defendant for the use of the mark ‘BAAZI’. The plaintiff claimed its marks containing the term BAAZI to be well-known and to have attained worldwide recognition. The Plaintiff alleged that the Defendant was a subsequent dishonest adopter of the mark BAAZI especially in relation to gaming services. The Plaintiff had also established that the Defendant was a direct competitor to the Plaintiff's company as the Director of the Defendant

company had been a customer of Plaintiff and claims that the usage by the Defendant were passing off the goodwill and reputation of Plaintiff's services. The Plaintiffs prayed for restraining the Defendants from using the mark "BAAZI" in their services. The Court assessed the credentials of the Petitioner's services and found a revenue of about Rs. 72 crores at an expenditure of nearly Rs. 32 crores. Thus, it was concluded that prima facie, the word "BAAZI" had attained a brand distinctly associated with Plaintiff and the Court ruled that the Defendants are restrained from using or attempting to use the Plaintiff's well-known brand and registered mark or any such similar mark till the disposal of the suit.

(Source: Moonshine Technology Pvt Ltd v. Tiktok Games Pvt Ltd, CS(COMM) 331/2021)

(3) RENAISSANCE HOTEL HOLDINGS INC. v. B. VIJAYA SAI AND ORS., CIVIL APPEAL NO. 404 OF 2022, ORDER DT. 19.01.2022

Recently, the Supreme Court of India upheld the order of a trial court restraining the Respondents-Defendants from using the mark SAI RENAISSANCE, which, as per the court, is identical to Renaissance Hotel Holdings, Inc.'s ("Appellant-Plaintiff") trademark, RENAISSANCE, in respect of hotels and hospitality services. The Appellant-Plaintiff had filed a suit against the Respondents-Defendants alleging that the latter is using a mark that wholly incorporates the Appellant-Plaintiff's well-known mark and its stylized representation. Agreeing with the averments of the Appellant-Plaintiff, the trial court enjoined the Respondents-Defendants from using the mark SAI RENAISSANCE or any other mark similar to that of the Appellant-Plaintiff. Aggrieved by the trial court's order, the Respondents-Defendants approached the High Court of Kerala. Overturing the trial court's order, the High Court held that the class of customers of both the parties was different and there is no evidence to show that Respondents-Defendants' use of their mark was detrimental to the distinctive character of the mark RENAISSANCE or that the Respondents-Defendants were taking advantage of the Appellant-Plaintiff's reputation. While deciding the appeal, the Supreme Court noted that both the trial court and the High Court concluded that the rival marks were identical and were being used for identical goods and services. The court held that

when identical marks are used for identical goods/services, confusion in the minds of public must be presumed. Disagreeing with the High Court's decision, the Apex Court held that use of the SAI RENAISSANCE mark violates Appellant-Plaintiff's rights in the RENAISSANCE mark and reinstated the trial court's order.

(Source: Renaissance Hotel Holdings Inc. v. B. Vijaya Sai and Ors., Civil Appeal No. 404/2022)

(4) JIMI HENDRIX'S ESTATE SUES HEIRS OF FORMER BANDMATES OVER ROYALTIES AND COPYRIGHTS THREATS

Jimi Hendrix's estate sues heirs of former bandmates over royalties and copyrights threats - The Estate of Jimi Hendrix has recently sued the heirs of the trailblazing guitarist's former bandmates. It is alleged that they threatened the estate to sue for millions of pounds in the case of unpaid royalties dating back decades in the UK Court after which the estate decided to sue them. Lawrence Abramson, a British lawyer is representing the families of bassist David Noel Redding and drummer John Graham 'Mitch' Mitchell in this whole matter from the very first day. He served to cease and desist notice to the Estate of Jimi Hendrix in the month of December 2021.

(Source: Billboard)

(5) DOCTUTORIALS EDUTECH PRIVATE LIMITED VS. TELEGRAM FZ-LLC & ORS.

DocTutorials (Plaintiffs) filed a suit before the Delhi High Court against certain unknown websites (impleaded as "John Doe") to restrain them from infringing Plaintiff's intellectual property and releasing Plaintiff's paid video lecture content on public platforms, such as Telegram (impleaded as Defendant No.1) and Mega Limited (impleaded as Defendant No.2). It is claimed that due to high quality videos and other preparatory materials made available by Plaintiff to its users, Plaintiff is a leading platform and source of examination preparation for students all over India. It is the case that certain unknown persons have hacked into the secure service of Plaintiff and accessed the copyrighted paid video content using the usernames such as

‘OmniGratis’, ‘OmniGrata’, etc They also operated various channels on Telegram and Mega containing the infringing material. Plaintiffs stated that despite notices, Defendants have not taken down the infringing material. The Bench of Justice Amit Bansal held that Plaintiffs have made out a prima facie case, restrained the unknown Defendants from using Plaintiff’s trademark and copyrighted content on the channels/website(s) as detailed. Telegram and Mega Limited undertook to take down all unauthorized illegal content in respect of copyrighted video content of Plaintiff which is posted/hosted/uploaded on their channels and upon being notified, and will expeditiously block access and take down the said channels. Further, the court directed both Defendants to provide all details of the offending parties that are available with them to Plaintiff, including the IP details, identification, emails, phone numbers.

(Source: Doctutorials Edutech Private Limited vs. Telegram Fz-Llc & Ors., CS(COMM) 60/2022)

(6) THE MAKERS OF COLIN AND CUTHBERT- THE CATERPILLAR CAKES REACH AN AGREEMENT OVER TRADEMARK INFRINGEMENT DISPUTE

The Marks & Spencer had accused Aldi over trademark infringement of its Colin, the Caterpillar birthday cake and claimed that the Cuthbert cake created by Aldi could mislead shoppers as it resembles Colin in branding and packaging too. M&S had approached the UK High Court seeking to protect its trademarks in relation to the caterpillar cake. Presently, the companies have entered into a confidential settlement and M&S has withdrawn its suit against Aldi and both the Companies claim that they are happy with the outcome of the settlement.

(Source: BBC News)

(7) NIKE FILES TRADEMARK INFRINGEMENT SUIT AGAINST ONLINE RETAILER FOR SALE OF NFTs

Nike sued StockX for selling unauthorized images of Nike shoes in the form of non-fungible tokens. Nike claims that the NFTs infringe its trademarks

and are likely to confuse consumers. The company has initiated the lawsuit seeking monetary damages and an order blocking the sales of the NFTs. StockX is also accused of misleading the consumers by claiming that the buyers would be able to redeem the tokens for physical versions of the shoes and Nike claims that the buyers’ doubts about the legitimacy of the NFTs have hurt Nike’s business reputation. The battle between fashion brands and NFTs, especially in relation to IP infringement have been in the rise lately.

(Source: ET Brandequity.com From The Economic Times)

ENVIRONMENT LAWS

(1) FSSAI OPERATIONALIZES DRAFT FOOD SAFETY AND STANDARDS (PACKAGING) AMENDMENT REGULATIONS, 2022



The Food Safety and Standards Authority of India (“FSSAI”) has operationalized draft Food Safety and Standards (Packaging) amendment Regulations, 2022 regarding use of recycled plastics. Carry bags maybe used for packaging food products as and when standards and guidelines are framed from food authority. They shall also comply with national standards for plastic.

(Source: File No. STD/SC/A-40 dated, 18.01.2022)

(2) DRAFT PLASTIC WASTE MANAGEMENT RULES, 2022

The Ministry of Environment, Forest and Climate Change (“**MoEFCC**”) has notified the Draft Plastic Waste Management Rules, 2022 through which it has widened the scope of the definitions and increased the responsibility of plastic manufacturers and importers in India.

As per the new rule, the definition for the term “Biodegradable plastics”, “Post-consumer plastic packaging waste”, “Recyclers”, “Waste to Energy” etc has been notified.

Further the Producers, Importers and Brand Owners, shall fulfill extended producer’s responsibility on plastic packaging waste as per Regulations issued under these Rules from time to time.

As per the Rule, no person shall manufacture carry bags or recycle plastic or multilayered packaging unless the person has obtained registration from -

1. The concerned State Pollution Control Board or Pollution Control Committee of the Union Territory, if operating in one or two states or Union territories; or
2. The Central Pollution Control Board, if operating in more than two States or Union Territories.

Environmental Compensation shall be levied based upon polluter pays principle, on person(s) not adhering to the provisions of these Rules, for the purpose of protecting and improving the quality of the environment and preventing, controlling and abating environment pollution.

(Source: Notification No. G.S.R. 22(E) dated, 18.01.2022)

(3) 38°C RECORD ARCTIC TEMPERATURE CONFIRMED

The Central Pollution Control Board has published the Environmental Guidelines for Poultry Farms which shall be applicable to all the categories of Poultry Farms.

The guidelines notified the regulatory/monitoring mechanism for poultry farms. Poultry Farms handling birds above 25,000 at single location will have to obtain consent to establish (CTE) and consent for operate (CTO) under the Water Act, 1974 & Air Act 1981 from State Pollution Control Board/Pollution Control Committee,

(Source: Environmental Guidelines for Poultry Farms [January 2022])

[End of Newsletter]
