

LEXPORT NEWSLETTER

JANUARY 2026 | WEEK 4

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

Supreme Court: Booking International Speakers Not “Event Management Service”, No Service Tax Payable

Case Title: HT MEDIA LIMITED VERSUS PRINCIPAL COMMISSIONER DELHI SOUTH GOODS AND SERVICE TAX

Citation : 2026 LiveLaw (SC) 55

The Supreme Court of India has held that fees paid to international booking agencies for securing high-profile speakers do not attract Service Tax under the definition of “Event Management Service”.

A Bench comprising Justice J.B. Pardiwala and Justice K.V. Viswanathan set aside the order of Customs, Excise and Service Tax Appellate Tribunal, which had upheld a service tax demand of over ₹60 lakh against HT Media Limited.

The dispute related to payments made by HT Media to international lecture booking agencies for securing speakers such as Tony Blair, Al Gore, and Jerry Linenger for its annual Hindustan Times Leadership Summit during 2009–2012.

Rejecting the Revenue’s contention, the Court held that the contracts were limited to booking speakers and did not involve planning, promotion, organisation, or conduct of the event. Mere participation of speakers, or facilitation of their participation by agents, cannot be equated with “event management”.

Accordingly, the Court ruled that such services fall outside the scope of taxable “event management services” under the Finance Act, 1994, and allowed HT Media’s appeal, quashing the service tax demand.

Supreme Court Clarifies Scope of ‘Event Management Service’ Under Service Tax



In HT Media Ltd V. PGST Delhi South, the Supreme Court Held that Payments Made to International Agencies Solely for Securing Speakers Cannot Be Taxed as Event Management Services.

The Court Emphasised that Absence of Planning, Promotion, Organisation or Execution of Events Excludes Such Services From Tax Liability, Thereby Quashing a ₹60+ Lakh Demand.

Case Title: HT MEDIA LIMITED VERSUS PRINCIPAL COMMISSIONER DELHI SOUTH GOODS AND SERVICE TAX
Citation : 2026 LiveLaw (SC) 55

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Indirect Tax

Delhi High Court Slams Repeated Reopening Of NDTV Founders' Tax Assessment As Harassment

Case Title: Radhika Roy v. Deputy Commissioner of Income Tax

Case Number: W.P.(C) 10527/2017

The Delhi High Court has held that repeatedly reopening income tax assessments against NDTV founders Radhika Roy and Prannoy Roy for the same assessment year amounts to “unnecessary harassment” and violates constitutional guarantees.

A Division Bench of Justice Dinesh Mehta and Justice Vinod Kumar was dealing with reassessment proceedings for Assessment Year 2009–10. The Court noted that the Income Tax Department had already reopened the assessment once in 2011, examined transactions relating to NDTV shares and interest-free loans from RRRP Holding Pvt. Ltd., and completed reassessment in March 2013 without making any additions.

Despite this, fresh notices were issued nearly three years later seeking to tax notional interest on the very same loans under a different provision. Accepting the Roys’ contention that this was a mere change of opinion, the Court held that settled assessments cannot be reopened repeatedly by recharacterising the same transaction.

Rejecting the plea of extended limitation, the Bench observed that all material facts were already disclosed and examined earlier. It termed the second reopening “arbitrary, unconstitutional and without jurisdiction,” holding it violative of Articles 14, 19(1)(g) and 300A of the Constitution.

Accordingly, the reassessment notices were quashed and token costs of ₹1 lakh each were imposed on the Income Tax Department.

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Interpreting India
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Constitutional Limits Reaffirmed by Delhi HC**

- Delhi High Court Held that Repeated Reopening of the Same Assessment Year in Respect of the NDTV Founders Amounts to Unnecessary Harassment.
- The Court Found the Second Notice was Based on a Mere Change of Opinion, Not New Material.
- Transactions had Already Been Fully Disclosed, Examined and Accepted in the Earlier Reassessment.
- Recharacterising the Same Loans Under a Different Provision was Held Without Jurisdiction.
- The Action was Declared Arbitrary and Unconstitutional, Violating Articles 14, 19(1)(g) and 300A.

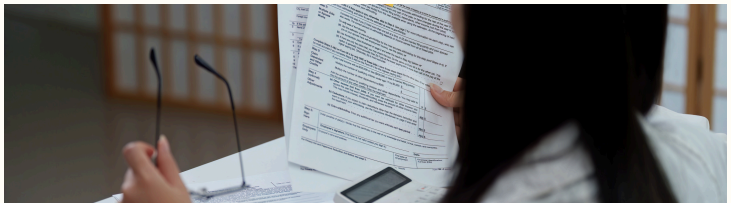
Case Title: Radhika Roy v. Deputy Commissioner of Income Tax
Case Number: W.P.(C) 10527/2017

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Indirect Tax

GSTAT Appeal Maintainable On Pre-Deposit Once Tribunal Is Functional: Orissa High Court

KUMAR DAS Versus JOINT COMMISSIONER OF STATE TAX, CT & GST

38 CENTAX 147 (ORI.) [15-12-2025]

The Orissa High Court held that once the Goods and Services Tax Appellate Tribunal (GSTAT) has been constituted and made functional, a writ petition challenging an appellate order under GST is not maintainable. The assessee must avail the statutory remedy under Section 112 of the CGST Act after complying with the mandatory pre-deposit requirement.

The Court noted that Notification dated 17.09.2025 has operationalised GSTAT and extended timelines for filing second appeals in a staggered manner. Merely because the Tribunal was earlier non-functional does not absolve an assessee from compliance with Section 112(8), which mandates payment of admitted dues and 10% of the disputed tax (subject to the statutory cap).

The High Court disposed of the writ petition, directing the assessee to make the prescribed pre-deposit and file the appeal before GSTAT within the notified timeline. It clarified that writ jurisdiction cannot be used to bypass statutory appellate conditions once the forum becomes available.

Held in favour of Revenue

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Quick Bites

GSTAT Is Live: Writ Route Closed, Pre-Deposit Mandatory



- Orissa High Court Clarifies: Once GSTAT Becomes Functional, Writ Petitions Challenging GST Appellate Orders are Not Maintainable
- Mandatory Route: Assessee Must File Appeals Under Section 112 of the CGST Act
- No Exemption for Past Delay: Earlier Non-Functionality of GSTAT Does Not Waive Compliance
- Writ Jurisdiction Cannot Be Used to Bypass Statutory Appellate Conditions
- Held In Favour of Revenue

Case Title: KUMAR DAS Versus JOINT COMMISSIONER OF STATE TAX, CT & GST 38 CENTAX 147 (ORI.) [15-12-2025]

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Indirect Tax

Delhi High Court: No Interference At SCN Stage In Excess Stock Confiscation Case; Time-Bound Adjudication Directed

CASE TITLE: PHX ELECTRONICS PVT. LTD. Versus COMMISSIONER CGST AND CENTRAL EXCISE, DELHI EAST COMMISSIONERATE

Citation: (2026) 38 Centax 188 (Del.)

The Delhi High Court declined to interfere with a show cause notice proposing confiscation of excess stock of televisions and motherboards seized during a DGGI search, holding that merits cannot be examined at the SCN stage. However, procedural relief was granted to ensure fair adjudication.

The Court noted confusion regarding the proper jurisdiction for adjudication, with the SCN made answerable to one division while correspondence suggested another. As no reply had been filed by the petitioner due to this ambiguity, the Court permitted the assessee to file a reply within a fixed timeline. The Department agreed to complete adjudication in a time-bound manner and to grant a personal hearing.

Importantly, the Court flagged an incongruity in the GST framework concerning provisional release of seized goods. While Section 67(6) of the CGST Act permits provisional release on bond and security, Rule 140 effectively requires payment of tax, interest, and penalty, offering limited flexibility. The Court directed that this issue be placed before the GST Council for a policy decision.

The petition was disposed of with directions to conclude adjudication within stipulated timelines, leaving all merits open.

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Delhi HC Flags Conflict in GST Provisional Release Framework



The Delhi High Court Refused to Interfere at the Show Cause Notice Stage in an Excess Stock Confiscation Case But Ensured Time-Bound Adjudication and Fair Hearing.

The Court Highlighted a Key Legal Inconsistency:

- Section 67(6) Allows Provisional Release on Bond & Security
- Rule 140 Mandates Payment of Tax, Interest & Penalty

The Issue Was Directed to Be Placed Before the GST Council for Policy Review – Reinforcing the Need for Clarity and Fairness in GST Enforcement.

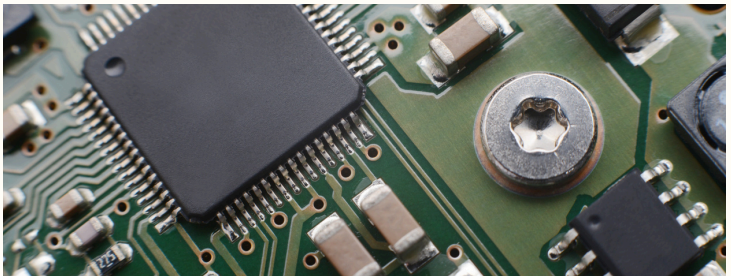
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Intellectual Property Rights

Hon'ble Delhi High Court Restrains Confusing Trade Dress Use in "DUNIYADARI" News Programme Dispute

The Hon'ble Delhi High Court considered Living Media's claim of trademark infringement and passing off against Zee over the use of "DUNIYADARI" for a regional news programme. The Plaintiff relied on its registered composite device mark used since 2020, alleging that Zee's programme adopted a deceptively similar label, colour scheme, globe-and-sky background, and overall presentation. The Hon'ble Court held that "DUNIYADARI" is a suggestive, non-distinctive word that has not acquired secondary meaning, and therefore cannot be monopolised as a standalone term. However, viewing the marks as a whole, the Hon'ble Court found the impugned label deceptively similar and likely to confuse viewers, given identical services, audience, and trade channels. The Defendant's adoption was seen as coming too close to the Plaintiff's trade dress. Accordingly, Zee was restrained from using the impugned mark in a confusingly similar manner. At the same time, the Hon'ble Court clarified that Zee may continue to use the word "DUNIYADARI" provided it is presented in a clearly distinct manner without copying the Plaintiff's visual elements. [Living Media India Limited vs Zee Media Corporation Limited (CS(COMM) 826/2025)]

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Delhi HC: You Can Use the Word Not the Look



- Delhi High Court Held that "DUNIYADARI" is a Suggestive, Non-Distinctive Term and Cannot Be Monopolised as a Standalone Word
- However, When Viewed as a Whole, Zee's Label, Colour Scheme, Globe-And-Sky Background and Overall Presentation Were Found Deceptively Similar
- Identical Services, Audience and Trade Channels Increased the Risk of Viewer Confusion
- Court Restrained Zee From Using the Mark in a Confusingly Similar Trade Dress
- At The Same Time, It Clarified that Zee May Use the Word "DUNIYADARI" – If Presented in a Clearly Distinct Visual Manner

Case Title: Living Media India Limited vs Zee Media Corporation Limited (CS(COMM) 826/2025)

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**Ananya Singh**

Intellectual Property Rights

Hon'ble Delhi High Court Denied Interim Injunction in 'TIGER GOLD BRAND' vs 'TIGER PREMIUM BRAND' Trademark Dispute

The Plaintiff sought interim relief alleging infringement and passing off of its mark TIGER GOLD BRAND against the Defendant's use of TIGER PREMIUM BRAND for agricultural implements. The Hon'ble Court held that the words "TIGER" and "BRAND" are generic, publici juris, and common to trade, conferring no exclusive rights on the Plaintiff. In the absence of a registered word mark or proof of secondary meaning, the Plaintiff could not monopolise these elements. Applying the anti-dissection rule, the Hon'ble Court compared the rival marks as a whole. It found clear visual, structural, and colour differences between the competing marks and tiger devices. The addition of the word "PREMIUM" further distinguished the Defendant's mark. No likelihood of consumer confusion was established, even considering the relevant class of purchasers. The Plaintiff also failed to demonstrate goodwill, reputation, misrepresentation, or damage. Consequently, no prima facie case of infringement or passing off was made out. The interim injunction application was accordingly dismissed. [Mayank Jain, Proprietor Of Mahaveer vs M/S Atulya Discs Pvt. Ltd. & Ors (CS(COMM) 412/2025)]

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Generic Words Can't Be Owned: Delhi HC Denies Injunction in 'TIGER' Trademark Dispute



- Delhi High Court Held that "TIGER" and "BRAND" are Generic, Publici Juris and Common to Trade, Conferring No Exclusive Rights
- In the Absence of a Registered Word Mark or Secondary Meaning, the Plaintiff Could Not Monopolise These Elements
- Applying the Anti-Dissection Rule, the Court Compared the Marks as a Whole, Not in Parts
- Found Clear Visual, Structural and Colour Differences, Including Distinct Tiger Devices
- The Addition of "PREMIUM" Further Distinguished the Defendant's Mark
- No Likelihood of Confusion, Goodwill, Misrepresentation or Damage Was Established
- Result: No Prima Facie Case -- Interim Injunction Dismissed.

Cause Title: Mayank Jain, Proprietor of Mahaveer vs M/S Atulya Discs Pvt. Ltd. & Ors (CS(COMM) 412/2025)

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**Ananya Singh**

Intellectual Property Rights

Delhi High Court Reinforces Bar on Multiplicity of Suits under Order II Rule 2 CPC

In a significant judgment dated 24 November 2025, the Delhi High Court in *Castrol Limited v. Sanjay Sonavane & Ors.* (CS(COMM) 946/2025) has reiterated the strict application of Order II Rule 2 of the Code of Civil Procedure, 1908, particularly in high-stakes commercial and IP litigation. Castrol approached the Court seeking reliefs against alleged commercial disparagement, trademark infringement, and tarnishment arising from media reports and online content following search and seizure proceedings at its distributor's premises. However, the Court noted that Castrol had already filed an earlier suit (CS(COMM) 855/2025) based on the same foundational events—namely the raid, FIR, media coverage, and YouTube videos—yet consciously chose not to seek take-down or disparagement-related reliefs at that stage.

Justice Tejas Karia held that merely adding new defendants or seeking additional reliefs does not create a fresh cause of action when the underlying facts were already known and pleaded in the earlier suit. The Court emphasized that Order II Rule 2 is designed to prevent plaintiffs from splitting claims and initiating multiple proceedings arising from the same cause of action, which would otherwise lead to multiplicity of litigation and abuse of process.

Importantly, the Court rejected the argument that subsequent circulation of the same media content constituted a new or continuous cause of action. It clarified that continuous effects flowing from the same transaction cannot be used to bypass the statutory bar. The appropriate course, the Court observed, was to seek amendment of the first suit to bring subsequent developments and parties on record.

The plaint was accordingly dismissed as barred under Order II Rule 2 CPC, while granting liberty to Castrol to amend the earlier pending suit in accordance with law.



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Order II Rule 2 CPC – No Splitting of Claims



The Delhi High Court Reaffirmed that Plaintiffs Cannot Split Claims Arising From the Same Cause of Action Into Multiple Suits. Adding New Parties or Seeking Fresh Reliefs Does Not Create a New Cause.

Under Order II Rule 2 CPC, The Correct Remedy is Amendment of Pleadings – Not Multiplicity of Litigation.

Case Title: The Delhi High Court in *Castrol Limited v. Sanjay Sonavane & Ors.* (CS(COMM) 946/2025)

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Swagita Pandey



Intellectual Property Rights

Delhi High Court Stays Cancellation of Composite Trademark

In an important interim order dated 20 November 2025, the Delhi High Court in *Sudeep Gupta v. Registrar of Trade Marks (C.A.(COMM.IPD-TM) 78/2025)* has stayed the cancellation of a registered trademark, reinforcing settled principles on the registrability of composite marks under the Trade Marks Act, 1999. The appeal arose from an order of the Trade Marks Registry cancelling the appellant's mark under Section 9(1)(b) of the Act, on the ground that the mark was descriptive in nature. The appellant challenged the cancellation under Section 91 of the Act, contending that the mark was a composite mark, used continuously since 2020, supported by user affidavits, invoices, and evidence of market recognition.

Justice Tejas Karia found merit in the appellant's submissions and relied on the Delhi High Court's earlier ruling in *Abu Dhabi Global Market v. Registrar of Trade Marks*, which clearly held that Section 9(1)(b) applies only where a mark consists "exclusively" of descriptive elements. Composite marks, by their very nature, fall outside this prohibition. The Court reiterated that the "dominant part" test has no application at the stage of examining registrability under Section 9(1)(b).

Applying the settled principles, the Court held that a prima facie case was made out in favour of the appellant. The balance of convenience was also found to lie with the appellant, given the long-standing use and existing registration of the mark. The Court further noted that refusal of interim protection would cause irreparable harm to the brand owner.

Accordingly, the operation of the cancellation order was stayed during the pendency of the appeal.



Composite Trademarks Get Interim Shield from Delhi HC



The Delhi High Court Stayed the Cancellation of a Registered Trademark, Holding that Section 9(1)(B) Applies Only When a Mark Consists Exclusively of Descriptive Elements.

Composite Marks, By Their Nature, Fall Outside This Bar and The Dominant Part Test is Irrelevant at the Registrability Stage. Long-Standing Use and Market Recognition Tilted the Balance in Favour of the Brand Owner.

Case Title: The Delhi High Court in *Sudeep Gupta v. Registrar of Trade Marks (C.A.(COMM.IPD-TM) 78/2025)*

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Swagita Pandey



Intellectual Property Rights

Netflix–Warner Bros. Discovery Deal Restructured: Key Takeaways from the Amended Merger Filing

Netflix's latest Form 8-K filing dated 19 January 2026 marks a significant development in one of the most closely watched media transactions in recent years. Through an amended and restated merger agreement with Warner Bros. Discovery (WBD), Netflix has restructured the deal to simplify consideration and execution. The most notable change is that WBD shareholders will now receive \$27.75 per share entirely in cash, replacing the earlier mix of cash and Netflix stock. This move reduces valuation uncertainty for shareholders and signals Netflix's confidence in financing a large, all-cash transaction. To support this structure, Netflix expanded its bridge financing commitments from USD 34 billion to approximately USD 42.2 billion.

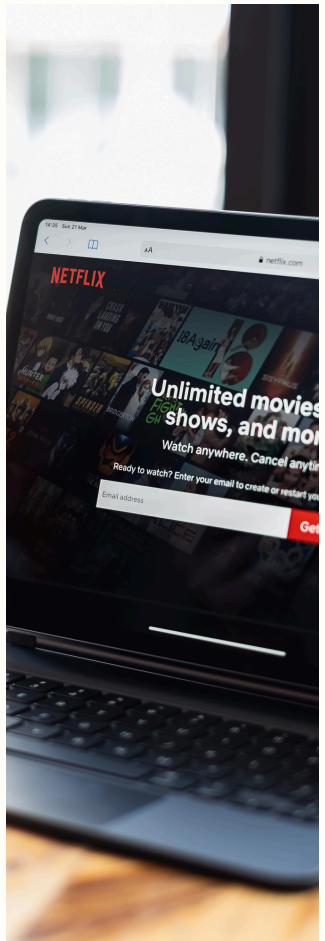
The transaction architecture remains complex but strategic. Prior to the merger, WBD will undertake a separation and distribution of its Global Linear Networks business into a new entity (SpinCo), which will be distributed to WBD shareholders. Netflix will acquire the remaining Streaming and Studios businesses, consolidating premium content, IP, and distribution capabilities under one roof.

From a governance and risk perspective, the amended agreement retains customary protections—no-shop provisions, termination rights, and significant break fees. Notably, WBD may be required to pay a termination fee of USD 2.8 billion in certain scenarios, while Netflix's reverse termination fee can reach USD 5.8 billion if regulatory approvals fail. These provisions highlight the regulatory and antitrust sensitivity surrounding mega-mergers in the media and entertainment space.

For the industry, this filing underscores a clear trend: scale, content ownership, and financial certainty are becoming decisive factors in global streaming competition. For legal and transactional professionals, it is also a textbook example of how deal structures evolve post-announcement to address market realities, shareholder expectations, and execution risk.



Swagita Pandey



Intellectual Property Rights

Delhi High Court Grants Injunction Against Lookalike “HAMMER” Marks in Ayurvedic Products Dispute

The Delhi High Court granted an ad interim injunction in favour of Anurag Saxena, restraining multiple defendants from using deceptively similar “HAMMER” marks for ayurvedic and medicinal products. The plaintiff, a prior user and registered proprietor of marks such as “HAMMER OF THOR” and related artistic works, established continuous use since 2013, supported by registrations, copyright ownership, and consistent enforcement actions. The Court found that the defendants had adopted marks like “D’ HAMMER THOR” and “HERBAL OF HAMMER” much later and had attempted to secure registrations that were eventually abandoned. On a comparison of the marks, packaging, artwork, and goods, the Court held that the similarities were sufficient to cause consumer confusion and amounted to trademark infringement and passing off. The defendants were found to be targeting the same consumer base through identical trade channels, including online marketplaces. Holding that the balance of convenience favoured the plaintiff and that irreparable harm would be caused if relief were denied, the Court restrained the defendants from using the impugned marks. E commerce platforms were also directed to take down infringing listings and disclose sales details.

[Anurag Saxena v Nishant Singh & Ors., CS(COMM) 14/2026]

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Prior Use Strikes First



- Delhi High Court Granted an Ad Interim Injunction Against Look-Alike “HAMMER” Marks
- Plaintiff Established Prior and Continuous use Since 2013
- Later Adopters’ Marks Were Held Deceptively Similar, Causing Consumer Confusion
- Use of Infringing Marks and Online Listings Restrained and Taken Down

Cause Title: Anurag Saxena v Nishant Singh & Ors., CS(COMM) 14/2026

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Anushka Tripathi



Intellectual Property Rights

Bombay High Court Injuncts Use of “Siyaram” by Stanford Siyaram Fashion Private Limited from using Well Known Textile Mark

The Bombay High Court granted interim injunctive relief in favour of Siyaram Silk Mills Ltd, restraining Stanford Siyaram Fashion Private Limited from using “Siyaram” as part of its corporate name or in relation to textile goods. The Court held that Siyaram is a long standing and well known trademark in the textile industry, with registrations dating back to the 1980s and extensive goodwill built through decades of continuous use. The Court rejected the defendants’ claim of prior use through a family business, noting the absence of any assignment of the mark or transfer of goodwill. The Court found that the defendants were fully aware of the plaintiff’s reputation and had dishonestly adopted the mark to trade on its goodwill. The plea that “Siyaram” is the name of a Hindu deity was also rejected, with the Court holding that names of deities are capable of acquiring distinctiveness and statutory protection through use. Finding a strong prima facie case, likelihood of confusion, and irreparable harm, the Court allowed the notice of motion and restrained the defendants from further use of the mark.

[Siyaram Silk Mills Ltd v Stanford Siyaram Fashion Private Limited & Ors., Notice of Motion No. 22 of 2013 in Commercial IP Suit No. 23 of 2008]

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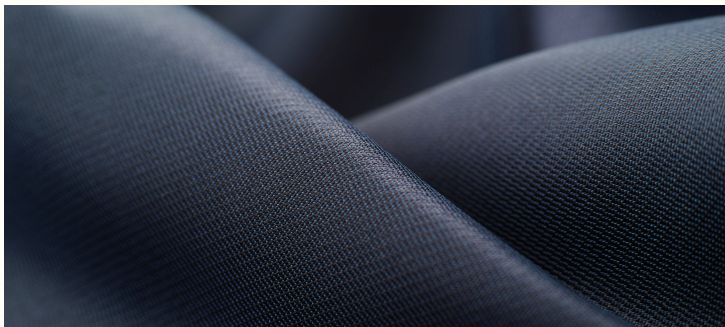
Legacy Brands Can't Be Imitated




- Bombay High Court Granted Interim Injunction Protecting the Well-Known Mark SIYARAM
- The Mark has Been in Continuous use Since the 1980s, With Extensive Goodwill
- Defendants' Adoption Was Held Dishonest and Intended to Ride on Reputation
- Use of SIYARAM in Corporate Name and Textile Goods Restrained

Case Title: Siyaram Silk Mills Ltd v Stanford Siyaram Fashion Private Limited & Ors., Notice of Motion No. 22 of 2013 in Commercial IP Suit No. 23 of 2008

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www.lexport.in**Anushka Tripathi**

Litigation



Quick Bites

Registered Sale Deeds Are Not Sham



The Supreme Court Reaffirmed That A Registered Sale Deed Carries A Strong Presumption Of Validity. In The Absence Of Clear Pleadings And Cogent Evidence, Such Documents Cannot Be Recharacterised As Mortgage Through Afterthought Claims Or Informal Assertions.

HEMALATHA (D) BY LRS. VERSUS TUKARAM (D) BY LRS. & ORS.,
CIVILAPPEAL NO. 6640 OF 2010

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Registered Sale Deed Cannot Be Lightly Treated as Sham

The Supreme Court of India held that a registered sale deed carries a strong presumption of validity and cannot be lightly declared a sham. A Bench of Justices Rajesh Bindal and Manmohan ruled that registration is a solemn act imparting sanctity to a document. In this case, the respondent, after executing a registered sale deed and rent agreement and paying rent, later claimed the transaction was a mortgage. While the High Court accepted this plea, the Supreme Court reversed it, holding that clear recitals and registered instruments, absent cogent pleadings and evidence, must be treated as genuine.

HEMALATHA (D) BY LRS. VERSUS TUKARAM (D) BY LRS. & ORS., CIVILAPPEAL NO. 6640 OF 2010



Ananya Jain

NCLT Cannot Decide IP Title Disputes Beyond IBC Scope

The Supreme Court of India held that the National Company Law Tribunal lacks jurisdiction under Section 60(5) of the Insolvency and Bankruptcy Code to adjudicate disputed questions of title over intellectual property unless such disputes have a direct and proximate nexus with the insolvency resolution process. The Court held that determining ownership of the “Gloster” trademark was beyond the CIRP’s scope. Relying on Gujarat Urja Vikas Nigam Ltd. v. Amit Gupta, it clarified that approved resolution plans are binding and cannot be modified by NCLT through collateral adjudication.

GLOSTER CABLES LTD. THROUGH ITS :
AUTHORISED REPRESENTATIVE MR. SHYAM
SUNDER KALYA VS. FORT GLOSTER
INDUSTRIES LTD. (WITH CONNECTED
MATTER), CIVIL APPEAL NO. 2996 OF 2024



Ananya Jain



Quick Bites

NCLT Cannot Decide IP Ownership Beyond IBC Scope



- Supreme Court Limits NCLT Jurisdiction Under Section 60(5) of the IBC
- Disputes Over IP Title, Like Trademarks, Must Have a Direct Nexus With Insolvency Proceedings
- Determining Ownership of the “Gloster” Trademark Was Outside the CIRP Scope
- Approved Resolution Plans are Binding and Cannot be Altered Through Collateral Claims

Cause Title: GLOSTER CABLES LTD. THROUGH ITS : AUTHORISED REPRESENTATIVE MR. SHYAM SUNDER KALYA VS. FORT GLOSTER INDUSTRIES LTD. (WITH CONNECTED MATTER), CIVIL APPEAL NO. 2996 OF 2024

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Litigation

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Procedure First. Relief Later.



The Calcutta High Court Held that Dismissal of a Suit is Not the Same as Referring Parties to Arbitration. Relief Under Section 8 of the Arbitration Act Requires Strict Statutory Compliance, Including a Separate Application With a Specific Prayer for Arbitration Reference.

A Missing Procedural Step Cannot Be Cured By Liberal Interpretation – Procedure is the Mandate of Law, Not a Technicality.

Case Title: Jagannath Heights Pvt Ltd Vs. M/s. Sammaan Capital Limited, IA No. GA-COM/1/2025 In CS-COM/801/2024

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Jagannath Heights Pvt Ltd Vs. M/s. Sammaan Capital Limited, IA No. GA-COM/1/2025 In CS-COM/801/2024

The Hon'ble Calcutta High Court held that Section 8 of the Arbitration Act requires strict compliance with its statutory procedure and that dismissal of a plaint is not equivalent to referring parties to arbitration. Applying the principle that where a statute prescribes a manner of doing an act it must be done in that manner alone, the Court found that the defendant's application lacking a specific prayer for reference to arbitration was procedurally deficient. Although the defendant had not waived its right by filing the application before the reply, liberal construction could not cure the defect as it would defeat the legislative intent. The Bench affirmed that Section 8 relief must be sought through a separate application with a specific prayer, irrespective of pleadings in the written statement.



Shyam Kishor Maurya

Javari Vs. State of Rajasthan and Others, 2025: RJ-JD: 55053

The Hon'ble Rajasthan High Court held that the Rajasthan Housing Board could cancel an auction under Clause 13 only if fair and competitive bids were not received and that such power was conditional, not absolute. It found that no contemporaneous finding of unfairness or lack of competitiveness had been recorded and that post-facto subjective assertions could not justify cancellation. The impugned orders lacked reasons, reflected non-application of mind, and constituted arbitrary exercise of discretion contrary to the rule of law, under which reasons are essential to ensure accountability. The Court emphasized that administrative discretion is not monarchical but must be exercised cautiously and judiciously. The petitions were allowed and the State was directed to restore the allotments.



Shyam Kishor Maurya

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Administrative Power Is Not Monarchical



The Rajasthan High Court Held that Auction Cancellation Powers are Conditional, Not Absolute. Authorities cannot Rely on Post-Facto Justifications or Subjective Satisfaction Without Recording Contemporaneous Reasons.

Administrative Discretion is Not Monarchical – It Must Operate Within the Discipline of Fairness, Accountability and the Rule of Law.

Javari Vs. State of Rajasthan and Others, 2025: RJ-JD: 55053

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Corporate

RWAs and Homebuyers' Societies Cannot Intervene in Insolvency Proceedings Against Builders: Supreme Court

The Supreme Court has held that Resident Welfare Associations (RWAs) or homebuyers' societies cannot intervene in insolvency proceedings initiated against a builder under Section 7 of the Insolvency and Bankruptcy Code, 2016, unless the association itself qualifies as a financial creditor or is directly a party to the underlying financial transaction.

The ruling was delivered on January 15, 2026, by a bench comprising Justices J.B. Pardiwala and R. Mahadevan while dismissing an appeal filed by a homebuyers' society seeking to intervene in insolvency proceedings initiated by a financial creditor.

The case arose from insolvency proceedings commenced by Edelweiss Asset Reconstruction Company against Takshashila Heights India Pvt. Ltd., the developer of the "Takshashila Elegna" project in Ahmedabad. The appellant, Elegna Co-operative Housing and Commercial Society Ltd., representing unit holders of a completed tower, sought to intervene in the proceedings to safeguard the interests of its members. The NCLAT rejected the intervention application on the ground of lack of locus standi, which was subsequently challenged before the Supreme Court.

Upholding the NCLAT's decision, the Court clarified that proceedings under Section 7 of the IBC are strictly bipartite at the admission stage and are confined to the financial creditor and the corporate debtor. The adjudicating authority's role at this stage is limited to determining the existence of a financial debt and default.

The Court further held that RWAs cannot claim the status of a financial creditor merely by representing homebuyers, particularly where they are not parties to the financial transaction and lack statutory authorisation to represent allottees under the IBC. In the absence of a foundational right to participate before the NCLT, no vested right to be heard at the appellate stage can be claimed.

Case Title: Elegna Co-operative Housing and Commercial Society Ltd. vs. Edelweiss Asset Reconstruction Company and connected matters_

Citation: 2026 LiveLaw (SC) 51



Akshita Agarwal



Quick Bites

RWAs Cannot Intervene in Builder Insolvency Proceedings: SC



- Supreme Court Clarifies: Insolvency Proceedings Under Section 7 IBC are Strictly Bipartite at the Admission Stage
- Only Two Parties Permitted: Financial Creditor & Corporate Debtor
- RWAs and Homebuyers' Societies Lack Locus Unless they Qualify as Financial Creditors
- Representation Alone Does Not Confer Intervention Rights
- Writ of Participation Cannot Bypass Statutory Limits

Case Title: Elegna Co-operative Housing and Commercial Society Ltd. vs. Edelweiss Asset Reconstruction Company and connected matters

Citation: 2026 LiveLaw (SC) 51

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SEBI Notifies Mutual Fund Regulations, 2026 to Strengthen Investor Protection and Governance

The Securities and Exchange Board of India (SEBI) has notified the SEBI (Mutual Fund) Regulations, 2026 on January 14, 2026, marking a significant overhaul of the regulatory framework governing India's mutual fund industry. Published in the Gazette of India, the regulations will come into force from April 1, 2026, providing market participants a transition period to align with the new compliance regime.

Issued under Sections 11(2)(c) and 30 of the SEBI Act, 1992, the regulations consolidate and modernise provisions applicable to mutual funds, asset management companies, trustees, sponsors, and other stakeholders. The move reflects SEBI's continued emphasis on investor protection, transparency, and robust governance amid the growing size and complexity of the mutual fund ecosystem.

Chapter I of the regulations lays down preliminary provisions, including applicability and definitions, which form the foundation for regulatory interpretation. Key terms such as "accredited investor," "advertisement," and "associate" have been clearly defined and aligned with existing SEBI frameworks to ensure consistency across regulatory regimes. Notably, the definition of an accredited investor draws from SEBI's Alternative Investment Fund regulations, while the scope of advertisements has been clarified to curb mis-selling and ensure responsible communication by fund houses.

The regulations also place strong emphasis on identifying and regulating relationships that may give rise to conflicts of interest. By adopting an expansive definition of associates, covering direct and indirect control, common directorships, and employment relationships, SEBI seeks to enhance disclosures and accountability within complex group structures.

Overall, the Mutual Fund Regulations, 2026 signal a forward-looking regulatory shift aimed at building a transparent, disciplined, and investor-centric mutual fund industry. Further chapters are expected to introduce detailed norms on disclosures, risk management, and compliance.



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Quick Bites

SEBI Rewrites the Rulebook for Mutual Funds

SEBI has Unveiled the Mutual Fund Regulations, 2026, ushering in a Stronger Framework for Investor Protection, Transparency, and Governance.

Effective From 1 April 2026, the New Rules Aim to Modernise Compliance, Curb Mis-Selling and Enhance Accountability Across the Mutual Fund Ecosystem.

A Decisive Step Towards Trust, Discipline & Investor Confidence.

Notification F. No. SEBI/LAD-NRO/GN/2026/294, Dated: 14.01.2026

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Pleadings Are Not Defamation, Says Delhi High Court



The Delhi High Court Held that Statements Made in Judicial Pleadings to Prosecute or Defend a Case Do Not Amount to Criminal Defamation.

If Pleadings Contain False Statements, the Remedy Lies in Perjury Proceedings – Not Defamation Complaints. Treating Court Pleadings as Defamatory Would Chill Access to Justice And Restrict a Litigant's Right to Freely Present their Case.

Cause Title: Harkirat Singh Sodhi v. State of NCT of Delhi & Anr.

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The Delhi High Court held that statements made in pleadings to prosecute or defend a case do not amount to defamation. If such statements are alleged to be false, the proper remedy lies in perjury proceedings, not a separate criminal complaint for defamation.

Justice Neena Bansal Krishna observed that averments in judicial proceedings are made to assert a party's case and, even if unsuccessful, cannot be presumed to be intended to harm the other party's reputation. Treating pleadings as defamatory would chill a litigant's right to freely approach the court and present their case.

Setting aside the summoning order in a defamation complaint arising from allegations made in pending testamentary proceedings, the Court held that there was no public circulation or reputational harm shown, and the allegations were part of a legitimate defence.

Case: Harkirat Singh Sodhi v. State of NCT of Delhi & Anr.

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The Delhi High Court held that shortage of attendance cannot be a ground to detain law students from appearing in examinations or continuing their academic progression.

Relying on the binding precedent in *Sushant Rohilla v. Law Student of I.P. University*, Justice Jasmeet Singh ruled that attendance shortfall alone is impermissible for detention. Consequently, all consequential benefits must follow, including declaration of results, promotion, permission to attend classes, and conferment of the LL.B. degree. The Court also held that student undertakings cannot override settled law.

The University of Delhi was directed to declare results kept in sealed cover within two weeks.

Case: *Ms. Muskaan Aamir v. Union of India & Anr.*



Siddharth Dewalwar

The Supreme Court held that a promoter's obligation to arrange infusion of funds to help a borrower meet financial covenants does not constitute a guarantee under Section 126 of the Indian Contract Act. Such an obligation merely facilitates compliance and is not a promise to discharge the borrower's debt on default.

The Court clarified that a valid guarantee requires a clear and direct undertaking by the surety to pay the creditor upon default. A "see-to-it" obligation to enable performance does not qualify. It further held that approval of an IBC resolution plan does not automatically extinguish claims against third-party sureties or security providers, unless the plan expressly provides so.

On facts, *Electrosteel Castings Ltd.* was found not to be a guarantor, having only undertaken fund infusion for *Electrosteel Ltd.* Consequently, no financial debt was enforceable against it under Section 7 of the IBC.

Case: *UV Asset Reconstruction Co. Ltd. v. Electrosteel Castings Ltd.*

Citation: 2026 LiveLaw (SC) 33



Siddharth Dewalwar



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

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

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

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