

MONTHLY NEWSLETTER

MARCH 2023

Dear Readers,

We bring you a concise analysis of important developments, recent publications and judgements and noteworthy regulatory amendments in the corporate and financial sectors on a monthly basis.

Our newsletter will cover updates from RBI, FEMA, Foreign Trade, Corporate Laws, Securities Laws and Capital Markets, Competition Laws, Trade & Indirect Taxes and Customs, Intellectual Property Laws, Environmental Laws etc.

Perceiving the significance of these updates and the need to keep track of the same, we have prepared this newsletter providing a concise overview of the various changes brought in by our proactive regulatory authorities and the Courts!

Feedback and suggestions from our readers would be appreciated. Please feel free to write to us at mail@lexport.in.

Regards,
Team Lexport



ABOUT US

Lexport is a full-service Indian law firm offering consulting, litigation and representation services to a range of clients.

The core competencies of our firm's practice *inter alia* are Trade Laws (Customs, GST & Foreign Trade Policy), Corporate and Commercial Laws and Intellectual Property Rights.

The firm also provides Transaction, Regulatory and Compliance Services. Our detailed profile can be seen at our website www.lexport.in.

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BANKING LAWS & FEMA

S. No.	Particulars	Link
1.	RBI has notified fresh arrangements for reporting and Accounting of Central Government transactions for March 2023. Pursuant to this, the receiving branches of Government accounts including those not situated locally, should adopt courier service etc., for passing on challans/scrolls etc., to the Nodal/Focal Point branches so that all payments and collections made on behalf of Government towards the end of March are accounted for in the same financial year.	CLICK HERE
2.	“Abu Dhabi Commercial Bank PJSC” has ceased to be a banking company within the meaning of Section 36A(2) of the Banking Regulation Act, 1949.	CLICK HERE
3.	S Manoharan v. Reserve Bank of India & Ors., W.P.No.19456 of 2017, Madras High Court The proprietor of Murugan Idli Shop, S. Manoharan, had contended before the Madras High Court that since he had taken a loan as the sole proprietor of Murugan Idli Shop, he would fall under the “individual borrower” category within the scope of the RBI Act, and was thus entitled to avail the benefit of waiver of foreclosure charges. He relied on circulars issued by the RBI in 2014 and 2019 through which the RBI directed banks not to charge foreclosure charges/pre payment penalties on floating rate term loan issued to individual borrowers. Thus the Court noted that Manoharan had signed the loan documents as the sole Proprietor of Murugan Idli Shop and thus the loan was in fact borrowed by Murugan Idli Shop. Thus, Manoharan, who had filed the petition as the sole proprietor of Murugan Idli Shop could not be considered as an “individual borrower” within the meaning of the circular issued by the RBI.	CLICK HERE

S. No.	Particulars	Link
4.	<p>State Bank of India & Ors. v. Rajesh Agarwal & Ors., Civil Appeal No. 7300 of 2022, Supreme Court</p> <p>The Supreme Court has held that borrowers must be heard before their accounts are classified as fraud. The Hon'ble Apex Court held that the principles of "audi alteram partem" must be read into the Circular issued by the Reserve Bank of India on the classification of bank accounts as fraud accounts. The bench noted that classification of accounts as fraud results in serious criminal and civil consequences for borrowers since it amounts to "blacklisting" of borrowers and hence opportunity of hearing must be granted for the borrowers under the Master Directions on Fraud. Furthermore, such decision must be made by way of a reasoned order. The Court held that it cannot be presumed that the Master Circular excludes the principles of natural justice.</p>	CLICK HERE

CORPORATE LAWS, SECURITIES LAWS AND CAPITAL MARKETS

S. No.	Particulars	Link
1.	The Central Government has established a Centre for Processing Accelerated Corporate Exit to centralize the process of striking off companies from the MCA Register.	CLICK HERE
2.	SEBI has made certain amendments in SEBI (Buy-back of Securities) Regulations, 2018 such as Buyback through Stock Exchange Route-Restrictions on placement of bids, price and volume etc.	CLICK HERE
3.	To protect the interests of investors in securities and to promote the development of, and to regulate the securities market, SEBI has notified that all e-wallets must be fully compliant with KYC norms as prescribed by Reserve Bank of India.	CLICK HERE
4.	SEBI has modified the Securities Lending and Borrowing Scheme (SLB) under Securities Lending Scheme, 1997 wherein payment of fees / penalties / recoveries must be made only through digital mode of payment etc.	CLICK HERE

COMPETITION LAWS

S. No.	Particulars	Link
1.	<p>Google LLC & Anr. v Competition Commission of India, Competition Appeal (AT) (ND) No.01 of 2023, NCLAT, New Delhi</p> <p>The NCLAT Principal Bench has dismissed Google’s appeal against the Order of the Competition Commission of India (CCI) dated 20.10.2022 wherein CCI had imposed a penalty of INR 1337.76 Crores on Google for abusing its dominant position in the Android OS app store market, which resulted in denial of market access for competing search apps. Google had contended that the CCI’s Order suffered from confirmation bias on account of the 2018 order passed by the EU. CCI on the other hand contended that Google captures 98% of the smart phone market and hence any violation of Competition Law on its part would attract action by the CCI. The NCLAT dismissed Google’s appeal and upheld the penalty of INR 1337.76 Crores imposed on them, and also observed that the CCI’s investigation into Google's conduct was not violative of principles of natural justice.</p>	
2.	<p>Geep Industries India Pvt. Ltd. v. Competition Commission of India, Competition Appeal (AT) No. 87 of 2018, NCLAT New Delhi</p> <p>Panasonic Corporation had filed a Lesser Penalty Application with the CCI, disclosing the existence of a ‘bilateral ancillary cartel’ between Geep Industries and Panasonic, wherein the CCI found that the parties had agreed to regulate the price of the dry cell batteries market. The CCI had imposed a penalty exceeding INR 9 Crores on Geep Industries. Aggrieved, Geep Industries preferred an appeal before the NCLAT, challenging the Order on the basis that Geep Industries was a minor player in the market having less than 1% of market share, and the fact that the exorbitant penalty imposed would lead to the collapse of the Appellant’s business. The NCLAT agreed with these contentions and also held that Panasonic had placed onerous conditions on Geep Industries with respect to price regulation, and Geep was not in a position to challenge the same. Accordingly the NCLAT reduced the penalty imposed on Geep Industries to 1% of their turnover for each year of the continuation of the cartel, while retaining the penalties imposed on its directors, officers and employees since they were commensurate with their offensive behaviour.</p>	

INDIRECT TAX

S. No.	Particulars	Link
1.	CBIC has waived off the late fees payable by a registered person who has failed to furnish the return in FORM GSTR-4 for the quarters from July 2017 to March 2019 or for the financial years from 2019-20 to 2021-22 by the due date, but have furnished the said returns between the period from the 1 st April 2023 to the 30 th June, 2023.	CLICK HERE
2.	The Central Government has given relief to such registered persons whose registration have been cancelled under Section 29 of CGST Act on or before 31 st December 2022, by extending the time limit for application for revocation of cancellation of registration up to 30 th June 2023.	CLICK HERE
3.	The Central Government has notified that the date of submission of the application for authentication of Aadhar number shall be the date of authentication of the Aadhaar number, or fifteen days from the submission of the application in Part B of FORM GST REG-01 under rule 8(4) of CGST Rules, 2017, whichever is earlier.	CLICK HERE
4.	The assessment order under Section 62 of CGST Act shall be deemed to be withdrawn if registered persons follow special procedures given in this notification. This is only for such registered persons who fail to furnish a valid return within 30 days from the service of assessment order issued on or before the 28 th February 2023 issued under Section 62 of CGST Act.	CLICK HERE

CUSTOMS, SEZ AND FOREIGN TRADE

S. No.	Particulars	Link
2.	Customs Notification seeks to amend notification No. 50/2017-Customs, dated 30.06.2017, in order to reduce the BCD on Tur Whole to Nil.	CLICK HERE
3.	Customs Notification seeks to amend notification 50/2017-Customs dated 30.06.2017 to continue/provide BCD exemption on import of specific textile machineries parts & raw materials for manufacture of goods to be supplied in connection with the purposes of off-shore oil exploration or exploitation medicines of rare diseases and goods for use in the manufacture of X-ray machines.	CLICK HERE

4.	Customs Notification seeks to amend notification 8/2020-Customs, dated 02.02.2020 to continue/provide health cess exemption on import of goods for use in the manufacture of X-ray machines	CLICK HERE
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INTELLECTUAL PROPERTY RIGHTS

S. No.	Particulars	Link
1.	<p>Tata SIA Airlines Limited v. Vistara Buildtech LLP & Anr. CS(Comm) 116/2023, Delhi High Court</p> <p>The Hon'ble Delhi High Court has granted an ex-parte injunction against a Construction Company, viz., Vistara Buildtech, from using the mark 'VISTARA'. The Suit was filed by Vistara Airlines, a Joint Venture between Tata Sons and Singapore Airlines. The Court observed that 'Vistara' is a coined word, which has no known meaning or etymological significance, and the Plaintiff-airlines has been using the same since 2015 while the Defendant came into existence only in 2020 and are yet to commence building operations under the impugned marks.</p>	CLICK HERE
2.	<p>The Institute of Chartered Accountants of India vs Institute of Cost Accountants of India CS(COMM) 271/2021, Delhi High Court</p> <p>The Hon'ble Delhi High Court has restrained the Institute of Cost Accountants of India from using the abbreviation "ICAI", which has been continuously and uninterruptedly used by the Institute of Chartered Accountants of India. The Court held that it was obvious, given the fact that the plaintiff and the defendant were using identical marks, i.e., ICAI, in respect of identical services, namely the imparting of education and providing of training, that, in the absence of any other distinguishing feature, the mark by itself was bound to create confusion in the perception of the observer who observes them.</p>	CLICK HERE

[End of Newsletter]
