

MONTHLY NEWSLETTER

FEBRUARY 2024

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.

OUR LEGAL TEAM

Srinivas Kotni
Rajiv Sawhney
Raj Latha Kotni
Rohan Garg
Akshay Kumar
Shyam Kishor Maurya
Swagita Pandey
Adivitiya Raj
Rishabh Dev Dixit
Chahat Raghav
Anirudh Ramanathan
Ananya Singh
Ramansh Kakra
Akshita Agarwal

DISCLAIMER

The information contained in this Newsletter is for general purposes only and Lexport is not, by means of this newsletter, rendering legal, tax, accounting, business, financial, investment or any other professional advice or services. This material is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your business. Further, before making any decision or taking any action that may affect your business, you should consult a qualified professional advisor. Lexport shall not be responsible for any loss sustained by any person who relies on this newsletter. Hyperlinks to third party websites provided herein are for *bona fide* information purposes only, and must not be construed to be indicative of any formal relationship between Lexport and such third parties.

INDEX

Banking Laws & FEMA	...1-5
Corporate Laws, Securities Laws and Capital Markets	...5-7
Indirect Tax	...7-9
Customs, SEZ and Foreign Trade	...9-10
Intellectual Property Rights	...10-12
Arbitration	11...12
Consumer Laws	..12
RERA	..12
Criminal Law	...13

BANKING LAWS & FEMA

S. No.	Particulars	Link
1.	<p>Reserve Bank of India (Bharat Bill Payment System) Directions, 2024</p> <p>The Reserve Bank of India has issued the Reserve Bank of India (Bharat Bill Payment System) Directions, 2024 superseding the existing regulations governing the Bharat Bill Payment System as outlined in the Statement on Development and Regulatory Policies dated 8th June 2023. These new Directions aim to streamline bill payment procedures, enhance customer protection among other changes.</p>	CLICK HERE
2.	<p>Reserve Bank of India (Filing of Supervisory Returns) Directions – 2024</p> <p>Reserve Bank of India has issued Master Direction – Reserve Bank of India (Filing of Supervisory Returns) Directions – 2024, which has repealed Master Direction- Non-Banking Financial Company Returns (Reserve Bank) Directions, 2016. These Directions shall apply to the following entities collectively known as Supervised Entities (SEs):</p> <p>(i) All Commercial Banks excluding Regional Rural Banks, Commercial Banks include Public Sector Banks (PSBs), Private Sector Banks (PVBs), Small Finance Banks (SFBs), Payment Banks (PBs), Local Area Banks (LABs) and Foreign Banks (FBs).</p> <p>(ii) All Primary (Urban) Co-operative Banks.</p> <p>(iii) Select All India Financial Institutions (Exim Bank, NABARD, NHB, SIDBI and NABFID).</p> <p>(iv) All Non-Banking Financial Companies [excluding Housing Finance Companies (HFCs)] and all Asset Reconstruction Companies (ARCs).</p>	CLICK HERE
3.	<p>RBI has issued Amendment to Master Direction on Prepaid Payment Instruments which prescribes, inter alia, the various types of PPIs which banks and non-banks can issue after obtaining necessary approval / authorization from RBI. Public transport systems across the country cater to a multitude of commuters on a daily basis. To provide convenience, speed, affordability, and safety of digital modes of payment to commuters for transit services, it has been decided to permit authorised bank and non-bank PPI issuers to issue PPIs for making payments across various public transport systems.</p>	CLICK HERE
4.	<p>RBI Includes ‘Clearing Corporation of India Ltd’ as a Financial Information Provider Under Account Aggregator Framework</p>	CLICK HERE

S. No.	Particulars	Link
	The RBI Retail Direct Scheme was launched on Nov 12, 2021 to facilitate retail investors to invest in Government Securities. The Scheme enables individuals to open Retail Direct Gilt Accounts with the Bank and access the Government Securities market. Now, to enable aggregation of financial information on Government Securities held by retail investors in their Retail Direct Gilt accounts under the Scheme, RBI includes 'Clearing Corporation of India Limited' as a Financial Information Provider.	
5.	Govt. Extends Interest Equalization Scheme for Pre and Post-Shipment Rupee Export Credit Up to June 30, 2024 The rate of interest equalization shall be 2% for Manufacturers and Merchant Exporters exporting under specified 410 HS lines and 3% for MSME manufacturers exporting under any HS line. Further, w.e.f FY 2023-24, banks that have priced loans covered under the scheme at an average interest rate higher than Repo rate + 4% would be subjected to certain restrictions.	CLICK HERE
6.	RBI excludes Rupee Co-operative Bank Limited from Second Schedule of RBI Act 1934.	CLICK HERE

CORPORATE LAWS, SECURITIES LAWS AND CAPITAL MARKETS

S. No.	Particulars	Link
1.	Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Amendment) Regulations, 2024 The Insolvency and Bankruptcy Board of India has issued a notification, whereby amendments have been made to the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The key amendments are: <ul style="list-style-type: none"> • Operating separate bank accounts for real estate projects • Under the amended dispensation, the resolution professional (RP) is mandated to convene a CoC meeting at least once in every thirty days, with a provision to extend the interval between meetings to a maximum of one meeting per quarter, if CoC so decides. • In place of provision of minimum period specified for the opening of the voting window with no upper limit, the amended regulation empowers the CoC to decide the period of opening of electronic voting window with a minimum of twenty-four hours and a maximum of seven days with further increments of twenty-four hours each. • With a view to enhance the oversight of the CoC over going concern costs, the amendment provides that the RP to seek approval from the CoC for all costs including going concern costs related to the insolvency resolution process. 	CLICK HERE

S. No.	Particulars	Link
2.	<p>Insurance Regulatory and Development Authority of India (Corporate Governance) Regulations, 2024</p> <p>IRDAI has issued the Insurance Regulatory and Development Authority of India (Corporate Governance for Insurers) Regulations, 2024. These Regulations shall be reviewed once in every three years from the date of notification unless the review or repeal or amendment is warranted earlier.</p> <p>These Regulations shall be applicable to all insurers except foreign company engaged in re-insurance business through a branch established in India.</p>	CLICK HERE
3.	<p>IBBI has issued the Insolvency and Bankruptcy Board of India (Liquidation Process) (Amendment) Regulations, 2024. The amendment provides that the liquidator shall get the approval of consultation committee for the following:</p> <ul style="list-style-type: none"> • File the proposal of compromise or arrangement only in cases where such recommendation has been made by the committee. • Apply for early resolution. • To initiate or continue legal proceedings. • Run the corporate debtor as a going concern. • Valuation. 	CLICK HERE
4.	<p>Competition Commission of India (Lesser Penalty) Regulations, 2024</p> <p>The Competition Commission of India notified the Competition Commission of India (Lesser Penalty) Regulations, 2024. The provisions came into force on 20-2-2024.</p> <p>Key Points:</p> <p>1. Conditions for lesser penalty or lesser penalty plus: Applicant seeking the benefit will have to:</p> <ul style="list-style-type: none"> ✓ Cease to have further participation in the cartel; ✓ Provide vital disclosure of information regarding alleged contravention; ✓ Provide relevant information, documents and evidence; ✓ Co-operate genuinely, fully, continuously and expeditiously through investigation; ✓ Not conceal, destroy, manipulate or remove the relevant documents. ✓ Not give false evidence or omit to submit relevant information. <p>2. Lesser Penalty Plus will be granted in the following manner:</p> <p>In case where an applicant who has earlier made full, true and vital disclosure of the information about a cartel, discloses about another cartel, can be granted an additional reduction in penalty up to or equal to 30% of the penalty imposed with regard to the first cartel besides obtaining benefit of reduction up to or equal to 100% in respect of newly disclosed cartel.</p> <p>3. The identity of the Applicant, information, documents and evidence furnished by the applicant will be treated as confidential by the Commission/ Director General.</p>	CLICK HERE
5.	<p>Greater Noida Industrial Development Authority Versus Prabhjit Singh Soni & Anr., Civil Appeal Nos.7590-7591 Of 2023</p>	CLICK HERE

S. No.	Particulars	Link
	The Supreme Court has observed that ordinarily feasibility and viability of a resolution plan is best decided by the commercial wisdom of the Committee of Creditors (“CoC”), however, when the resolution plan envisages the use of asset/land not owned by the Corporate Debtor but by a third party, which is a statutory body, bound by its own rules and regulations having statutory flavor, then there has to be a closer examination of the plan's feasibility.	
6.	Greater Noida Industrial Development Authority Versus Prabhjit Singh Soni & Anr. Civil Appeal No(S).7590-7591/2023 The Supreme Court observed that the claim submitted by the Resolution Applicant under the Corporate Insolvency Resolution Process cannot be rejected/overlooked merely on the fact that the claim submitted appears to be in a different form other than the form in which the claim needs to be submitted.	CLICK HERE
7.	M/s Mist Direct Sales Pvt. Ltd. v Mr. Nitin Batra & Ors., Company Appeal (AT) (Insolvency) No. 96 of 2024 NCLAT Principal Bench,, has upheld the rejection of an application seeking initiation of proceedings under Section 340 r/w Section 195 of the Criminal Procedure Code, 1973 (“CrPC”) against Allottees, for allegedly filing false affidavits before NCLT in Section 7 of IBC proceedings.	CLICK HERE
8.	Nimai Gautam Shah, Resolution Professional of Sintex Plastics Technology Ltd. vs. RBL Bank Ltd., Company Appeal (AT) (Insolvency) No.82 of 2024 NCLAT New Delhi, held that the Adjudicating Authority ought to have granted an exclusion/extension of time when the Resolution Plan received in the process was required to be considered to fulfil the object of the IBC.	CLICK HERE

INDIRECT TAX

S. No.	Particulars	Link
1.	In Re : Narayan Trading Corporation (2024) 15 Centax 420 (A.A.R. - GST - Telangana) Where Department for Women, Children, Disabled & Senior Citizens of State of Telangana is buying packaged commodities directly from manufacturer or from wholesale dealers for use by that institution and not for commercial or trade purpose, it will qualify to be an 'institutional consumer'.	CLICK HERE
2.	The CBIC has issued notification to notify “Public Tech Platform for Frictionless Credit” as the system with which information may be shared by the common portal based on consent under sub-section (2) of Section 158A of the CGST Act, 2017.	CLICK HERE
3.	The GSTN has issued an update to clarify that where a person has undergone Aadhaar authentication as per sub-rule (4A) of rule 8 but has been identified in terms of Rule 9(aa) by the common portal for detailed verification based on risk profile, then application for registration would be processed within thirty days of application submission.	CLICK HERE

S. No.	Particulars	Link
4.	Re : Sarala Foods Pvt. Ltd., (2024) 15 Centax 528 (A.A.R. - GST - A.P.) Supply of rice weighing up to 25 kgs, which are duly pre-packaged and labelled in accordance with Legal Metrology Act, 2009, is subject to taxation under CGST Act, 2017, regardless of whether it is intended for domestic sale or for export purposes.	CLICK HERE
5.	Prahitha Contruccion Pvt. Ltd. Versus Union Of India, (2024) 15 Centax 295 (Telangana) Transfer of development rights of land by landowners to real estate developer by way of a Joint Development Agreement (JDA) should be treated as sale of land by landowners and, hence, execution of said agreement should be subjected to levy of GST.	CLICK HERE
6.	In Re : Rups Medipack Pvt. Ltd, (2024) 15 Centax 508 (A.A.R. - GST - U.P.) Micro barrier sterilization reels and pouches used by medical devices companies, pharmaceuticals industries and hospitals is classified under tariff item 39239020 and is taxable at rate 18 % GST.	CLICK HERE
7.	M/S John Oakey And Mohan Limited Vs. The Commissioner Commercial Taxes U.P. Lucknow [Sales/Trade Tax Revision No. - 206 Of 2022] The Allahabad High Court has held that the principle of res-judicata does not apply from one assessment year to another. However, the Court held that the Department cannot be allowed to change its stance for the same assesee for different assessment years, unless there is a marked change from one year to another.	CLICK HERE
8.	M/s. Sharda Rerollers Private Limited Versus Commissioner of CGST, Excise Appeal No.76976 of 2018 CESTAT Kolkata, has held that a mere factum of two sets of invoices is not sufficient to prove the charge of clandestine removal.	CLICK HERE
9.	M/s. Jubilant Motor Works (South) Pvt. Ltd. Versus The Commissioner of GST & Central Excise, Service Tax Appeal No.42289 OF 2018 CESTAT Chennai, has held that incentives given to audit-authorized service stations are not 'business auxiliary services'..	CLICK HERE
10.	M/s. UCO Bank Versus Commissioner of Service Tax, Service Tax Appeal No.70556 of 2013 CESTAT, Kolkata Bench, has held that UCO Bank is eligible for the Cenvat Credit of service tax paid on telephone bills in respect of the telephones installed at the residence of employees.	CLICK HERE
11.	M/s Pepsico India Holdings Pvt Ltd Versus Commissioner of Central Excise & Service Tax, Chandigarh-I, Excise Appeal No. 2819 of 2011 CESTAT Chandigarh has quashed the excise duty demand against PepsiCo Scrap-Veg-Refuse arising from the manufacture of exempted goods. The bench has observed that waste pairing and scrap arising during the manufacture of exempted goods were exempt from the payment of excise duty.	CLICK HERE
12.	Re: Spandana Rehabilitation Research and Training Centre Pvt. Ltd. KAR ADRG 06/2024	CLICK HERE

S. No.	Particulars	Link
	The Karnataka Authority of Advance Ruling has ruled that fees collected from nurses and psychologists for 'imparting practical training' are not exempted from GST. The bench has observed that 'healthcare services' can be defined as a service by way of diagnosis, treatment, or care for illness, injury, deformity, abnormality, or pregnancy. But the applicant is providing practical training to nursing students and psychologists, and hence the same is not covered under healthcare services..	

CUSTOMS, SEZ AND FOREIGN TRADE

S. No.	Particulars	Link
1.	DGFT amends import policy and policy condition for specified screws covered under HS code 73182 The import policy of specified screws covered under Indian Trade Classification (Harmonized System of Nomenclature) [ITC (HS)] 7318 is changed from 'free' to 'prohibited', and will be free only if the cost, insurance, and freight value is INR129/kg or above and subject to compliance with Steel Importing System, which continues to be applicable.	CLICK HERE
2.	The CBIC has issued notification to provide that customs duty in excess of 10% shall be exempt on import of Cranberries and Blueberries, whether fresh, frozen or dried. This notification shall come into force on the 20th of February, 2024.	CLICK HERE
3.	M/s Global Technologies and Research versus Principal Commissioner of Customs, New Delhi (Import), Civil Appeal No. 9385 Of 2022 The Supreme Court held that under the Customs Act, the Importer's Bill of Entry of subsequent imported goods can be discarded if the subsequent imported goods are undervalued to the previously imported identical or similar goods.	CLICK HERE
4.	Deeplalit Enterprise P. Ltd. Versus C.C.-Ahmedabad CUSTOMS Appeal No. 11063 of 2016- DB CESTAT, Ahmedabad Bench, has held that rejection of value declared on a bill of entry is a serious action that should be supported by compelling provision, evidence, and justifiable reasons.	CLICK HERE
4.	Tasha Gold Pvt. Ltd. Versus Principal Commissioner Of Customs, ACC (Import), (2024) 15 Centax 335 (Tri.-Del) Where test report on Gold Dore bars (GDB) samples showed gold content in excess of prescribed 95 per cent within tolerance limits of +/- .25, it was so miniscule that prima facie propensity to smuggle could not be inferred; as importer had paid differential duty and one GDB was also available with department to secure its interest, GDB was to be provisionally cleared with additional condition of bond for full value of consignment plus 20 per cent of penalty.	CLICK HERE
5.	Olam Agro India Ltd. Versus Commissioner Of Customs, (2024) 15 Centax 330 (Tri.-Ahmd) Where importer of cumin seed could not re-export it within six months prescribed in Notification No. 158/95- Cus., dated 14.11.1995, change of Notification in bill of	

	entry to Notification No. 94/1996-Cus dated 16-12-1996 was permissible in terms of Section 149 of Customs Act, 1962 as importer was eligible for it on date of import; beneficial alternate exemption notification can be claimed subsequent to import if it was available at time of import.	
6.	L.G. Electronics India Pvt. Ltd. Versus Principal Commissioner Of Customs, (2024) 15 Centax 201 (Tri.-Del) G Watch (Smart Watch) is a device capable of transferring data and even making or receiving phone calls which have not been the intent of the section notes and chapter notes of Chapter 91 and is classifiable under 8517 6290 of Customs Tariff Act, 1975; Consequently, benefit of exemption under Notification No. 152/2009-Cus. dated 31-12-2009 is not available.	CLICK HERE
7.	Commissioner Of Customs (Import) Versus Om Traders, (2024) 15 Centax 125 (S.C.) Period of limitation provided under section 27 of Customs Act, 1962 would not apply for claiming refund of Special Additional Duty of Customs.	

INTELLECTUAL PROPERTY RIGHTS

S. No.	Particulars	Link
1.	In response to questions about copyright infringement by generative AI, Union Minister of State for Commerce, and Industry, clarified that the existing Intellectual Property Rights (IPR) regime in India adequately safeguards AI-generated works. The Minister addressed concerns raised in the 161st report of the Parliamentary Standing Committee, stating that no separate category of rights for AI is deemed necessary.	CLICK HERE
2.	Phillips 66 Company V. Raaj Unocal Lubricants Limited CS(COMM) 281/2022 Phillips 66 filed an application seeking the appointment of a Local Commissioner (LC) for recording the statements of witnesses through video conferencing (VC) due to their unavailability for physical cross-examination in India. The witnesses, based in the United States, cited professional commitments, logistical challenges, and family obligations as reasons for their inability to travel. Justice Sanjeev Narula granted the application, emphasizing the court's commitment to expedite trials using modern technological advancements. The court recognized the feasibility and technical soundness of video conferencing, highlighting its benefits in sparing witnesses from international travel inconvenience. Emphasizing the proficiency of legal professionals in using digital platforms, the Delhi High Court stated that video conferencing aims to replicate in-person proceedings' rigor. Additionally, the court affirmed the opportunity for parties to express concerns and request in-person examinations if deemed compelling.	CLICK HERE
3.	Rajesh Sultania And Anr vs Arun Kumar Murarka CM(M)-IPD 8/2023 The Plaintiffs Castrol Limited alleged the defendants of deceptive usage of the mark "newcast roi racing" on their products, particularly on the label and packaging. Castrol contends that the adoption of the mark "CASTROI" by the defendants closely resembles Castrol's established "CASTROL" mark, leading to confusion among consumers. The Delhi High Court noted a calculated manipulation of the mark's presentation by the defendants, emphasizing "CASTROI" while diminishing the	

	<p>prominence of the word "new." The court found the defendants' actions to be in bad faith, deliberately attempting to capitalize on the similarity between "CASTROL" and "CASTROI." Consequently, the court decreed the suit in favor of Castrol, awarding damages litigation costs.</p>	
4.	<p>TTK Prestige Ltd vs Arjun Ram & Anr CS(COMM) 915/2022</p> <p>In a design and trade dress infringement suit, the plaintiff sought relief against the defendant's brand 'Prestige'. An interim injunction was previously granted in favor of the plaintiff as the defendant's pressure cooker design and trade dress closely resembled those of the plaintiff. Despite being served with the suit papers, the defendant failed to appear, the Delhi High Court has issued a decree in favor of the plaintiff.</p>	
5.	<p>Frankfinn Aviation Services (Pvt.) Ltd vs Fly- Hi Maritime Travels Private CS(COMM) 83/2024</p> <p>The Plaintiffs initiated legal action seeking an ad-interim injunction against the Defendant for the alleged infringement of their trademark 'FLY HIGH,' which has been in use since 2004, Plaintiffs are a prominent aviation training institution. The Defendant, using the mark 'FLY HI,' argued that there was no potential for confusion since they operate in a different segment of aviation. However, the Court disagreed, emphasizing the striking similarity between the two marks and the likelihood of confusion for the average consumer. Consequently, the Delhi High Court granted an interim injunction in favor of the Plaintiff.</p>	
6.	<p>Hero Investcorp Private Limited And Anr vs Diamond Autos CS(COMM) 110/2024</p> <p>The plaintiff is the owner of the trademark 'HERO' and, accused the defendant of selling counterfeit products, asserting that the defendant not only replicated the trademark but also imitated the trade dress, packaging, and even the name of the plaintiff's manufacturing company, Hero MotoCorp Limited. After a thorough comparison of the physical products and consideration of the submissions, the Delhi High Court found that the plaintiff met the criteria for an injunction. Consequently, an ex-parte ad interim injunction was granted against the defendant, restraining them from using the plaintiff's trademark and trade dress.</p>	
7.	<p>Diageo North America Inc. v. W.J. Deutsch & Sons Ltd, 2nd U.S. Circuit Court of Appeals, No. 22-2106</p> <p>Diageo defended its victory against a liquor company accused of copying its Bulleit whiskey bottles, arguing that the brand's fame justified forcing WJ Deutsch & Sons to change its bottle design. The court expressed skepticism towards the defendant's argument about the level of fame required. In 2017, Diageo sued Deutsch for replicating Bulleit's bottle design to trade on its reputation. A jury ruled in favor of Diageo in 2022, leading to Deutsch being barred from using its bottle design. Deutsch's attorney argued that Bulleit lacked sufficient recognition for the dilution ruling, but the court questioned this standard, pointing out examples like Dom Perignon and Tiffany.</p>	
8.	<p>Tata Sons Private Limited vs Mintree Premier Lifestyle And Beauty Pvt. Ltd CS(COMM) 40/2024</p> <p>The plaintiff has filed a suit seeking permanent injunction against the defendant's "TA TA TAN / Ta Ta Tan" mark. The court considered the well-known status of the plaintiff's mark and noted that the defendant's products bearing the conflicting marks "TA TA TAN / Ta Ta Tan" were absent from their official website but were accessible for distribution and sale on other e-commerce platforms. The Hon'ble Delhi High</p>	

	Court issued an ex-parte ad interim injunction against the defendants, recognizing the potential harm to the plaintiff and the need for immediate legal intervention.	
9.	<p>Ajanta Pharma Ltd vs M/S R.R. Enterprises & Ors CS(COMM) 76/2024</p> <p>The plaintiff sought a permanent injunction to prevent the defendant from selling counterfeit goods and operating under a fraudulent identity. The plaintiff contended that laboratory test reports confirmed the harmful nature, health risks, and inferior quality of the counterfeit products. The plaintiff was able to make a prima facie case in their favour, the Hon'ble Delhi High Court issued an ex-parte ad interim injunction, acknowledging the potential irreparable harm to the plaintiff and determining that the balance of convenience favoured the plaintiff.</p>	

ARBITRATION

1.	<p>M/S Banco Construction Pvt Ltd Vs Narmada Extrusions Ltd, Arbitration Case No. 40 of 2022.</p> <p>The Madhya Pradesh High Court held that proceedings under Section 138 of the Negotiable Instruments Act regarding dishonoring of cheques and arbitration are two proceedings moving in different jurisdictional realms and they are parallel in nature rather than overlapping.</p> <p>It held that “both may continue because scope of Section 138 of the N.I. Act is confined to the dishonoured cheques, whereas dispute between the parties appears to be such deep and exact depth can only be fathomed by the arbitrator where parties would have all opportunities to canvas their cause.”</p>	CLICK HERE
2.	<p>M/S Arif Azim Co. Ltd. Versus M/S Aptech Ltd., Arbitration Petition No. 29 Of 2023</p> <p>The Supreme Court held that the Limitation Act, 1963 is applicable to proceedings for appointment of arbitrator under Section 11(6) of the Arbitration and Conciliation Act, 1996 ("A&C Act"), and a Court may refuse to make a reference if the claims, on the date of commencement of arbitration proceedings, are ex-facie barred.</p>	CLICK HERE
3.	<p>M/s Opuskart Enterprises & Ors vs Kaushal Kishore Tyagi, ARB.P. 134/2023</p> <p>The Delhi High Court held that the disagreements related to the partners' business activities, whether conducted through the firm or the company, fall within the scope of arbitrable matters. The bench rejected the argument that the firm or the company cannot be brought forth in the arbitration proceedings since neither the firm nor the company are signatories to the arbitration agreement. It referred to the Supreme Court decision in Cox and Kings Ltd. v. SAP India Pvt. Ltd. and held that common business ventures of the partners, whether conducted through the firm or the Company, fell within the purview of the arbitration clause.</p>	CLICK HERE
4.	<p>Information TV Private Limited vs Jitendra Dahyabhai Patel, ARB.P. 1143/2023</p> <p>The Delhi High Court held that a petition under Section 11 of the Arbitration and Conciliation Act, 1996 can only be filed after a notice of arbitration has been issued and there has been a failure to make the appointment of an arbitrator within 30 days. The bench held that the limitation period arises upon the failure to make the</p>	CLICK HERE

	appointment of the arbitrator within 30 days from the issuance of the notice invoking arbitration.	
5.	Gorkha Security Services vs Govt. of NCT Of Delhi, O.M.P. (COMM) 328/2022. The Delhi High Court held that an arbitral award lacking adequate reasoning suffers from the inherent flaw of patent illegality. It emphasized that a reasoned order should be proper, intelligible, and adequate, and failure to adhere to these standards can lead to challenges under Section 34 of the Arbitration and Conciliation Act, 1996.	CLICK HERE
6.	Steel Authority Of India Ltd vs Uniper Global Commodities, O.M.P. (E) (COMM.) 22/2023. The Delhi High Court held that the court under Section 27 of the Arbitration and Conciliation Act, 1996 cannot determine the admissibility, relevancy, materiality, and weight of any evidence, as doing so would amount to impermissible interference with the Tribunal's proceedings.	CLICK HERE
7.	Devender Kumar Kashyap vs Chander Muni, ARB.P. 1269/2023 The Delhi High Court held that when a party provides its incorrect address in proceedings cannot be permitted to urge that the invocation notice of arbitration under Section 21 of the Arbitration and Conciliation Act, 1996 was not served at the correct address.	CLICK HERE
8.	Prime Interglobe Private Limited Vs. Super Milk Product Private Limited, ARB. P. 337 of 2023 The Hon'ble Delhi High Court stated that when there are similar arbitration cases connected to different agreements, there is no need to start a new arbitration process by sending a notice according to Section 21 of the Arbitration Act. The court observed that there is no requirement for a notice under Section 11(6) of the Arbitration and Conciliation Act, 1996. In this particular case, it was determined that it fell under Section 11(6)(c) and not Section 11(5). Since arbitration had already begun, the High Court decided it was best to send these matters to the same arbitrator who was already handling disputes about other agreements between the parties.	CLICK HERE

CONSUMER LAWS

1.	Douglas Luiz (Since Deceased) Through Legal Representatives Versus Manipal Hospital Civil Appeal No.1700 Of 2024 The Supreme Court awarded Rs. 10 lakhs compensation to a patient who developed hoarseness in his voice due to medical negligence committed by doctors while administering anaesthesia. The patient (now deceased) claimed compensation of Rs. 18,00,000/- (Rupees Eighteen Lakhs only), against the faulty operation done by the Manipal hospital which resultantly developed hoarseness in his voice. However, the District Forum had suo moto arrived at a rough and ready figure of ₹5,00,000/- (Rupees Five lakhs only) payable as compensation to the appellant without furnishing any reasons for arriving at the said figure.	CLICK HERE
2.	Apple India Pvt Ltd v. Harish Chandra Mohanty and others, Special Leave to Appeal (C) No(s). 18343/2021	CLICK HERE

	The Supreme Court obliterated an observation made by the Odisha State Consumer Commission that Apple India has the duty to trace a stolen iPhone with the help of a unique identity number provided by it. The Supreme Court stated that the observation made by the Consumer Commission was "unwarranted"	
--	--	--

RERA CASE LAWS

1.	Shashi Saha and Another vs Manglam Multiplex Private Limited, CC 1106 of 2022	CLICK HERE
	The Haryana Real Estate Regulatory Authority, Gurugram held Manglam Multiplex Private Limited liable for forfeiture of earnest money paid by the Complainants after the Complainants cancelled the booking for a unit in Section 65 of Gurugram. The bench directed it to refund the earnest money paid by the Complainant and reiterated the allottee's unequivocal and absolute right to seek a refund if the promoter fails to deliver possession within the stipulated time.	

CRIMINAL LAW

1.	State of Kerala & Ors. Vs. Sudheer Kumar, RFA No. 3 of 2010, 2024/KER/10243	CLICK HERE
	The Hon'ble Kerala High Court agreed that a man who was hurt in a bomb attack near the Sub Jail should receive compensation. The court said that those responsible for bringing criminals in and out of the jail had a duty to take reasonable care. The trial court also mentioned that the incident was not something unexpected or impossible to foresee. It was clear that only two police constables were assigned to accompany the accused, and no other safety measures were taken at the entrance and exit of the jail. In this case, where dangerous criminals linked to murder and gang rivalry were being taken to jail, the defendants should have taken more precautions. Therefore, the court concluded that there was a responsibility to ensure safety, and the lack of proper precautions was a mistake.	
2.	Sanjay Nagayach Vs. The State of Madhya Pradesh, CRR No. 729 of 2024	CLICK HERE
	The Hon'ble Madhya Pradesh High Court has stated that someone accused of a crime does not have to surrender before filing a request to review their case under Section 397 of the CrPC. The court emphasized that there is no rule preventing the consideration of a review application if the person is not in judicial custody. After looking closely at Section 397 of the CrPC and Rule 48 of Chapter X of MP High Court Rules & Orders, the court decided that a review is allowed even if the person is not in jail. The court also mentioned that if the applicant's lawyer can show any mistakes or illegalities in the lower court's decision, the High Court can use its power to review the case, examine the records, and may even suspend the sentence or order during the process.	
3.	Velthepe Srinivas and Others vs State of Andhra Pradesh & Anr, 2024 INSC 87.	CLICK HERE
	While hearing the present appeal under section 302 read with section 34 of the Indian Penal Code, 1860 ("IPC"), the Hon'ble Supreme Court observed that the trial court and the Hon'ble High Court charged accused 3 ("A-3") under the aforesaid charges	

	<p>solely on the ground of having familiar relationship of A3 with other accused. The Hon'ble Court further observed that neither any oral nor any documentary evidence was produced or established that proved A-3's intention to commit murder. In addition to its above observation, the Hon'ble Court held that, "the cumulative circumstances in which A-3 was seen participating in the crime would clearly indicate that he had no intention to commit murder of the deceased for two clear reasons, Firstly, while every other accused took the axe used by A1 initially and contributed to the assault with this weapon, A-3 did not wield the axe at any point of time. Secondly, A-3 only had a stone in his hand, and in fact, some of the witnesses said that he merely threatened in case they seek to intervene and prevent the assault." Hence, the Hon'ble Court upheld the conviction of other accused under Section 302 read with Section 34 IPC and dismissed their Criminal Appeal and modified the sentence of A-3 to culpable homicide and sentenced him to ten years.</p>	
<p>4.</p>	<p>Mohd Abaad Ali & Anr vs Directorate of Revenue Prosecution Intelligence, 2024 INSC 125</p> <p>The Hon'ble Delhi High Court had condoned 73 days of delay filed by the Directorate of Revenue Prosecution Intelligence ("DRI") under section 387 of Code of Criminal Procedure ("CrPc"). Aggrieved by the aforesaid order, the appellant-accused preferred the present appeal on the sole ground that in case of filing an appeal against acquittal, delay cannot be condoned under section 5 of the limitation act and placed its reliance on Kaushalya Rani v. Gopal Singh. While hearing the present appeal the Hon'ble Supreme Court observed that the judicial precedent relied upon by the appellant-accused does not hold any valid ground as both the Limitation Act and CrPC in question were old acts. Pursuant to its observation, the Hon'ble Court held that "if there is a delay in filing an appeal against the acquittal of the accused then the delay can be condoned under the Limitation Act, 1963. The benefit of Section 5 read with Sections 2 and 3 of the Limitation Act, 1963 can therefore be availed in an appeal against acquittal. There is no force in the contentions raised by the appellants as regards the non-application of Section 5 of the Limitation Act in the present case and the appeal is therefore dismissed."</p>	<p>CLICK HERE</p>

END OF THE NEWSLETTER
