

# MONTHLY NEWSLETTER

## OCTOBER 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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**BANKING LAWS & FEMA**

S. No.	Particulars	Link
1.	<p><b>The Reserve Bank of India rolled out new rules for strengthening the customer service rendered by Credit Information Companies and Credit Institutions.</b></p> <p>The RBI has directed CIs and CICs to implement the following:</p> <p>(a) CICs shall send alerts through SMS/ email to customers when their Credit Information Report (CIR) is accessed by the Specified Users (SUs). The alerts shall be sent by CICs only when the CIR enquiry reflects in the CIR of the customer.</p> <p>(b) CIs are advised to organise special awareness campaigns to sensitise their customers about benefits of submission of their mobile numbers/ email IDs.</p> <p>(c) CIs shall have a dedicated nodal point/ official of contact for CICs for redress of customer grievances.</p> <p>(d) CIs shall undertake Root Cause Analysis (RCA) of the customer grievances at least on a half yearly basis.</p> <p>(e) CIs shall inform the customers the reasons for the rejection of their request for data correction, if any, to enable such customers to better understand the issues in the CIR.</p> <p>(f) CICs shall have a board-approved policy for undertaking periodic review (at least on a half-yearly basis) of the 'Search &amp; Match' logic algorithm implemented by them to provide Credit Information Report (CIR) of a borrower.</p> <p>(g) CICs shall ingest credit information data received from the Credit Institutions (CIs) as per its data acceptance rules, into their databases within seven (7) calendar days of its receipt from the CIs.</p>	<a href="#">CLICK HERE</a>
3.	<p><b>The Reserve Bank of India announced new rules that entitle complainants to a compensation of Rs 100 per calendar day in case their complaint is not resolved within a period of 30 calendar days from the date of the initial filing of the complaint with a Credit Institution (CI) or a Credit Information Company (CIC).</b></p> <p>The RBI has mentioned the following parameters few are stated below:</p>	<a href="#">CLICK HERE</a>

S. No.	Particulars	Link
	<p>(a) Compensation of ₹100 per calendar day in case their complaint is not resolved within a period of thirty (30) calendar days.</p> <p>(b) Compensation to the complainant if the CI has failed to send updated credit information to the CICs within twenty-one (21) calendar days of being informed by the complainant or a CIC.</p> <p>(c) The complainant shall be advised by the credit institution or credit information company of the action taken on the complaint in all cases, including the cases where the complaint has been rejected.</p> <p>(d) Compensation to be provided by the credit information companies/ credit institutions to the complainant (for delayed resolution beyond 30 days of filing the complaint) shall be apportioned among the credit institutions / credit information companies concerned proportionately.</p>	
4.	The Reserve Bank of India (RBI) has increased the minimum amount for offering non-callable/without premature withdrawal option term deposits (TDs) from ₹15 lakh to ₹1 crore.	<a href="#">CLICK HERE</a>
5.	<p>The RBI has made amendments to the <b>Master Direction (MD) on Know Your Customer (KYC), 2016</b>.</p> <p><b>Key Amendments:</b></p> <p>(a) <b>Section 3:</b> The definition of “Customer Due Diligence” under Section 3(v) (b) of the MD has been amended by appending the words “using reliable and independent sources of identification” to ensure reliability in identification.</p> <p>(b) <b>Section 4:</b> Clause b of the section has been amended in line with the PMLA Rules where the groups are required to implement policies for discharging the obligations of the group under chapter IV of the Prevention of Money Laundering Act, 2002.</p> <p>(c) <b>Section 10:</b> The RBI under clause (b) has added a provision for the REs to file a Suspicious Transaction Report (STR), if required in case of inability to comply with CDD requirements from the customer.</p> <p>(d) <b>Section 24:</b> the RBI has introduced monitoring of accounts through addition of clause (h) to the section and has directed to identify customers as per Section 16 or 18 in case of suspicion of ML/TF activities.</p> <p>(e) <b>Section 59:</b> The RBI has amended section 59 to mandate the Banks to use diligence procedures and careful observation to spot accounts used as money mule accounts. Once they have identified such accounts, they must take the necessary steps, which may include reporting suspicious activities to FIU-IND.</p>	<a href="#">CLICK HERE</a>
6.	<p><b>“Irrevocable and unconditional bank guarantees can be invoked during moratorium period”.</b></p> <p><b>National Small Industries Corp. Ltd. v. Prabhakar Kumar, Comp. App. (AT) (Ins.) No. 841 of 2021, order dated 16-10-2023]</b></p> <p>The National Company Law Appellate Tribunal, New Delhi (<b>NCLAT</b>) in an appeal against quashing of notices regarding the invocation of Bank Guarantees provided by the Corporate Debtor on the grounds of violation of Section 14(1)(c) of the Insolvency and Bankruptcy Code, 2016 (<b>IBC</b>), held that bank guarantees that meet the criteria of irrevocability and unconditionality, and are considered sureties in a</p>	<a href="#">CLICK HERE</a>

S. No.	Particulars	Link
	contract of guarantee to a corporate debtor, can be invoked during the moratorium period as provided under Section 14(3)(b) of the IBC.	
7.	The RBI has informed that as many as 30 banks have been onboarded on the <b>UDGAM (Unclaimed Deposits - Gateway to Access information) portal</b> to enable people to claim and search unclaimed deposits.  The RBI launched a Centralized Web Portal UDGAM on August 17, 2023, for the public to facilitate and make it easier for them to search their unclaimed deposits across multiple banks at one place.	<a href="#">CLICK HERE</a>
8.	The RBI introduced Prompt Corrective Action Framework for NBFCs on December 14, 2021. The Framework has since been reviewed and it has been decided to extend the same to Government NBFCs with effect from October 1, 2024, based on the audited financials of the NBFC as on March 31, 2024, or thereafter.	<a href="#">CLICK HERE</a>

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

S. No.	Particulars	Link
1.	The Ministry of Corporate Affairs notified that the provisions of <b>Section 14 (1), relating to “Moratorium”, of the IBC</b> will not apply to transactions, arrangements, or agreements, under the Convention and the Protocol, relating to aircraft, aircraft engines, airframes, and helicopters.  <b>Key Points:</b>  (a) On 16-11-2001, in a Convention on International Interests in Mobile Equipment specific to Aircraft Equipment was adopted under the guidance of International Civil Aviation Organization and the International Institute for the Unification of Private Law, which was concluded at Cape Town.  (b) On 31-3-2008, India, being a signatory, acceded to the Convention and the Protocol by depositing with the International Institute for the Unification of Private Law the instruments of accession.	<a href="#">CLICK HERE</a>
2.	The Ministry of Corporate Affairs (MCA) has notified the <b>Companies (Incorporation) Third Amendment Rules, 2023</b> to further amend the Companies (Incorporation) Rules, 2014.  <b>Key Points:</b>  (a) <b>Rule 30</b> relating to “Shifting of Registered Office from one State or Union Territory to another State” has been revised.  (b) The shifting of the registered office will be allowed, if the management of the company has been taken over by new management, following the resolution plan mentioned under Section 31 of the IBC, and no appeal is pending in any Court or Tribunal and no inquiry, inspection, investigation is pending or initiated after the approval of the resolution plan.	<a href="#">CLICK HERE</a>
3.	The MCA notified the <b>Companies (Management and Administration) Second Amendment Rules, 2023</b> to amend the Companies (Management and Administration) Rules, 2014.	<a href="#">CLICK HERE</a>

S. No.	Particulars	Link
	<p><b>Key Points:</b></p> <p>(a) <b>Rule 9</b> relating to “<b>Declaration in respect of beneficial interest in any shares</b>” has been revised, inserting the following provision:</p> <p>(b) <b>Rule 9(4):</b> There should be a person designated by every company for furnishing and extending co-operation to the Registrar and for providing information to the Registrar with respect to beneficial interest in shares of the company.</p> <p>(c) <b>Rule 9(5):</b> Such designated person can be: A company secretary; Key managerial personnel; Every director in case the above 2 are not there in the company.</p> <p>(d) <b>Rule 9(6):</b> For the time when no person is designated, the following person(s) will be deemed to have been designated person: Company Secretary; every Managing Director or Manager; every Director.</p> <p>(e) <b>Rule 9(7):</b> The details of the designated person have to be shared in the Annual Return by the company.</p> <p>(f) <b>Rule 9(8):</b> In case of change of designated person at any time, the Registrar will intimate it in e-form GNL-2 specified in Companies (Registration Offices and Fees) Rules, 2014.</p>	
4.	<p>The MCA notified the <b>Limited Liability Partnership (Third Amendment) Rules, 2023</b> to amend the Limited Liability Partnership Rules, 2009.</p> <p><b>Key Points:</b></p> <p>(a) <b>Rule 22-A</b> has been inserted relating to “<b>Register of Partners</b>”.</p> <p>(b) <b>Rule 22-B</b> has been inserted relating to “<b>Declaration in respect of beneficial interest in any contribution</b>”.</p> <p>(c) The following <b>Forms</b> have been revised:</p> <ol style="list-style-type: none"> <li>i. <b>Form 4</b> relating to “Notice of appointment, cessation, change in name/ address/designation of a designated partner or partner and consent to become a partner/designated partner/declaration of designated partner with respect to beneficial interest”.</li> <li>ii. <b>Form 4-A</b> relating to “Register of Partners”. <b>Form 4-B</b> relating to “Declaration by the Registered Partner who does not hold the beneficial interest in the Contribution”.</li> <li>iii. <b>Form 4-C</b> relating to “Declaration by the Partner who holds or acquires beneficial interest in the Contribution but whose name is not entered in the Register of Partners”.</li> <li>iv. <b>Form 4-D</b> relating to “Return to the Registrar in respect of declaration of beneficial interest in contribution received by the LLP”.</li> </ol>	<a href="#">CLICK HERE</a>
5.	<p>The MCA notified the <b>Companies (Prospectus and Allotment of Securities) Second Amendment Rules, 2023</b> to amend the Companies (Prospectus and Allotment of Securities) Rules, 2014.</p>	<a href="#">CLICK HERE</a>

S. No.	Particulars	Link
	<p><b>Key Points:</b></p> <p>(a) <b>Rule 9</b> relating to “<b>Dematerialisation of securities</b>” has been revised and a provision has been inserted which focuses on public companies that issued share warrants prior to commencement of the Companies Act, 2013 and have not yet converted their shares.</p> <p>(b) <b>Rule 9-B</b> has been inserted relating to “<b>Issue of securities in dematerialised form by private companies</b>”.</p> <ol style="list-style-type: none"> <li>i. Private companies will have to issue securities only in dematerialised form.</li> <li>ii. Small private companies are excluded from the purview of this Rule.</li> <li>iii. Any private company will have to comply with the provisions of this rule within 18 months starting from 31st March 2023.</li> <li>iv. The provisions of this rule will not apply in the case of a government company.</li> </ol>	
6.	<p>Securities and Exchange Board of India (‘SEBI’) notified the <b>SEBI (Investor Protection and Education Fund) (Second Amendment) Regulations, 2023</b> to amend the SEBI (Investor Protection and Education Fund) Regulations, 2009.</p> <p><b>Key Points:</b></p> <p>(a) <b>Regulation 4</b> relating to “<b>Amounts to be credited to the Fund</b>” has been revised.</p> <p>The following amounts have been introduced which will be added to Investor Protection and Education Fund (‘Fund’):</p> <ol style="list-style-type: none"> <li>(i) monies transferred in accordance with the Regulation 61-A (3) Proviso of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 which provides that any amount transferred to the escrow account that remains unclaimed for seven years will be transferred to the Fund.</li> <li>(ii) monies transferred in accordance with the Regulation 18 (16) (f) of the SEBI (Real Estate Investment Trusts) (‘REIT’) Regulations, 2014 which provides that any amount remaining unclaimed or unpaid out of the distributions declared by a REIT will be transferred to the Fund.</li> <li>(iii) monies transferred in accordance with the Regulation 18 (6) (e) of the SEBI (Infrastructure Investment Trusts) (‘InvIT’) Regulations, 2014 which provides that any amount remaining unclaimed or unpaid out of the distributions declared by a InvIT will be transferred to the Fund.</li> </ol> <p>(b) <b>Regulation 5</b> relating to “<b>Utilisation of Fund</b>” has been revised.</p> <ol style="list-style-type: none"> <li>(i) Earlier, the Fund was used to make restitution to eligible and identifiable investors who have suffered losses resulting from violation of securities laws.</li> <li>(ii) Now, the Fund will also be made available for rewarding informants who provide original information to SEBI to recover the amounts directed to be disgorged.</li> </ol>	<a href="#">CLICK HERE</a>

S. No.	Particulars	Link
	<p>(iii) The amounts credited to the Fund will be utilized to make refunds to the entities transferring the said amounts, pursuant to their making payment to eligible and identifiable investors and making a claim to the Fund.</p> <p>(iv) No claim for restitution from the disgorged amounts in a specific case will be admissible after a period of 7 years from the date of invitation of claims for disgorgement.</p>	
7.	<p><b>Vishal Chelani and others v. Debashis Nanda, [Civil Appeal No. 3806 Of 2023]</b></p> <p>The Hon'ble Supreme Court has held that homebuyers cannot be treated differently from other "financial creditors" under the IBC just because they have secured orders from the authority under the Real Estate (Regulation and Development) Act 2016.</p>	<a href="#">CLICK HERE</a>
8.	<p><b>Tottempudi Salalith v State Bank of India &amp; Ors., [Civil Appeal No.2348 Of 2021]</b></p> <p>Supreme Court has held that the 'Doctrine of Election' cannot be applied to prevent a Financial Creditor from approaching the NCLT for initiation of CIRP against a Corporate Debtor, under the IBC.</p> <p><b>The Doctrine of Election is embodied in the law of evidence, which bars prosecution of the same right in two different fora based on the same cause of action.</b></p>	<a href="#">CLICK HERE</a>
9.	<p><b>Tottempudi Salalith v State Bank of India &amp; Ors., [Civil Appeal No.2348 Of 2021]</b></p> <p>Supreme Court has held that in a composite application filed under Section 7 of the IBC based on several Recovery Certificates issued by Debt Recovery Tribunal, if any of the Recovery Certificate(s) is barred by limitation, then the same can be segregated from composite claim. However, as the decree (Recovery Certificate) would still be alive, it can be treated as a claim made in CIRP in view of Public Announcement.</p>	<a href="#">CLICK HERE</a>
10.	<p><b>Soneko Marketing Pvt. Ltd. vs. Girish Sriram Juneja &amp; Ors., Company Appeal (AT) (Insolvency) No. 807 of 2023</b></p> <p>NCLAT, New Delhi Bench, has held that Section 31(4) of IBC has to be read to mean that though the approval by the Competition Commission of India ("CCI") is 'mandatory', the approval by the CCI prior to the approval of the CoC is 'directory'.</p> <p>The Tribunal observed that as per the timelines of the Competition Act and that of CIRP, Resolution Plan submission, and CoC approval in the Code, it is not in the hands of the Resolution Plan when CCI will grant the approval. The CCI has to act as per statutory provisions of the Competition Act, and it has been given 210 days to take a decision. It pointed out that if it holds that prior approval of the CCI is mandatory prior to the approval of the Plan by the CoC, it will lead to incongruous results, the CIRP cannot be frozen or cannot be put on halt because an application is submitted before the CCI leading to an adverse effect on the CIRP.</p>	<a href="#">CLICK HERE</a>
11.	<p><b>Dr. Pranoy Roy v. SEBI &amp; Ors., Appeal No. 557 of 2020, Securities Appellate Tribunal</b></p> <p>The Securities Appellate Tribunal (SAT) has set aside and quashed the Order of SEBI which had held the former promoters of NDTV, Dr. Pranoy Roy and Mrs. Radhika Roy, guilty of insider trading, and observed that the information on which trades were made were not Unpublished Price Sensitive Information (UPSI) under the Prohibition of Insider Trading (PIT) Regulations, and that both the promoters had secured pre-</p>	<a href="#">CLICK HERE</a>



S. No.	Particulars	Link
	trade clearance from the Compliance Officer of NDTV, and hence the trades were in conformity with NDTV's Code of Conduct and PIT Regulations.	

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## INDIRECT TAX

S. No.	Particulars	Link
1.	<p><b>M/s. International Seaport Dredging Limited Vs. Commissioner of GST and Central Excise, Service Tax Appeal Nos. 40452-53 of 2013</b></p> <p>The Chennai Bench of CESTAT has quashed the service tax demand on the amount received for the charter or hire of vessels by the Dredging Corporation of India (DCI). The bench has observed that the charter or hire of vessels would at best fall under Supply of Tangible Good Services and not under dredging services. The demand for service tax on the amount received by the assessee or appellant upon the charter-hire agreement under the category of dredging services cannot be sustained and requires it to be set aside.</p>	<a href="#">CLICK HERE</a>
2.	<p><b>M/s Mertho Constructions Vs. Commissioner of Central Excise, Service Tax Appeal No. 40398 of 2015</b></p> <p>The Chennai Bench of CESTAT has held that if works contract service was undertaken prior to June 1, 2007, involving contracts of composite nature, no demand under Commercial or Industrial Construction Service (CICS) or Construction of Complex Service (COCS) could survive.</p>	<a href="#">CLICK HERE</a>
3.	<p><b>GMR Hyderabad International Airport Ltd Vs. Commissioner of Central Excise &amp; Service Tax, Hyderabad - IV, Service Tax Appeal No. 20883 of 2014</b></p> <p>The Hyderabad bench of CESTAT has held that there is no requirement to discharge any service tax on the supply of water and electricity to their concessionaires or tenants, who were paying for these two utility services on an actual basis plus a markup of 10%. The bench has observed that the supply of water and electricity is essentially a sale of goods and therefore not chargeable under the provisions of the service tax.</p>	<a href="#">CLICK HERE</a>
4.	<p><b>M/s Shyam Sel and Power Limited Vs. State Of U.P. And 2 Others, [Writ Tax No.- 603 of 2023]</b></p> <p>The Allahabad High Court has held that it is necessary for the authorities to establish intention to evade tax for proceedings under Sections 129 and 130 of Central Goods and Service Tax Act, 2017. The Court held that without recording a finding as to intention to evade tax, proceedings can at best be initiated under Section 122 of the Act.</p>	<a href="#">CLICK HERE</a>
5.	<p><b>The Commissioner, Commercial Tax v. M/s Adani Wilmar Ltd., 2023: AHC:189780</b></p> <p>The question before the Hon'ble Allahabad High Court was whether on the facts and circumstances of the case, the Commercial Tax Tribunal was legally justified in treating the 'Bakery Shortening' and Vanaspati (Hydrogenated Vegetable Oil) as one and the same commodity and is taxable @ 4% under the Entry No. 130 of Schedule II, Part – A of the U.P. VAT Act, 2008. The Court applied the 'Common Parlance test' on the Notification No. 37/2003 dated 30.4.2003 issued by the Government of India wherein it was specifically mentioned that "Bakery Shortening, or partially or wholly</p>	<a href="#">CLICK HERE</a>



S. No.	Particulars	Link
	hydrogenated vegetable fats and oils refracting thereof, commonly known as "Vanaspati"...", which meant that the Government was treating both the goods in question in common parlance as one and same commodity in the eyes of Law.	
6.	<b>Dhariwal Industries Limited Vs. C.C.E. &amp; C.-Anand, Service Tax Appeal No. 10603 of 2015-DB</b>  The Ahmedabad bench of CESTAT has held that recipients of goods transport agency (GTA) services are not liable to pay service tax that was already paid by the transport agency. The bench has observed that once the service provider discharges the service tax where the service recipient is liable to pay the service tax, the demand of service tax on the same service from the service recipient shall not be sustained on the ground that the particular service that already suffered the service tax cannot suffer the service tax twice on the same service.	<a href="#">CLICK HERE</a>
7.	<b>Bangalore Housing Development &amp; Investments Vs. Commissioner of Central Tax, Bangalore North, Service Tax Appeal No. 20370 of 2023</b>  The Bangalore bench of CESTAT has held that CENVAT credit availed on 'banking and financial services' used in providing renting of immovable property is admissible. Wherein the bench has relied on the decision of the Karnataka High Court in the case of Oberon Edifices & Estates Pvt. Ltd. vs. CC CE & ST, wherein Hon'ble Court held that various input services used in providing Rental of Immovable Property services are admissible to CENVAT Credit.	<a href="#">CLICK HERE</a>

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## **CUSTOMS, SEZ AND FOREIGN TRADE**

S. No.	Particulars	Link
1.	<b>Commissioner of Customs (Imports), Mumbai vs. M/s Ganpati Overseas, 2023 INSC 881</b>  In the present case, the department, after rejecting the price declared as per the import invoices, had invoked Rule 8 of the Customs Violation Rules straightaway instead of going through Rules 5, 6 and 7 thereof sequentially, which was approved by the adjudicating authority. The Court observed that the department may reject the transaction value under Rule 8 only when the other valuation methods are sequentially ruled out.  The Court also held that if the department wants to allege under valuation, it must make detailed inquiries, collect material and also adequate evidence. The bench observed that if the charge of under valuation cannot be supported either by evidence or information about comparable imports, the benefit of doubt must go to the importer. Furthermore, the Court held that the charge of under invoicing has to be supported by evidence of prices of contemporaneous imports of like goods.	<a href="#">CLICK HERE</a>
2.	<b>Ajay Sagar v. Commissioner of Customs (Import), 2023: DHC:6895-DB</b>  In the present case, the Petitioner had approached the Hon'ble Delhi High Court, seeking to invoke the Court's extraordinary writ jurisdiction to waive off the mandatory pre-deposit under Section 129E of the Customs Act, 1962 for preferring an Appeal, as per Mohd. Akram Uddin Ahmed & Ors. v. Commissioner Appeals Customs and Central Excise & Ors., 2023: DHC:2846-DB, wherein the Hon'ble Delhi High Court had held that the High Courts could invoke their extraordinary jurisdiction	<a href="#">CLICK HERE</a>

	<p>to waive off the mandatory pre-deposit for preferring appeals, in 'rare and exceptional circumstances' of undue hardship.</p> <p>In the present case however, the Court noted that the Petitioners were found to be complicit and actively involved in the evasion of duty, and it was the intent of the Petitioners to mis-declare imports while acting in concert. The Court held that the present matter did not fall within the ambit of 'rare and exceptional' case, and accordingly dismissed the Petition.</p>	
3.	<p><b>M/s River Side Impex Vs. Commissioner (Preventive), Customs Appeal No. 52057 of 2019</b></p> <p>The Delhi Bench of CESTAT has held that mere acceptance of the re-assessed value and payment by the assessee will not be sufficient to confirm the allegations of undervaluation. The bench has observed that to avoid any delay and demurrage charges, in case the consignment is held by the Customs Authority, the assessee/appellant opted to pay the differential amount demanded by them. The voluntary payment hence cannot be called admission of the assessee towards the alleged mis-declaration of value.</p>	<a href="#">CLICK HERE</a>

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## INTELLECTUAL PROPERTY RIGHTS

S. No.	Particulars	Link
1.	<p><b>Viacom18 Media Private Limited v. LIVE.SMARTCRIC.COM and ors. (CS(COMM)659/2023)</b></p> <p>Viacom18 Media filed a case against rogue websites that were illegally streaming copyrighted content, including cricket tournaments. Viacom18 and online streaming platform 'Jio Cinema' have exclusive rights to broadcast BCCI events. The rogue websites were streaming events like the Asia Cup 2023 and 'India Tour of West Indies 2023' without authorization. Viacom18 had notified various domain registrars and ISPs to block access to these rogue websites. Justice C. Hari Shankar granted an injunction against these websites, acknowledging the recurring issue of such rogue websites infringing copyrights and suggested the need for a policy to address these disputes efficiently. The court restrained the rogue websites from streaming copyrighted content and issued directions for blocking access to these infringing websites. Additionally, a dynamic injunction was issued to block similar or redirect websites upon plaintiff's request.</p>	<a href="#">CLICK HERE</a>
2.	<p><b>M/s Ornate Jewels v. Wow Overseas Private Limited (S.B. Civil Miscellaneous Appeal No. 1570/2021)</b></p> <p>The Rajasthan High Court dismissed a civil appeal by Ornate Jewels against a trial court's order denying temporary injunctions to both the plaintiff and respondent. Both parties claimed the trademark "ORNATE JEWELS," with the appellants mark in Class 35 and the respondents mark in Class 14. The trial court's reasons for dismissal included a lack of sufficient evidence to determine prior use, the presence of registered trademarks for both parties, estoppel on the appellant for claiming differences in their trademark earlier, and failure to approach the court with clean hands. The High Court upheld the trial court's decision, emphasizing that orders on temporary injunctions are discretionary and do not warrant interference unless there is arbitrariness, perversity, or grave illegality.</p>	<a href="#">CLICK HERE</a>

3.	<p><b>Jainemo Private Limited vs Rahul Shah and Others CS(COMM) 676/2023</b></p> <p>In a recent copyright infringement suit filed by Jainemo Private Limited, the Delhi High Court has granted an injunction against the defendants involved in the unauthorized distribution of their educational course materials. The plaintiff contended that their copyrighted content was being illicitly shared, causing significant financial losses. The Court, after careful consideration, found the defendants liable for copyright infringement. As a result, the Court issued a restraining order to halt any further dissemination of the plaintiff's copyrighted material. Additionally, the Court instructed platforms such as Telegram and YouTube to block channels associated with copyright infringement and suspend the responsible parties, effectively curbing the unlawful distribution of the plaintiff's educational resources.</p>	<a href="#">CLICK HERE</a>
5.	<p><b>Theobroma Foods Pvt Ltd v. Karan Narula and Ors. (C.O. (COMM.IPD-TM) 468/2022)</b></p> <p>In the trademark dispute between "THEOS FOOD PVT. LTD." and "THEOBROMA FOODS PRIVATE LIMITED," a settlement agreement was initially outlined by the court on July 29, 2022. The parties intended to file a joint application based on these terms but encountered disputes. However, both parties agreed that the court could decree the suit based on the July 29, 2022 judgment, subject to clarifications. The court addressed specific areas of contention: a) The defendant can use "THEOS" and "THEO'S" (with 'S') for five specific products, as previously agreed upon. b) The plaintiffs' use of the mark is restricted to the Delhi-NCR region but doesn't prevent them from opposing or seeking injunctions against third parties outside this region. c) The defendant can use the mark "THEOS/THEO'S" for the specified five products, regardless of any registrations. d) The defendant can use the mark on physical and QR menu cards in their outlets, excluding food delivery platforms. The court decreed the suit in line with its previous order.</p>	<a href="#">CLICK HERE</a>
6.	<p><b>New Balance Athletics Inc vs. Salman Khan &amp; Anr ( CS(COMM) 553/2022)</b></p> <p>New Balance filed a lawsuit against Salman Khan &amp; Anr. seeking a permanent injunction to prevent the infringement and sale of counterfeit products bearing New Balance's "NB" mark. New Balance is the registered owner of "New Balance" and "NB" device marks and has been using these marks in the US since 1951 and in India since 1986. Defendants were found selling infringing products bearing New Balance's marks, even using the name "New Balance" alongside the mark. A Local Commissioner inventory revealed the presence of counterfeit sports apparel with New Balance's marks. The court decreed the suit, citing the serious consequences of counterfeiting on brand value. The court permanently restrained the defendants from using New Balance's "NB" marks.</p>	<a href="#">CLICK HERE</a>
7.	<p><b>Humans Of Bombay Stories Pvt. Ltd vs. Poi Social Media Pvt. Ltd. &amp; ANR (CS(COMM) 646/2023)</b></p> <p>The Delhi High Court in a suit by Humans of Bombay against People of India concerning copyright infringement, clarified that while there is no copyright in an idea, copying the expression of that idea can constitute infringement. The defendants argued that Humans of Bombay couldn't claim copyright over the concept of a storytelling platform, as both platforms drew inspiration from Humans of New York. However, the court emphasized that the issue was whether either party had copied the other's specific content, such as images. The court instructed both platforms not to use each other's copyrighted material, including commissioned photos, original stories, videos, and manner of expression, while private photos of individuals sent to either platform were not covered by copyright.</p>	<a href="#">CLICK HERE</a>

8.	<b>Delhi Public School Society v. Aviral Education Welfare and Cultural Society and Anr. - CS(COMM) 580/2020</b>  Delhi Public School (DPS) Society filed a suit against Aviral Education Welfare and Cultural Society (AEWCS) to prevent the misuse of the DPS name and marks of Delhi Public School, Sahibabad. A joint venture agreement had permitted AEWCS to use the DPS trademarks, but after its termination, AEWCS continued to operate the school. The court ruled that AEWCS could use DPS marks for current students until March 31, 2024, but for new admissions for the academic year 2024-2025 they must use a different name. AEWCS must pay Rs. 20,00,000 plus GST to DPS by December 31, 2023, and their name change application should be expedited. The suit was decreed accordingly.	<a href="#">CLICK HERE</a>
9.	<b>Britannia Industries Limited vs Amar Biscuit Private Limited CS(COMM) 728/2023</b>  In a suit filed by Britannia Industries Limited against Amar Biscuit Pvt. Ltd., the Delhi High Court granted an ad interim injunction to restrain the defendants from using the mark "Good Time Butter Cookies." The court found the impugned mark to be similar to the plaintiff's "Good Day" mark. Recognizing that butter cookies are products purchased by various consumer groups, including children, and are prevalent in urban and rural areas, the court emphasized the significant recognition and goodwill the plaintiff's "Good Day" cookies have attained in the market. Given the nature of food products, any potential for consumer confusion had to be entirely avoided. The defendants were also ordered to take down online listings of the product within 48 hours.	<a href="#">CLICK HERE</a>

**[End of Newsletter]**

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