

LEXPORT NEWSLETTER

SEPTEMBER 2025 | Week 2

Dear Readers,

This weekly newsletter offers you a concise analysis of important developments, notable judgments, and noteworthy regulatory amendments and developments in the corporate and financial sectors.

This newsletter will cover updates inter alia from **Banking Laws & FEMA, Corporate Laws, Securities Laws and Capital Markets, Competition Laws, Indirect Taxes, Customs and Foreign Trade, Intellectual Property Laws, and Arbitration Laws.**

Acknowledging the significance of these updates and the need to stay informed, this newsletter provides a concise overview of the various changes brought in by our proactive regulatory authorities and the courts.

Feedback and suggestions will be much appreciated. Please feel free to write to us at mail@lexport.in.

Regards,
Team Lexport



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Indirect Tax

NCLAT: Margin Money for Bank Guarantees Not Corporate Debtor's Asset Post Invocation

The NCLAT (New Delhi Bench) in *Indian Overseas Bank v. Consortium of GSEC Ltd. & Rakesh Shah* clarified that margin money deposited for Bank Guarantees ceases to be a corporate debtor's asset once the guarantees are invoked. A bench of Justice Ashok Bhushan and Barun Mitra held that margin money is a borrower's contribution held in trust to meet BG obligations, and upon invocation, the bank is entitled to appropriate it. Such appropriation is a contractual adjustment and not enforcement of security interest, hence not barred by Section 14 moratorium under IBC.

The Tribunal ruled that the NCLT erred in directing reversal of margin money (Rs. 1.58 crore), as doing so would amount to impermissible modification of the approved resolution plan.

Case: *Indian Overseas Bank v. Consortium of GSEC Ltd. & Rakesh Shah & Anr.*

Citation: Company Appeal (AT) (Insolvency) No. 943 of 2024, decided on 21.08.2025



Siddharth Dewalwar

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Quick Bites

Margin Money ≠ Corporate Debtor's Asset After BG Invocation - NCLAT

Misconception

- Margin Money treated as corporate debtor's recoverable asset.

Correct Position – NCLAT ruling

- Margin Money ceases to be debtor's asset once BG is invoked.
- Appropriation by bank is valid, held in trust, not hit by moratorium.

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CESTAT Allows Service Tax Refund Despite Classification Dispute Case Title

M/s Airport Retail Private Limited Versus Commissioner of Service Tax, Gurgaon-II The New Delhi Bench of the Customs, Excise, and Service Tax Appellate Tribunal (CESTAT) ruled that a refund cannot be denied merely on classification grounds once tax liability has been settled. The case involved Delhi International Airport Limited (DIAL), which had leased the airport premises and licensed Airport Retail Pvt. Ltd to operate duty-free shops, charging a fixed monthly fee and revenue share in USD. Service tax was collected from the assessee.

The Delhi High Court had earlier ruled that the license agreement amounted to renting immovable property and was not taxable as airport services, granting the assessee liberty to seek a refund of service tax paid. The assessee filed a refund claim, which was rejected by the Adjudicating Authority and upheld by the Commissioner (Appeals).

On appeal, CESTAT held that the assessee fulfilled the two essential conditions for claiming a refund under Section 11B of the Central Excise Act, the claim was filed within the prescribed time, and the duty burden was not passed on to any other party. Since the tax collected had already been deposited with the department and the High Court had confirmed the non-taxable nature of the transaction, rejecting the refund on classification grounds was unsustainable. The Tribunal allowed the appeal and sanctioned the refund.



Shelley Singh

Indirect Tax

Recommendations of the 56th Meeting of the GST Council held at New Delhi

NIL Rate Slab - Essential Relief to Citizens

The GST Council, in its 56th meeting, has resolved to grant substantial relief to the common man by widening the ambit of the NIL rate category. Daily consumables forming part of the basic diet including Ultra-High Temperature (UHT) milk, paneer, and all Indian breads (roti, paratha, parotta, etc.) have been completely exempted. Such exemption is of material significance, since these products form part of the staple diet of a vast majority of citizens.

Further, the Council has extended the NIL rate to critical life-saving medicines and drugs. As many as 33 medicines used in the treatment of cancer, rare diseases, and other chronic conditions have been brought to the NIL rate, while an additional 3 drugs earlier at 5% have also been exempted entirely.

In addition, life and health insurance policies, inclusive of family floaters and senior citizen policies, stand fully exempted, making insurance affordable and encouraging greater penetration.

It is evident that the NIL category has been consciously targeted at (i) daily subsistence, (ii) public health, and (iii) social security. This structural approach reinforces the constitutional mandate under Article 47, which obliges the State to raise the level of nutrition and standard of living, and to improve public health.

Thus, the expansion of the NIL slab represents not merely a fiscal adjustment, but a citizen-centric welfare measure, directly advancing the socio-economic right of individuals.



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Quick Bites

56th GST Council Meeting
Expanding the NIL Rate – Relief for Citizens

DAILY NUTRITION

Staple foods –
Now fully exempt

PUBLIC HEALTH

33 life-saving
medicines at NIL rate

SOCIAL SECURITY

Health & life
insurance – NIL GST

NIL Rate → Nutrition | Health | Social Security

★ A citizen-first reform, in line with the mandate of Article 47

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Indirect Tax

5% Merit Rate – Supporting Common Man, Farmers, and Labour

The 5% Merit Rate slab has been deployed strategically by the GST Council to cover a broad spectrum of items directly connected with the lives of ordinary citizens, farmers, and labour-intensive sectors. Household essentials such as toothpaste, toothbrushes, hair oil, soaps, shampoos, bicycles, tableware, and kitchenware have been rationalised down to 5% from the earlier 12–18%.

The Council has further reduced GST to 5% on a wide range of packaged food items, including namkeens, bhujia, sauces, pasta, noodles, chocolates, coffee, preserved meat, butter, and ghee. By bringing these within the ambit of the Merit Rate, the GST structure consciously mitigates the tax burden on day-to-day consumption.

In the agricultural sphere, tractors, cultivation machinery, harvesting and threshing equipment, composting machines, and irrigation devices have been placed at 5%, thereby extending relief to farmers and aligning with national policy goals of agricultural mechanisation and productivity enhancement.

Labour-intensive industries, including handicrafts, intermediate leather goods, marble and granite blocks, have also been rationalised at 5%. This is a recognition of the employment-generating capacity of these sectors. In the healthcare domain, most drugs, medicines, and diagnostic equipment have been rationalised at 5% to reduce treatment costs.

It is clear that the Merit Rate has been applied with a distributive justice lens, balancing fiscal needs of the State with the constitutional imperative of ensuring affordability for citizens.



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Quick Bites

5% Merit Rate - Supporting Citizens, Farmers & Labour

Household Essentials
Now at 5% ✓

Everyday
Affordability For
Every Home

Farm Tools & Packaged Foods
Just 5% ✓

Relief For
Farmers,
Savings For
Kitchens

Labour & Healthcare
Rationalised to 5%

More Job
Opportunities,
Treatment
Costs Reduced

GST Council: Balancing Fiscal Needs With Citizen Welfare

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Indirect Tax

18% Standard Rate – Simplification and Uniformity

The GST Council has resolved to retain 18% as the Standard Rate, covering the majority of goods and services. This measure introduces much-needed uniformity and predictability in the indirect tax framework, replacing the earlier complex multi-slab regime.

Sectors such as automobiles, consumer electronics, and industrial goods are now largely consolidated within this slab. Notably, small cars, motorcycles up to 350cc, buses, trucks, ambulances, and three-wheelers have all been rationalised from 28% to 18%. Similarly, TVs (all sizes), air-conditioners, and dishwashing machines have been shifted to this slab, correcting earlier anomalies.

The Council has also applied a uniform 18% rate on all auto parts, irrespective of HSN classification. This singular measure resolves persistent disputes arising from classification and ensures greater compliance ease for manufacturers and traders.

In addition, hotel accommodation below ₹7,500 per day, and services relating to gyms, salons, barbers, and yoga centres, have been rationalised at 5%. Services not covered by exemptions or merit categorisation continue under the 18% standardised rate.

From a jurisprudential perspective, the Council's decision resonates with the principle of certainty in taxation, a cornerstone of fiscal law. By ensuring that the standard slab encompasses the bulk of taxable transactions, the system moves closer to the ideal of a "Simple Tax", facilitating compliance and enhancing revenue neutrality.



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Quick Bites

18% Standard GST Rate - Simplification & Uniformity

GOODS	18%	SERVICES
<p>STANDARD 18% SLAB</p> <p>Consumer Electronics - Now Simplified</p>		<p>Everyday Services at One Standard Rate</p>

- Majority Of Goods & Services Consolidated At 18%
- Some Automobiles Rationalised From 28% → 18% [Cars (Petrol ≤1200cc / Diesel ≤1500cc, length ≤4000mm), Bikes (upto 350cc), Buses, Trucks]
- Consumer Electronics Simplified (Tvs, Acs, Dishwashers, Etc.)
- Auto Parts Under One Rate - Classification Disputes Resolved
- Hotels < ₹7,500/Day & Gyms/Salons/Yoga - Rationalised Services
- Greater Compliance Ease, Certainty, And Revenue Neutrality

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Indirect Tax

40% De-Merit Rate – Containing Socially Undesirable Consumption

While the GST regime has been restructured to simplify and rationalise, the Council has consciously retained a 40% De-Merit Rate for specific goods deemed socially undesirable or luxury-driven. This highest slab is applicable to pan masala, gutkha, cigarettes, chewing tobacco (including zarda), unmanufactured tobacco, and bidis.

The Council has also clarified that such items will continue to attract compensation cess, until all dues under the cess account are discharged. This ensures that the tax burden on harmful consumables not only acts as a deterrent to consumption, but also provides fiscal resources for compensatory and welfare schemes.

The policy rationale underlying this slab is twofold:

1. **Public Health Objective** – Discouraging usage of tobacco and pan masala products which are detrimental to health, aligning with India's obligations under the WHO Framework Convention on Tobacco Control.

2. **Revenue Consideration** – Maintaining a high rate to mobilise resources without adversely affecting essential commodities.

By isolating these goods within the 40% category, the Council sends a strong signal that GST will not be a regressive tax, but rather one that distinguishes between essential, merit, standard, and demerit consumption.

Thus, the De-Merit Slab embodies a fiscal policy that is not merely revenue-driven but is consciously crafted as an instrument of social regulation, consistent with constitutional duties under Article 47 to discourage consumption of intoxicating substances.



Shelley Singh



Indirect Tax

The NCLAT (Principal Bench, New Delhi) in Jindal Lifestyle Ltd. v. RP of Arkin Creations Pvt. Ltd. held that the Adjudicating Authority has jurisdiction under Section 60(5) IBC to enforce an arbitral award during CIRP.

A 3-Member Bench (Justice Rakesh Kumar Jain, Justice Mohammad Faiz Alam Khan, and Naresh Salecha) ruled that once NCLT takes up a matter under IBC, jurisdiction of other forums ceases due to Section 238's overriding effect. It rejected the appellant's plea that enforcement lies only with civil courts under Section 36 Arbitration Act.

The Tribunal noted that the award was final and unchallenged, and its enforcement was necessary for revival of the debtor. It also clarified that the 90-day timeline under the MSME Act is directory, not mandatory. Accordingly, it upheld the NCLT's order allowing enforcement of the arbitral award under Section 60(5) IBC.

Case: Jindal Lifestyle Ltd. v. RP of Arkin Creations Pvt. Ltd.

Citation: Comp. App. (AT) (Ins.) No. 1180 of 2024, decided on 21 Aug 2025



Siddharth Dewalwar



Supreme Court Directs Petitioner to Approach GST Council on Tracking Foreign OIDAR Services Case Title – Pradeep Goyal v. Union of India & Ors.

The Supreme Court recently disposed of a public interest litigation seeking directions for setting up a mechanism to track services provided by foreign entities in India under the Goods and Services Tax (GST) regime. A bench comprising Justice BV Nagarathna and Justice KV Viswanathan passed the order after hearing Advocate Charu Mathur, representing the petitioner.

Advocate Mathur highlighted that services provided by companies such as Facebook or OpenAI were going untracked by Indian authorities, leading to significant revenue loss. The Court observed that the writ petition could be treated as a representation to the GST Council and directed the petitioner to submit it accordingly. The GST Council was instructed to consider the representation expeditiously and in accordance with law.

The petition raised serious concerns regarding the lack of a mechanism to track GST paid on Online Information and Database Access or Retrieval (OIDAR) services supplied by foreign companies to Indian consumers. It pointed out that many service providers had no fixed establishment in India and maintained their accounts abroad, making it impossible to enforce GST compliance through existing frameworks.

Specifically, the petition sought a system to track GST paid under the reverse charge mechanism, changes in GST return forms to reflect revenue from services to Non-Taxable Online Recipients (Non-NTORs), and methods to verify the total receipts of foreign OIDAR providers. It also demanded the implementation of a strong compliance mechanism and mandatory disclosure of data regarding the number of such service providers operating in India.



Shelley Singh

Intellectual Property Rights

Hon'ble Delhi HC Restrains Unauthorized Publication of The Pioneer

The Hon'ble Delhi High Court granted an interim injunction against M/s BAA Television Network, restraining it from publishing newspapers or e-papers under the name "THE PIONEER." The plaintiff, M/s Cmyk Printech Limited, publisher of the national daily, alleged infringement of its registered and well-known mark after termination of a franchise agreement that earlier authorized a Chhattisgarh edition. Despite termination, the defendant continued printing and even launched an unauthorized digital edition, while also disputing outstanding dues of ₹4.5 crores. The Hon'ble Court held that continued use was unauthorized and deceptive, noting that the defendant had even applied for the mark "Pioneer Digital." Finding a prima facie case, balance of convenience, and irreparable harm, the Court restrained the defendant from further use. The parties were also referred to mediation, with directions that if settlement failed, the plaintiff must deposit ₹15 lakhs towards six months' content charges as per the MoU. The matter is next listed on 25 September 2025. [M/S Cmyk Printech Limited vs M/S Baa Television Network Private (CS(COMM) 688/2025)]



Ananya Singh

Delhi HC Orders Takedown of 250+ Infringing Platforms Misusing NDTV Trademark

The Delhi High Court restrained unknown operators from infringing NDTV's well-known trademark by running websites, YouTube channels, Telegram groups, X handles, and Facebook pages using the NDTV mark. Justice Manmeet Pritam Singh Arora directed domain registrars, YouTube, Telegram, X (Twitter), and Meta to block 13 websites, 35 YouTube channels, 16 Telegram groups, 121 X handles, and 86 Facebook pages impersonating NDTV. DOT and MeitY were asked to notify ISPs for blocking access. The Court held NDTV had established a prima facie case of trademark and copyright infringement, with the balance of convenience in its favour, and that continued misuse could cause irreparable harm to NDTV's reputation as a credible news network. [New Delhi Television Limited v. Ashok Kumar & Ors., CS(COMM) 869/2025]



Anushka Tripathi

Allahabad High Court Rejects Plea Seeking Ban on Jolly LLB 3

The Allahabad High Court has dismissed a petition that sought to prohibit the release of Bollywood film Jolly LLB 3, starring Akshay Kumar, on the grounds that it allegedly demeans the legal profession.

The petition, filed in Jay Vardhan Shukla and Another v. Union of India and 6 Others, contended that the film's trailers portray lawyers in a derogatory light and undermine the dignity of the judicial system in the eyes of the public. The petitioners argued that such representations risk lowering respect for the legal fraternity and the institution of courts among common citizens.

Hearing the matter, the Court observed that mere apprehensions about the depiction of lawyers in a fictional film cannot justify preemptive censorship or an outright ban. It underlined that creative freedom, including cinematic expression, is a constitutionally protected right under Article 19(1)(a), subject to reasonable restrictions. The Court further emphasized that unless a clear, direct, and substantial violation of law is demonstrated, courts must be cautious in intervening in matters of artistic expression.



Swagita Pandey

Intellectual Property Rights

Karnataka High Court Seeks Centre's Response on Challenge to Online Gaming Ban

The Karnataka High Court has issued notice to the Union government in a petition challenging the constitutional validity of the Promotion and Regulation of Online Gaming Act, 2025, which imposes a nationwide ban on online money games, including rummy and poker.

The petition, filed by Head Digital Works v. Union of India, questions the legislative competence of Parliament to enact a law that directly prohibits online games played for stakes. The petitioner argued that the Act, by placing a blanket ban, disproportionately infringes the fundamental right to trade and occupation under Article 19(1)(g) of the Constitution and curtails individual liberty under Article 21.

The Promotion and Regulation of Online Gaming Act, 2025, is the first central legislation that comprehensively regulates the online gaming sector while introducing a prohibition on real-money games. While the stated object of the law is to curb gambling and protect consumers from addiction, stakeholders in the gaming industry have raised concerns that the legislation conflates games of skill with games of chance and threatens a sector that has seen significant investment and employment growth.

Taking note of the submissions, the Karnataka High Court has sought a detailed response from the Union government and posted the matter for further hearing. The outcome of this litigation is expected to have far-reaching implications for the online gaming industry, which has been at the center of regulatory debates across India.



Swagita Pandey

Litigation

R.K. Construction Private Limited Vs. State of Jharkhand, C.M.P. No. 397 of 2025

The petition sought expeditious adjudication of RKCP's execution petition, which the Court held was unobjectionable. Referring to *Rahul S. Shah v. Jinendra Kumar Gandhi* (2021), the Court noted the Supreme Court's mandate that execution proceedings be disposed of within six months, extendable only with recorded reasons. It also relied on *Chopra Fabricators Vs. Bharat Pumps* (2023), which emphasized that speedy execution of arbitral awards is vital to the ACA and Commercial Courts Act. Further, in *Periyammal v. Vs. Rajamani* (2025), the Supreme Court directed High Courts to ensure pending execution petitions are decided within six months. Accordingly, the Division Bench of Hon'ble Jharkhand High Court directed the Executing Court to complete proceedings by November 30, 2025, and disposed of the petition.



Shyam Kishor Maurya

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Quick Bites

Execution Can't Wait: Courts Mandate 6-Month Deadline

EXECUTION PETITION

Justice delayed = Justice denied

NOV 30 2025

Execution petitions must conclude within 6 months

- Problem (Delays in Execution)
- Judicial Solution (Strict Timeline & Direction)
- Practical Impact (Deadline of Nov 30, 2025)

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GEORGEKUTTY CHACKO Vs. M.N. SAJI [CIVIL APPEAL NO.11309 OF 2025]

The Supreme Court of India held that a loan transaction cannot be partially disregarded merely because a portion was disbursed in cash rather than through banking channels, particularly when a duly signed promissory note acknowledges the full amount. In the matter arising from the Kerala High Court, which had reduced the loan from ₹30.8 lakhs to ₹22 lakhs on account of ₹8.8 lakhs being paid in cash, the Court emphasized that a promissory note creates a legal presumption of the debt unless rebutted by the maker. The Court further observed that oral evidence and cash components in commercial transactions constitute valid and credible proof, and the absence of documentary evidence or bank records does not negate such transactions. The onus, it noted, lies on the recipient to disprove receipt of cash. Consequently, the Court held that the High Court erred in bifurcating the loan into "proven" and "unproven" components and allowed the appeal, thereby restoring the full decretal amount.



Shanti Jyoti

Litigation

Kuldeep Versus State of Haryana and others, CWP-26033-2025

The Punjab and Haryana High Court held that appointments obtained through forged documents are “void ab initio” and confer no legal rights. The petitioner, appointed as Assistant Lineman in 2012, was found in 2022 to have submitted a fake certificate after RTI information led to verification. The concerned ITI confirmed that the petitioner’s certificate was never issued, following which his services were terminated in 2023. The Court emphasized that public employment is scarce, highly coveted, and must remain sacrosanct, as negligence in recruitment undermines constitutional values of equality and justice. Citing legal maxims, it ruled that one cannot benefit from one’s own fraud, and recruitment based on forged credentials collapses once its foundation is removed. While affirming the termination, the Court directed the Nigam’s Managing Director to fix accountability on officials who failed to verify documents during probation, noting that such laxity denied genuine candidates employment.



Ananya Jain

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Quick Bites

**Fraudulent Appointments Collapse at
Their Foundation**

- ✓ Court: Jobs Secured With Fake Documents are Void Ab Initio
- ✓ No Legal Rights Can Arise From Fraud
- ✓ Accountability Directed for Recruitment Lapses
- ✓ Genuine Candidates Must Get Their Fair Chance

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PRADEEP KUMAR KESARWANI VERSUS THE STATE OF UTTAR PRADESH & ANR. [CRIMINAL APPEAL NO.3831 OF 2025]

The Supreme Court has laid down a four-step framework for High Courts to assess petitions seeking quashing of criminal proceedings under Section 482 Cr.P.C. (now Section 528 BNSS): (i) whether the material produced by the accused is credible, reasonable, and of impeccable quality; (ii) whether such material effectively negates the allegations in the complaint, making them appear false to a reasonable person; (iii) whether the material has not been or cannot justifiably be disputed by the prosecution or complainant; and (iv) whether continuation of the trial would constitute an abuse of process and fail to advance the ends of justice. If these criteria are satisfied, the High Court should exercise its inherent powers to quash proceedings, thereby avoiding unnecessary trials and conserving judicial resources. The Court enunciated these principles while setting aside an Allahabad High Court decision and quashing summons issued against a man accused of rape on the false pretext of marriage, observing that the allegations were unconvincing, particularly in light of the complainant’s unexplained four-year delay in filing the complaint.



Shanti Jyoti

Litigation

Amjad Hossain Vs. The State of West Bengal & Ors., WPA 1746 OF 2025

The Calcutta High Court held that once a Work Order is issued and satisfactorily completed for an authority under Article 12 of the Constitution, the authority is mandatorily bound to release payment. In this case, the petitioner completed municipal work, duly certified, yet received only part payment, leaving a balance of ₹22,90,039. The State argued that funds are sanctioned in bulk and further approval was pending, but the Court rejected this, noting that part payment in 2018 constituted acknowledgment of liability and subsequent requests reinforced the admitted dues. The Court ruled that withholding admitted payments without due process violates constitutional rights. It emphasized that when an Article 12 authority fails in its obligations, the Court, under Article 227, can direct payment to protect the petitioner's rights. Consequently, the petition was allowed, and the authority was directed to release the remaining dues.



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Quick Bites

Calcutta HC: Completed Work - Guaranteed Payment

The Calcutta High Court Ruled That Once Certified Municipal Work is Completed, Authorities Under Article 12 are Mandatorily Bound to Release Payment.

- ✓ Partial Payment = Acknowledgment of Dues
- ✓ Withholding Funds = Violation of Constitutional Rights
- ✓ Court Empowered Under Article 227 to Direct Release of Admitted Dues

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Zydus Wellness Products Ltd. v/s Karnal Foods Pack Cluster Limited & Ors., OMP No. 644 of 2025 in COMS No.1 of 2025

The Himachal Pradesh High Court held that under Section 12A of the Commercial Courts Act, 2015, pre-institution mediation is mandatory before filing a commercial suit unless the plaintiff establishes genuine urgency. Zydus Wellness Products Ltd. filed a commercial suit alleging trademark infringement of "Glucon-D" and "Glucon-C" by the defendants, seeking injunctions, damages, and interim reliefs. However, the plaint contained no justification for bypassing pre-institution mediation. The defendants applied for rejection under Order VII Rule 11(d) CPC, arguing that the plaintiff had avoided the statutory requirement without proving urgency. Citing Patil Automation Pvt. Ltd. v. Rakheja Engineers Pvt. Ltd. (2022) and subsequent rulings, the Court reiterated that mediation is a condition precedent and urgent relief cannot be claimed as a mere pretext to escape compliance. It ruled that suits filed without following Section 12A, absent genuine urgency, are liable to be rejected.



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Quick Bites

No Mediation, No Suit - Section 12A is Non-Negotiable.

- Pre-Institution Mediation is Mandatory Under Section 12A Of The Commercial Courts Act, 2015
- Filing a Suit Without Mediation is Not Maintainable Unless Genuine Urgency is Established
- Zydus Wellness Filed a Trademark Suit Over "Glucon-D" & "Glucon-C" Without Mediation
- Court Held: Absence of Urgency = Plaint Rejected Under Order VII Rule 11(D) CPC
- Key Principle: Mediation is a Condition Precedent for Commercial Suits

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Litigation

Mrs. Mita Roy vs Debdutta Chatterjee, WBREAT Appeal No. 003/2025

The West Bengal Real Estate Appellate Tribunal, Kolkata, comprising Chairperson Rabindranath Samantha and Administrative Member Subrat Mukherjee, held that simultaneous proceedings before the Consumer Forum and the Real Estate Regulatory Authority (RERA) on the same cause of action are impermissible. The case arose when landowners filed complaints against M/s M.S. Enterprise, a promoter, for failure to deliver flats under a development agreement. While a complaint was pending before the Consumer Forum, the complainants also approached RERA, which directed the promoter to deliver three flats and rejected an objection to maintainability raised by partner Mita Roy. On appeal, the Tribunal observed that remedies sought in both forums were substantially the same and, relying on *Imperia Structures Ltd. v. Anil Patni* and *IREO Grace Realtech v. Abhishek Khanna*, held that complainants must elect one forum. Referring to Section 71 RERA, it clarified that a complainant may withdraw a consumer case to proceed under RERA.



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Quick Bites

**WBREAT: No Parallel Proceedings - Choose
Consumer Forum or RERA, Not Both**

- Remedies Cannot be Pursued in Both Forums for the Same Cause
- Complainants Must Elect One Forum - Either Consumer Forum or RERA
- Section 71 RERA Allows Withdrawal From the Consumer Forum If Opting for RERA

★ **Takeaway: One Dispute → One Forum. A Clear Mandate to Avoid Conflicting Remedies.**

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Corporate

FSSAI Launches New Licensing Category for Ayurveda Aahara on FoSCoS

The Food Safety and Standards Authority of India (FSSAI) has introduced a new licensing category for “Ayurveda Aahara” on its Food Safety Compliance System (FoSCoS) portal, effective September 1, 2025. This move provides a formal regulatory framework for manufacturers of traditional Ayurveda-based food products.

The development stems from the Food Safety and Standards (Ayurveda Aahara) Regulations, 2022, and the July 25, 2025 notification listing standardized Ayurveda Aahara products under Category A.

Under the new regime, “Ayurveda Aahara” refers to foods prepared as per authoritative Ayurvedic texts, but excludes Ayurvedic drugs, cosmetics, narcotics, and substances regulated under the Drugs and Cosmetics Act, 1940. Manufacturers must obtain a Central License, with an annual fee of ₹7,500 plus GST.

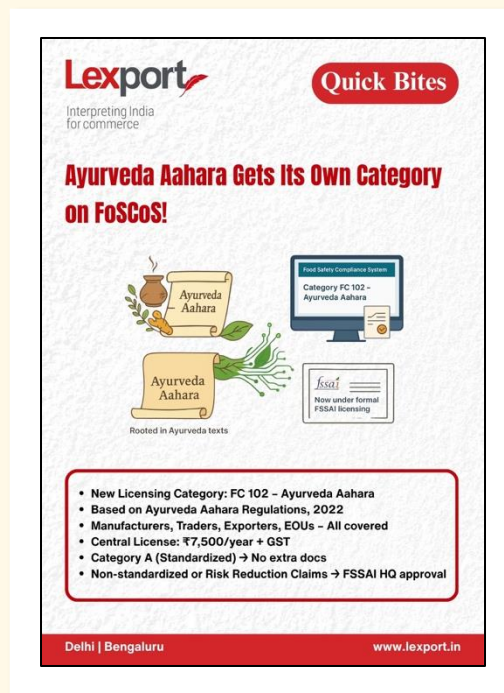
A new Food Category (FC 102) has been created with relevant sub-categories. Licensing requirements vary:

Category A products require no additional documents if standardized.

Non-standardized products need an FSSAI (HQ) approval letter.

Products making “Disease Risk Reduction” claims also require FSSAI approval.

The inspection checklist mirrors that of the general manufacturer category, requiring 10 documents. The new classification is also applicable to traders, exporters, and 100% Export-Oriented Units, ensuring regulatory clarity for Ayurveda Aahara businesses.



Akshita Aggarwal

Corporate

NCLAT: Creditor May Proceed Against Any or All Personal Guarantors Under IBC

The National Company Law Appellate Tribunal (NCLAT), New Delhi, has clarified that when multiple guarantors exist, it is within the creditor's discretion to proceed against all or any one of them under Section 95 of the Insolvency and Bankruptcy Code, 2016 (IBC). An application cannot be rejected merely because action is taken against only one guarantor.

In *Kiran Kumar Jain v. Cosmos Co-Operative Bank Ltd. & Anr.*, the Appellant argued that the personal guarantee of ₹44 crore was ineffective since no fresh disbursement occurred after its execution on 02.03.2016. It was contended that no liability or default could arise as no funds were released. The Respondent, however, produced statements showing that the borrower had already availed credit facilities covered by the guarantee, including cash credit and term loan facilities.

The Tribunal held that a personal guarantee may secure credit already disbursed or to be disbursed. Since the borrower had already received the facilities, liability under the guarantee was established. The pendency of proceedings before the DRT did not bar initiation of insolvency proceedings under Section 95, which is an independent remedy.

Accordingly, the NCLAT upheld admission of the bank's application and dismissed the appeal.

Case Citation: *Kiran Kumar Jain v. Cosmos Co-Operative Bank Ltd. & Anr.*, I.A. No. 4524 of 2025 in Comp. App. (AT) (Ins.) No. 955 of 2025, decided on 02.09.2025.



Akshita Aggarwal

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Quick Bites

NCLAT: Choice Lies With Creditor - One, Some, or All Personal Guarantors

Proceeding against only one? Not valid!

NCLAT: Choice Lies With Creditor - One, Some, or All Personal Guarantors

Creditor may proceed against ANY or ALL guarantors

NCLAT - Section 95 of IBC - 02 Sept 2025

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Corporate

Supreme Court: NGT Cannot Delegate Adjudicatory Functions to Expert Committees

The Supreme Court has held that the National Green Tribunal (NGT) cannot abdicate its statutory adjudicatory role by outsourcing decision-making to external expert committees. The ruling came in *M/s. Triveni Engineering and Industries Ltd. v. State of Uttar Pradesh & Ors.* (2025 LiveLaw (SC) 863), where the NGT had imposed ₹18 crore compensation on a company accused of polluting water bodies.

The NGT, relying solely on a Joint Committee report of the CPCB, UPPCB, and the District Magistrate, found multiple violations, including illegal effluent discharge. However, the company challenged the findings, citing procedural lapses and breach of natural justice.

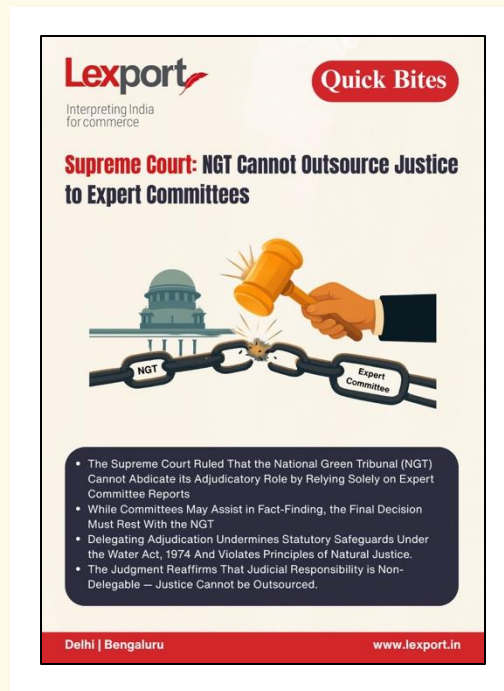
Setting aside the NGT's order, a bench of Justices Manoj Misra and Ujjal Bhuyan emphasized that while committees may assist in fact-finding, adjudication is the exclusive responsibility of the NGT. The Court observed that by basing its decision entirely on the committee's recommendations, the NGT had effectively "abdicated its jurisdiction."

The bench further clarified that judicial functions must adhere to statutory procedures and principles of natural justice. Section 19(1) of the NGT Act, 2010 cannot be invoked to bypass statutory safeguards under the Water Act, 1974. Accordingly, the appeal was allowed.

Citation: *M/s. Triveni Engineering and Industries Ltd. v. State of Uttar Pradesh & Ors.*, 2025 LiveLaw (SC) 863.



Akshita Aggarwal



Corporate

Interest Accrued During & After S.10A Period Can Be Counted Towards ₹1 Crore Threshold: NCLT Kolkata

The Kolkata Bench of the National Company Law Tribunal (NCLT), comprising Justice Bidisha Banerjee and Siddharth Mishra, has ruled that interest accrued during the Section 10A IBC suspension period can be combined with the principal amount to meet the ₹1 crore threshold under Section 4 of the IBC, if the default continues beyond the protected period.

The case arose when Dhanuka Udyog Pvt. Ltd. supplied kraft paper to Kamala Board Box Pvt. Ltd., which failed to pay for goods worth ₹1.42 crore. Despite partial payments of ₹44.5 lakh between July 2021 and January 2024, a large sum remained unpaid. The debtor argued that most invoices fell within the Section 10A moratorium and that the claim did not meet the threshold, while also disputing the 18% interest clause.

The tribunal, however, relying on precedents like Beetel Teletech v. Arcelia IT Services and Section 60 of the Contract Act, held that defaults continuing beyond the 10A period are not protected, and creditors may adjust payments against interest first. Since the accrued interest pushed the claim above ₹1 crore, the petition was admitted.

Case: Dhanuka Udyog Pvt. Ltd. v. Kamala Board Box Pvt. Ltd. (C.P. (IB) No. 293/KB of 2024)



Akshita Aggarwal

SEBI Eases ESOP Rules for Promoter-Group Employees in IPOs

On September 8, 2025, SEBI notified the SEBI (Share Based Employee Benefits and Sweat Equity) (Amendment) Regulations, 2025, addressing a long-standing gap on ESOPs and other share-linked benefits for promoter-group employees.

The new Regulation 9A allows employees classified as promoters or part of the promoter group in IPO filings to retain and exercise stock options, SARs, or other share-based benefits, provided these were granted at least one year before the IPO draft offer document was filed with SEBI.

This move clarifies eligibility and strengthens employee incentive frameworks, subject to compliance with existing SEBI regulations and other applicable laws.



Akshita Aggarwal

Corporate

EPFO Claims Based on Post-CIRP Inspections Held Unenforceable: NCLAT

The National Company Law Appellate Tribunal (NCLAT), New Delhi, has ruled that claims raised by the Employees Provident Fund Organisation (EPFO) on the basis of inspections or assessments conducted after the commencement of the Corporate Insolvency Resolution Process (CIRP) are unenforceable and cannot be admitted.

The case involved appeals against NCLT orders concerning demands raised by EPFO amounting to ₹1.37 crore. The Resolution Professional argued that under Section 14 of the IBC, the moratorium prohibits any proceedings or assessments that impose pecuniary liabilities on the corporate debtor after the initiation of CIRP. Hence, inspection reports or assessment orders issued during the moratorium period lack jurisdiction.

EPFO, however, contended that it was entitled to submit claims based on its inspection report dated 10.05.2023 and the subsequent assessment order dated 25.09.2023. It also objected to the adjudicating authority's direction requiring detailed employee-wise computations.

The NCLAT rejected EPFO's position, holding that once CIRP commences, no fresh liability can be imposed on the corporate debtor through post-commencement inspections or assessments. Since both the inspection and assessment were conducted after the CIRP start date (17.02.2023), the claims were unenforceable.

The appeal of the Resolution Professional was allowed, and the impugned orders were set aside.
Case: CA Pankaj Shah v. EPFO & Anr.

Case No.: Company Appeal (AT) (Insolvency) No. 17 of 2025 & I.A. No. 77 of 2025



Akshita Aggarwal

Corporate

Shareholders & Guarantors Cannot Intervene in CIRP Based on Private MoU: NCLT Kochi

The National Company Law Tribunal (NCLT), Kochi Bench, has clarified that shareholders and guarantors cannot intervene in a Corporate Insolvency Resolution Process (CIRP) on the basis of private, unregistered agreements, as such documents have no legal effect against financial creditors under the Insolvency and Bankruptcy Code, 2016 (IBC).

In this case, applicants sought to exclude certain assets from the liquidation estate of the corporate debtor relying on an MoU and addendum, under which the Kandla SEZ business was allegedly agreed to be transferred to them. They argued that inclusion of these assets violated Sections 18 and 36(4) of the IBC and breached principles of natural justice.

The Resolution Professional objected, pointing out that the applicants were neither financial nor operational creditors, and that the MoU was unregistered, lacked board approval, and was never disclosed to statutory authorities. The NCLT agreed, holding that:

- a) Private arrangements not executed in compliance with the Companies Act, 2013, Stamp Act, or Income Tax Act cannot bind creditors.
- b) Under the IBC framework, CIRP is creditor-driven, and only recognised creditors and stakeholders have standing.
- c) Shareholders and guarantors cannot derail CIRP proceedings, though creditors remain free to enforce guarantees separately.

The application was dismissed, reinforcing that IBC proceedings cannot be obstructed by unregistered private agreements.

Case: Dr. Badri Prasad & Ors. v. Alok Kumar Agarwal, RP of Furnace Fabrica (India) Ltd. & Ors.

Case No.: IA(IBC)/93/KOB/2024 IN CP(IBC)/14/KOB/2023



Akshita Aggarwal

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