

# MONTHLY NEWSLETTER

## APRIL 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](mailto: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](http://www.lexport.in).

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**INDEX**

<b>Banking Laws &amp; FEMA</b>	... 2
<b>Corporate Laws, Securities Laws and Capital Markets</b>	... 2
<b>Competition Laws</b>	... 3
<b>Indirect Tax</b>	... 3
<b>Customs, SEZ and Foreign Trade</b>	... 4
<b>Intellectual Property Rights</b>	... 4
<b>Environment Laws</b>	... 5

**BANKING LAWS & FEMA**

<b>S. No.</b>	<b>Particulars</b>	<b>Link</b>
1.	A Master Circular has been released which consolidates the instructions issued by the RBI relating to the conduct of guarantee business by banks.	<a href="#">CLICK HERE</a>
2.	RBI Master Circular has been released which consolidates the instructions on Prudential norms on Income Recognition, Asset Classification and Provisioning pertaining to Advances.	<a href="#">CLICK HERE</a>
3.	The RBI has issued a Master Direction on the Facilities for Exchange of Notes and Coins at Bank Branches in all parts of the Country, and the procedure thereof.	<a href="#">CLICK HERE</a>
8.	RBI Master Circular consolidating instructions pertaining to Asset Reconstruction Companies (ARCs), along with guidance notes.	<a href="#">CLICK HERE</a>
9.	Given that Regulated Entities (REs) have been extensively leveraging Information Technology (IT) and IT enabled Services (ITeS) to support their business models, products and services offered to their customers, the RBI has issued the Reserve Bank of India (Outsourcing of Information Technology Services) Directions, 2023.	<a href="#">CLICK HERE</a>

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**CORPORATE LAWS, SECURITIES LAWS AND CAPITAL MARKETS**

<b>S. No.</b>	<b>Particulars</b>	<b>Link</b>
1.	The Companies (Removal of Names of Companies from the Register of Companies) Amendment Rules, 2023 replaces Sub-rule (1) of Rule 4 by which an application for removal of name of a company under sub-section (2) of section 248 shall be made to the Registrar, Centre for Processing Accelerated Corporate Exit in Form No. STK-2 along with fee of ten thousand rupees.	<a href="#">CLICK HERE</a>
2.	Inconsistency and lack of adequate disclosure with respect to certain industry practices were noticed with respect to the information to be disclosed in Private Placement Memorandum (PPM) of Alternative Investment Funds (AIFs). In this context, a proposal to review the information disclosed in PPM under the term 'Excuse and Exclusion' for excusing or excluding an investor from an investment of the AIF, was deliberated in Alternative Investment Policy Advisory Committee (AIPAC), and guidelines have been accordingly issued.	<a href="#">CLICK HERE</a>
3.	Currently Stock Brokers (SBs)/Clearing Members (CMs) pledge client's funds with Banks which in turn issue Bank Guarantees (BGs) to clearing corporations for higher amounts. This implicit leverage exposes the market and especially the client's funds to	<a href="#">CLICK HERE</a>

S. No.	Particulars	Link
	risks. Pursuant to discussions with various stakeholders, SEBI has implemented certain measures to safeguard the interests of the investors which have been elaborated in the guidelines.	
5.	<b>Intec Capital Ltd. v. Arvind Gaudana IRP, of Varundavan Ceramic Pvt Ltd, IA 340 of 2020 in CP(IB) 561 of 2018</b>  The National Company Law Tribunal (NCLT), Ahmedabad dealt with the interpretation of a 'secured' financial creditor under the Insolvency and Bankruptcy Code, 2016. The Hon'ble Tribunal held that the applicant in the present case, could not be considered as a secured financial creditor of the corporate debtor as no charge had been created by him, on the Ministry of Corporate Affairs website.	<a href="#">CLICK HERE</a>

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#### COMPETITION LAWS

S. No.	Particulars	Link
1.	<b>Matrimony.Com Ltd v. Alphabet Inc, OA No 366 of 2023 in CS (Comm Div) No. 98 of 2022</b>  The Hon'ble Madras High Court has temporarily restrained Google from delisting the mobile applications of Matrimony.com Ltd, the parent company of Bharat Matrimony, from its Google Play Store. The present suit was filed by Matrimony.Com seeking an injunction restraining Alphabet Inc. and other subsidiaries of Google from removing/delisting its matchmaking apps from Google Play Store for their refusal to accept Google's new payment policy.	<a href="#">CLICK HERE</a>

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#### INDIRECT TAX

S. No.	Particulars	Link
1.	<b>S.S.K. TRADING v. Additional Commissioner Grade 2 (appeal) in Writ Tax No- 1464/2022</b>  The Hon'ble Allahabad High Court held that the matter is liable to be remanded to the Assessing Authority to pass fresh orders treating the petitioner to be the owner of the goods in terms of the mandate of Section 129(1)(a) of the U.P. GST Act accepting the valuation of the goods as specified in the invoice. However, as the petitioner is ready and willing to pay the liability in terms of Section 129(1)(a) of the Act, instead of remanding, the court deemed it appropriate to direct the respondents to release the goods to the petitioners if they offer to pay two hundred percent of the tax payable on the goods valuing the same on the basis of the valuation as shown in the invoice.	<a href="#">CLICK HERE</a>
2.	<b>Uber India Systems Private Limited V. Union Of India &amp; Anr., 2023:DHC:2489</b>  The Hon'ble Delhi High Court upheld the validity of notifications levying GST on auto rickshaw and bus services booked through e-commerce platforms like Ola and Uber. The Court observed that the notifications do not create an unreasonable classification on the basis of the "mode of booking" availed by the consumers, and are therefore not violative of Article 14 and 21 of the Constitution of India.	<a href="#">CLICK HERE</a>
3.	<b>M/s Profisolutions Pvt. Ltd., 07/ARA/2023 (TNAAR)</b>	<a href="#">CLICK HERE</a>

S. No.	Particulars	Link
	The Tamil Nadu Authority for Advance Ruling (AAR) has held that the services, including those of common employees of a person, provided by branch offices to the head office and vice versa, each having a separate GST registration, will attract GST. The AAR observed that even the services of employees deployed from a registered place of business to another registered premises of the same person will attract GST, as the employees are treated as related persons in terms of explanation to Section 15 and treated as supplies by virtue of Schedule I (2) to the CGST Act, 2017. The AAR further noted that Schedule I(2) to the CGST Act, 2017 states that 'supply of goods or services or both between related persons or between distinct persons, as specified in Section 25, when made in the course or furtherance of business', is to be treated as a supply even if made without consideration.	

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**CUSTOMS, SEZ AND FOREIGN TRADE**

S. No.	Particulars	Link
1.	Customs Notification notifies the manner of issue of duty credit for goods exported under the RoDTEP Scheme subject to certain conditions and restrictions.	<a href="#">CLICK HERE</a>
2.	Customs Notification on Fixation of Tariff Value of Edible Oils, Brass Scrap, Areca Nut, Gold and Silver- Reg.	<a href="#">CLICK HERE</a>
3.	Customs Notification seeking to extend levy of ADD on Fishing Net originating in or exported from China PR	<a href="#">CLICK HERE</a>
4.	Customs Notification seeks to impose definitive anti-dumping duty on imports of "Ursodeoxycholic Acid (UDCA)" originating in or exported from China PR and Korea RP for a period of 5 Years.	<a href="#">CLICK HERE</a>
5.	Customs Notification seeks to levy ADD on imports of "Vinyl Tiles other than in roll or sheet form" originating in or exported from China PR, Taiwan and Vietnam.	<a href="#">CLICK HERE</a>
6.	DGFT Notification on the Streamlining of Halal Certification Process for Meat and Meat Products.	<a href="#">CLICK HERE</a>
7.	DGFT Circular on the procedure for applying for Amnesty scheme for one-time settlement of default in export obligation by Advance and EPCG authorization holders.	<a href="#">CLICK HERE</a>
8.	DGFT Trade Notice on the Issuance of EODC for AA and EPCG process from DGFT portal.	<a href="#">CLICK HERE</a>
9.	DGFT Public Notice on the Extension of Validity of ANFs and Appendices issued under FTP (2015-20) till 31.05.2023.	<a href="#">CLICK HERE</a>

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**INTELLECTUAL PROPERTY RIGHTS**

S. No.	Particulars	Link
1.	A new Copyright Society namely, CINEFIL PRODUCERS PERFORMANCE LTD, has been formed by the Film Producers & Other Owners, to copyright their creative	<a href="#">CLICK HERE</a>

	assets for protection, collection & distribution of royalties from India & Overseas by issuing Cinematograph Performance License (CPL).	
2.	Modified Scheme for Facilitating Start-Ups Intellectual Property Protection (SIPP)	<a href="#">CLICK HERE</a>
3.	<b>Digital Collectibles Pte. Ltd. &amp; Ors. v. Galactus Funware Technology Pvt. Ltd. &amp; Anr., CS(COMM) 108/2023</b>  The Hon'ble Delhi High Court held that the infringement of rights of personality will have to be interpreted on the touchstone of passing off and endorsement, specifically in reference to the use of celebrity names, images and statistics by Online Fantasy Sports (OFS) operators. The Court observed that the use of the names, images and statistics of celebrity-sportspersons by OFS operators did not tantamount to endorsement and therefore such OFS operators did not require any licence from the sportspersons. Team Lexport, lead by Raj Latha Kotni, Partner, represented the first defendant in the matter.	
4.	<b>Ms. Aaradhya Bachchan &amp; Anr. v. Bollywood Time &amp; Ors., CS(COMM) 230/2023 (Delhi High Court – Order)</b>  The present Complaint was filed in the name of Aaradhya Bachchan, daughter of Bollywood actors Aishwarya and Abhishek Bachchan, seeking to restrain several channels on YouTube from disseminating false information about her mental and physical wellbeing. The Plaintiffs alleged the breach of right to privacy, and a violation of Rule 3(1)(b)(iii) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (as amended), which reposes a duty on digital intermediaries to undertake reasonable efforts to not enable any user to host, display, transmit or share any information that is harmful to a child. It was further argued that YouTube, being a "Significant Social Media Intermediary", was also bound by the additional due diligence imposed on it under Rule 4(4) of the Intermediary Guidelines Rules. Accordingly, the Complaint was registered as a suit. An Application for ad-interim injunction was also allowed, given that there was a prima facie case, the balance of convenience rest in favour of the Plaintiffs and that there would be irreparable loss if injunction was not granted.	<a href="#">CLICK HERE</a>

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#### ENVIRONMENT LAWS

S. No.	Particulars	Link
1.	The Central Pollution Control Board has presented its 'Proposed Guidelines for Setting up New Petrol Pumps'. These guidelines are sought to be implemented for newly established petrol pumps/ retail outlets/ fuelling stations.  The guidelines aim to restrict environmental pollution arising from setting up of new petrol pumps/ retail outlets/ fuelling stations. The guidelines provide for an audit of tanks and fuel equipment by PESO. This audit would be conducted on an annual basis. The guidelines also state that all workers employed in retail outlets may be covered by ESI. OMC dealers should implement personal protective equipment as per labour laws. They should undertake Information, Education & Communication for their workers at regular intervals to sensitize them about harmful impacts of VOC emissions. Furthermore, these guidelines are supplementary to all existing relevant rules, orders, guidelines, and notifications.	<a href="#">CLICK HERE</a>

[End of Newsletter]

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