

LEXPORT NEWSLETTER

MAY 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 Upholds 28% GST on Online Gaming

In a landmark judgment delivered on May 26, 2026, the Supreme Court of India upheld the government's levy of 28% GST on online gaming activities, classifying them as "betting and gambling". The Court rejected challenges from the gaming industry and validated approximately ₹1.12 lakh crore in show cause notices issued to 71 gaming companies. Key Takeaways: i) GST on actionable claims from online gaming is constitutionally valid. ii) The tax applies to the full face value of bets in online gaming iii) Authorities can proceed with processing existing GST notices; companies must now respond. iv) This ruling brings legal clarity but significantly increases the tax burden on India's online gaming sector This is a watershed moment for India's digital gaming industry, which has been fighting the retrospective application of the 28% GST rate. The decision effectively settles the constitutional question and allows tax authorities to move forward with recovery proceedings.



Soumya Shrivastava



Quick Bites

Supreme Court Upholds 28% GST on Online Gaming



The Supreme Court upheld the levy of 28% GST on online gaming, classifying it as betting and gambling. The tax will apply on the full face value of bets, paving the way for authorities to proceed with pending GST demands.

CASE TITLE: Gameskraft Technologies Pvt. Ltd. & Ors. v Directorate General of GST Intelligence & Ors., Supreme Court of India, decided on 26 May 2026.

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Indirect Tax

Samarpan Jain v. State of U.P. & Ors.

In a significant judgment delivered on May 21, 2026, the Allahabad HC held that an advocate cannot be prosecuted for criminal conspiracy merely for filing a statutory GST appeal and advising on the mode of pre-deposit in discharge of professional duties. The Court quashed the FIR, charge-sheet and cognizance order initiated against the advocate. Key Takeaways:

i) Acts performed by an advocate while representing a client in legal proceedings constitute professional acts and cannot, by themselves, attract criminal conspiracy charges. ii) Filing a statutory appeal based on a particular interpretation of GST law, even if disputed by authorities, does not make the advocate a conspirator in the client's business activities. iii) The Court emphasized that prosecuting advocates for professional decisions would undermine the independence of the Bar and the constitutional right to legal assistance under Articles 14 and 21. iv) The FIR, police report and cognizance order against the advocate were quashed as an abuse of criminal process. This ruling is an important reaffirmation of the independence of the legal profession and provides significant protection to advocates acting bona fide in the course of professional representation.



Soumya Shrivastava

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Professional Representation Is Not Criminal Conspiracy

The Allahabad High Court held that advocates cannot face criminal conspiracy charges for bona fide professional acts such as filing statutory appeals or providing legal advice. Protecting the independence of the Bar, the Court quashed the proceedings as an abuse of criminal process.

Case Title: Samarpan Jain v. State of U.P. & 2 Others, Criminal Misc. Writ Petition No. 23443 of 2025, decided on 21 May 2026 (Allahabad High Court, per JJ. Munir and Tarun Saxena, JJ.)

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Indirect Tax

M/s The Hyderabad Co-Operative Association Ltd v. The Assistant Commissioner ST & Ors.

In a significant judgment delivered on May 6, 2026, the Andhra Pradesh High Court held that an unsigned GST assessment order issued in FORM GST DRC-07 is invalid in law and cannot be treated as properly served under the GST regime. The Court set aside the assessment order and remanded the matter for fresh adjudication. Key Takeaways: i) An assessment order without either a digital or physical signature of the Assessing Officer is legally unsustainable. ii) The Court held that signature on an assessment order is mandatory and cannot be dispensed with under the CGST framework. iii) In terms of Rule 26(3) of the CGST Rules, 2017, an unsigned order does not amount to valid service; therefore, delay in filing the writ petition cannot be held against the assessee. iv) Since the penalty notice was based on the invalid assessment order, the Court held that no further purpose would be served by its continuance. This ruling reinforces the importance of procedural compliance under GST law and reiterates that unsigned assessment orders cannot create enforceable tax liabilities against taxpayers.



Soumya Shrivastava



Quick Bites

Unsigned GST Assessment Orders Have No Legal Validity



The Andhra Pradesh High Court held that a GST assessment order without a digital or physical signature is legally unsustainable. An unsigned order cannot be treated as validly served and cannot create enforceable tax liabilities under the GST framework.

CASE TITLE: M/s The Hyderabad Co-Operative Association Ltd. v. The Assistant Commissioner (ST) & Ors., Andhra Pradesh High Court, decided on 6 May 2026.

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Indirect Tax

M/s. Jothi Art Calendars v. Commissioner of Customs, Tuticorin

In a noteworthy judgment delivered on May 27, 2026, the CESTAT Chennai held that mere non-fulfilment of export obligation under the EPCG Scheme, without any allegation of diversion, misuse or wilful evasion, does not justify confiscation of goods or imposition of penalty once the differential duty and interest have been paid.

Key Takeaways:

- i) Upon payment of the entire differential duty along with applicable interest, the importer exits the EPCG Scheme and the imported goods cannot thereafter be confiscated under Section 111(o) of the Customs Act.
- ii) Mere failure to fulfil export obligation, in the absence of diversion or deliberate misuse of imported goods, does not automatically warrant penal consequences.
- iii) The Tribunal relied on the principle laid down in *Hindustan Steel Ltd. v. State of Orissa* that penalty should not be imposed for technical or venial breaches unless there is deliberate defiance of law or dishonest conduct.
- iv) The confiscation of goods, redemption fine and penalty imposed on the importer were set aside, as the duty demand had already been discharged with interest.

This ruling provides significant relief to EPCG licence holders by reiterating that bona fide business failures or adverse market conditions, without any fraudulent intent, should not attract harsh penal action under customs law.

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**CESTAT: Export Obligation Failure Alone
Does Not Justify Penalty**

EPCG License

⚠️ Export Obligation Not Met

✓ Duty Paid
✓ Interest Paid
✓ No Misuse

PENALTY

The Tribunal held that mere non-fulfilment of export obligation under the EPCG Scheme, without diversion, misuse, or fraudulent intent, cannot attract confiscation or penalty once the differential duty and interest have been paid. Bona fide business setbacks should not be treated as deliberate violations.

CASE TITLE: M/s. Jothi Art Calendars v. Commissioner of Customs, Tuticorin, CESTAT Chennai, decided on 27 May 2026.

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Indirect Tax

CENVAT Alstom T&D India Ltd. v. Commissioner of GST & Central Excise, Chennai

In a significant judgment delivered on May 27, 2026, the CESTAT Chennai held that CENVAT credit cannot be denied merely because input services are indirectly connected with business operations, so long as a real and sufficient nexus exists with the assessee's output activity and the services are not primarily for personal consumption.

Key Takeaways:

- i) Even after the 01.04.2011 amendment to Rule 2(1) of the CENVAT Credit Rules, credit remains available where the input service bears a real and sufficient nexus with business operations.
- ii) A strict one-to-one correlation between input services and output services is not required for availing CENVAT credit.
- iii) The burden lies on the Department to establish that the services lack business nexus or fall within the exclusion relating to personal use or consumption of employees.
- iv) The Tribunal observed that the assessee had already reversed credit relating to ineligible services and had sufficiently demonstrated the business use of the remaining disputed services.

The Tribunal accordingly set aside the disallowance of CENVAT credit and granted consequential relief to the assessee, reaffirming the liberal interpretation of business-related input services under the CENVAT Credit regime.

CESTAT Reaffirms: Business Nexus Is the Key to CENVAT Credit



CENVAT credit cannot be denied merely because an input service is indirectly connected to output activity. Where a real and sufficient business nexus exists, and the service is not for personal consumption, credit remains available.

CASE TITLE: Alstom T&D India Ltd. v. Commissioner of GST & Central Excise, Chennai, CESTAT Chennai, decided on 27 May 2026.



Soumya Shrivastava



Indirect Tax

RRB Energy Ltd. v. Commissioner of GST & Central Excise, Chennai

In an important judgment delivered on May 27, 2026, the CESTAT Chennai held that technical know-how received from foreign entities cannot be taxed as “Intellectual Property Service” unless the intellectual property right is recognised under Indian law. The Tribunal further held that a composite engineering development agreement involving execution and collaborative development cannot be artificially classified as “Consulting Engineering Service”.

Key Takeaways: i) Technical know-how or designs received from foreign entities are not taxable as Intellectual Property Services unless the alleged intellectual property right is recognised or registered under Indian law. ii) The Tribunal reiterated that reverse charge liability under Intellectual Property Service cannot arise where the Department fails to establish recognition of the IPR under Indian statutes. iii) A composite agreement involving collaborative design, prototype development, execution support and active engineering participation cannot be vivisected and taxed as a standalone Consulting Engineering Service. iv) Mere involvement of technical expertise or engineers does not automatically make an arrangement advisory or consultative in nature for the purposes of service tax classification.

The Tribunal set aside the entire service tax demand, along with interest and penalties, providing significant clarity on taxation of imported technical know-how and composite engineering arrangements under the pre-GST service tax regime.

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Composite Engineering Contracts Cannot Be Artificially Split for Taxation

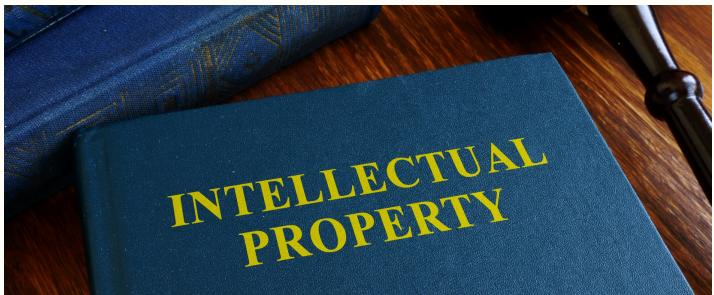
The CESTAT Chennai held that technical know-how received from foreign entities is not taxable as Intellectual Property Service unless the alleged IPR is recognised under Indian law. The Tribunal further ruled that a composite engineering development agreement involving design, prototype development, and execution support cannot be artificially classified as a standalone Consulting Engineering Service.

Case Title: RRB Energy Ltd. v. Commissioner of GST & Central Excise, Chennai, CESTAT Chennai, decided on 27 May 2026.

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Indirect Tax

Commissioner of Central Excise v. M/s. Eicher Tractor

In an order dated May 21, 2026, the Supreme Court dismissed the Department's appeals on the ground of low tax effect, while also reaffirming the settled position on CENVAT credit reversal in cases involving exempted final products. The Court observed that where the assessee had already reversed credit from the date exemption became effective, Rule 6(1) of the CENVAT Credit Rules, 2002/2004 would not apply. The Court further noted that the issue was no longer res integra, relying on its earlier order and the principle laid down in *Dai Ichi Karkaria*.

Key Takeaways: i) Appeals were dismissed due to low tax effect. ii) Credit reversed from the effective date of exemption was held to be sufficient. iii) Rule 6(1) cannot be applied where the final product was not exempt on the date of reversal. iv) The decision reinforces the settled approach on CENVAT credit in exempted manufacture matters. A useful reminder that procedural thresholds and settled precedent continue to shape indirect tax litigation.



Soumya Shrivastava



Indirect Tax

M/s Jindal Saw Limited & M/s Ultratech Cement Limited v. Appellate Authority, Commercial Taxes Department & Ors.

In a significant judgment delivered on March 28, 2026, the Rajasthan High Court held that companies operating captive mines are entitled to claim input tax credit on explosives and other inputs/capital goods used in mining activities integrally connected with the manufacturing process, even where excavation is carried out through job work contractors. Key Takeaways: i) Mining and manufacturing were held to be integral and inter-dependent operations where the mined material is exclusively used in the assessee's manufacturing activity. ii) The Court clarified that outsourcing excavation on a job work basis does not disentitle the mining lessee from claiming input tax credit, since the mined material continues to belong to and be used by the assessee-company. iii) Explosives used directly in actual mining operations were held to fall within the ambit of eligible "capital goods" and inputs for the purposes of Section 18 of the Rajasthan VAT Act, 2003. iv) The Court rejected the Revenue's objections that explosives are merely consumables or that goods used in mining, rather than manufacturing, are outside the scope of input tax credit entitlement. Relying upon the decisions of the Supreme Court of India in *Chowgule & Co. Pvt. Ltd.* and *Indian Copper Corporation Limited*, the Court quashed the Rajasthan Tax Board orders and held the petitioner-companies entitled to claim input tax credit on taxes paid for inputs and capital goods used in captive mining operations linked to manufacture.



Soumya Shrivastava



Indirect Tax

Notification No. 49/2026-Customs (N.T.) – Fixation of Tariff Values for Edible Oils, Brass Scrap, Gold, Silver and Areca Nut

The Central Board of Indirect Taxes and Customs (CBIC), vide Notification No. 49/2026-Customs (N.T.) dated May 29, 2026, revised the tariff values applicable to certain imported commodities under Section 14(2) of the Customs Act, 1962, with effect from May 30, 2026. The notification substitutes the existing tariff value tables for edible oils, brass scrap, gold, silver and areca nut. Key Takeaways: i) Tariff values for various edible oils, including crude palm oil, RBD palm oil, palmolein and crude soybean oil, have been revised. ii) The tariff value for brass scrap (all grades) has been fixed at USD 7,655 per metric tonne. iii) The tariff value for gold remains unchanged at USD 1,423 per 10 grams, while silver is fixed at USD 2,368 per kilogram. iv) The tariff value for areca nut continues to remain unchanged at USD 9,155 per metric tonne. The notification is significant for importers as customs duties on these notified goods are calculated with reference to the prescribed tariff values rather than transaction values, thereby directly impacting the customs duty incidence on imports of these commodities.



Soumya Shrivastava



Intellectual Property Rights

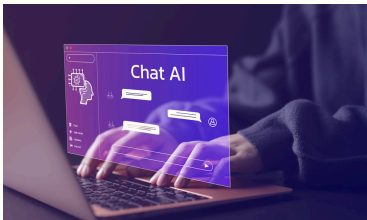
Calcutta High Court Refuses IndiaMART's Plea Against ChatGPT, Holds There Is No "Right to Visibility" on AI Platforms

The Calcutta High Court refused interim relief to IndiaMART in its suit against OpenAI, which alleged that ChatGPT Search was unfairly excluding IndiaMART links while displaying links to competing platforms. IndiaMART argued that this selective omission diverted user traffic, diluted its trademark, and violated obligations under the Information Technology Act. Justice Ravi Krishan Kapur rejected the plea, holding that no business has a legal right to compel a private platform to display or promote its content in a particular manner. The Court observed that the alleged loss was merely economic loss arising from reduced traffic and that IndiaMART could not dictate how ChatGPT should generate responses or structure its services. Importantly, the Court made significant observations on AI regulation, noting that generative AI platforms like ChatGPT do far more than traditional search engines by creating and synthesizing new content. It prima facie held that ChatGPT appears closer to an "originator" than an "intermediary" under the Information Technology Act, while acknowledging that the issue would ultimately require legislative intervention.

IndiaMART InterMESH Ltd. v OpenAI Inc. & Ors.,
IP-COM/57/2025 (Calcutta High Court)



Anushka Tripathi



Intellectual Property Rights

Delhi High Court Rules Against Google in Landmark HINDWARE Keyword Advertising Dispute, Awards ₹30 Lakh Damages

The Delhi High Court held that Google's practice of suggesting, auctioning and selling the well known trademark "HINDWARE" as a keyword under its AdWords programme amounted to trademark infringement. The dispute arose after competitors Grohe and Cera purchased "HINDWARE" as a keyword, causing their sponsored advertisements to appear when users searched for Hindware products. Justice Mini Pushkarna rejected Google's argument that keywords are merely invisible backend tools, holding that use of a trademark as a keyword constitutes trademark use under the Trade Marks Act. The Court further held that Google itself actively participates in such use by suggesting trademarked terms, conducting keyword auctions, controlling ad display, and earning revenue from the resulting user traffic. Observing that Google was unfairly exploiting the goodwill and reputation of Hindware's well known mark, the Court permanently restrained Google from using or permitting use of the plaintiff's mark as a keyword and directed Google LLC and Google India to jointly pay ₹30 lakh in nominal damages, along with actual costs. *Hindware Ltd. v Google LLC & Ors., CS(COMM) 591/2017 & CS(COMM) 592/2017* (Delhi High Court).



Anushka Tripathi



Litigation

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Trust Built On Verification Must Be Protected



The Commission emphasized that consumers rely on platform verification systems and expect safe, accountable services.

CASE TITLE: Ullaji Chennamma Vs. Ola Head Office (Bengaluru Office), Consumer Complaint No. 12/2026

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Ullaji Chennamma Vs. Ola Head Office (Bengaluru Office), Consumer Complaint No. 12/2026

The District Consumer Disputes Redressal Commission, Kurnool, has held Ola liable for a deficiency in service and ordered it to pay Rs. 55,000 in damages after an affiliated driver harassed a consumer. The case arose when an auto driver operating a vehicle different from the one registered on the app, diverted the route, demanded extra money, and abandoned a judicial aspirant and her mother midway to a crucial career examination. Rejecting Ola's argument that it functions merely as a neutral online intermediary, the Commission ruled that the company's credibility and platform verification processes bind it to a duty of ensuring passenger safety and operational accountability. Consequently, the company was directed to pay Rs. 50,000 for the severe mental agony caused and Rs. 5,000 for litigation costs, while also being ordered to implement stricter driver and vehicle monitoring systems within 45 days.



Shyam Kishor Maurya

M/s Mansi Finance (Chennai) Ltd. Vs. M. Lalitha and Others, Criminal Appeal No. 2849 of 2026

The Supreme Court has observed that holding a managerial position or office in a society does not automatically trigger deemed liability for a cheque dishonour case under Section 141 of the Negotiable Instruments Act, 1881. Partially allowing an appeal from a finance company against a Madras High Court decision, the Bench emphasized that a criminal complaint must disclose concrete factual allegations showing a person was actively responsible for conducting the business at the relevant time. While the Court allowed proceedings to continue against other office-bearers whose specific responsibilities in the day-to-day transaction of a Rs. 4.5 crore loan were established, it quashed the case against an Executive Member (Respondent No. 3). Relying on established precedents, the Court clarified that a mere designation, in the complete absence of documentary evidence or explicit assertions proving an active role in the transaction, cannot justify criminal prosecution.



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Designation Alone Is Not Enough



The Supreme Court reiterated that prosecution under Section 141 of the Negotiable Instruments Act requires specific allegations and material showing active responsibility in the conduct of business, not merely a managerial title.

CASE TITLE: M/s Mansi Finance (Chennai) Ltd. Vs. M. Lalitha and Others, Criminal Appeal No. 2849 of 2026

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Further Investigation Needs Judicial Approval



Supreme Court held that once a closure report has been submitted, investigating authorities cannot reopen the matter on their own. Any further investigation requires prior judicial approval from the Magistrate.

CASE TITLE: Paliniswamy Veeraraja & Ors. Vs. The State of Karnataka & Anr., 2026 INSC 561

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Paliniswamy Veeraraja & Ors. Vs. The State of Karnataka & Anr., 2026 INSC 561

The Supreme Court has reiterated that police cannot proceed with a further investigation after filing a closure report without express permission from the magistrate, ruling that such a requirement has become necessary law. In setting aside a Karnataka High Court judgment, the Bench held that continuing a third round of investigation without explicit court approval was an abuse of the legal process and lacked statutory authority. Relying on several precedents, the Court emphasized that prior leave under Section 173(8) CrPC is a mandatory requirement, rendering any subsequent chargesheet invalid if filed without it. Consequently, the Court allowed the appeal because no record or proof of the mandatory judicial permission was presented.



Shyam Kishor Maurya

Kalinath Sasmal Vs. The State of West Bengal and Others, 2026:CHC-AS:814

The Calcutta High Court has ruled that criminal courts cannot adjudicate possessory rights over immovable property under the Police Act of 1861, as such disputes fall strictly within the jurisdiction of civil courts. The Court set aside lower court orders that had granted interim custody of a Kolkata property to a claimant based on police verification reports, clarifying that the term “property” in Sections 25 and 26 of the Act applies only to movable assets. Furthermore, it noted that a Judicial Magistrate lacks the statutory executive authority intended by the Act to handle such property administration. Consequently, the High Court directed that the property keys be returned to the police to hold as a neutral custodian while the rival parties settle their inheritance and title disputes in a competent Civil Court.



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Property Disputes Belong Before Civil Courts



The Calcutta High Court held that criminal courts cannot decide possessory rights over immovable property. Pending resolution of title disputes, the police may hold the property as a neutral custodian.

CASE TITLE: Kalinath Sasmal Vs. The State of West Bengal and Others, 2026:CHC-AS:814

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Litigation



Quick Bites

Registration Is Not A Legal Requirement



The Supreme Court of India clarified that the genuineness of a Will must be assessed on evidence and due execution, not merely on whether it was registered.

CASE TITLE: Shakuntala Devi (Dead) Through LRs v. Savitri Devi & Ors., 2026 LiveLaw (SC) 496.

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Non-Registration Of Will Is Not A Ground To Doubt Its Genuineness: Supreme Court

The Supreme Court has reiterated that registration of a Will is not mandatory under Indian law and mere non-registration cannot be treated as a suspicious circumstance. The Court observed that the genuineness of a Will must be determined on the basis of proper execution, attestation, and evidence placed on record. It further emphasized that several genuine Wills remain unregistered and therefore absence of registration alone cannot invalidate a testamentary document. The ruling reinforces settled legal principles relating to succession and inheritance disputes, clarifying that courts must examine the overall facts and circumstances of each case while deciding the validity and authenticity of a Will.



Anirban Roy



Corporate

AMAZON INVESTMENT HOLDINGS LLC v. CCI

In a major ruling affecting India's regulatory framework and foreign investment climate, the Supreme Court held that the Competition Commission of India (CCI) exceeded its powers by suspending the 2019 Amazon-Future Coupons transaction approval and imposing penalties exceeding ₹202 crore. The Court observed that Amazon had disclosed the transaction structure, shareholder agreements, and its linkage with Future Retail Limited, and that a later disagreement over the legal characterisation of those disclosures could not amount to suppression or misrepresentation. The bench of Justice Vikram Nath and Justice Sandeep Mehta clarified that Section 43A of the Competition Act applies only to a substantive failure to notify a transaction, not to imperfect or incomplete drafting. The Court also ruled that the CCI had no statutory authority to keep an already granted approval "in abeyance," emphasizing that regulators must act strictly within the powers granted by law. The judgment stressed that competition regulation must remain predictable, fair, proportionate, and supported by reasoned decision-making. Highlighting wider economic implications, the Court observed that in a global climate marked by tariffs, geopolitical tensions, and supply-chain shifts, countries are judged by the credibility and stability of their institutions. It stated that domestic regulators should reduce, rather than add to, uncertainty and reiterated that fair treatment of foreign investors means equal treatment under the law, not preferential treatment. The Court further emphasized that procedural fairness, statutory limits on regulatory powers, and proportionality in imposing penalties are essential for maintaining investor confidence and sustaining competitive market structures. Consequently, the Court directed the refund of all amounts recovered from Amazon, along with interest.

Regulators Must Act Within Their Statutory Powers



The Supreme Court held that regulatory authorities cannot exercise powers beyond those granted by law. An approval once granted cannot be kept "in abeyance" without statutory authority, reinforcing the principles of fairness, legal certainty, and investor confidence.

CASE TITLE: Amazon Investment Holdings LLC v. CCI, Supreme Court of India, decided on 29 May 2026 (Vikram Nath and Sandeep Mehta, JJ.)

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Rishav Sagar



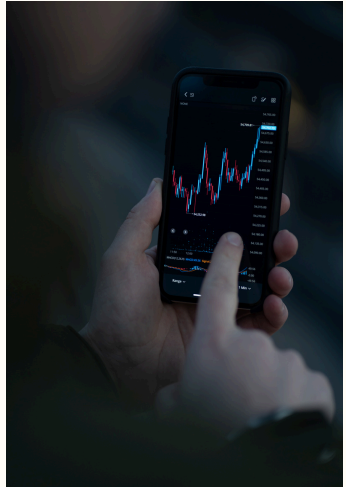
Corporate

Reliance Industries Limited and Ors. v. The Securities and Exchange Board of India

The Supreme Court on May 29 set aside SEBI's ₹447.27 crore disgorgement order against Reliance Industries Limited in connection with alleged manipulative trading in the futures segment of Reliance Petroleum Ltd. during November 2007. A bench comprising Justice JB Pardiwala and Justice R Mahadevan held that the finding of "fraud" under the SEBI PFUTP Regulations could not be sustained and termed SAT's affirmation of SEBI's conclusions as an "egregious error." Consequently, the Court quashed the disgorgement order with 12% interest and directed refund of ₹250 crore deposited by RIL. However, the Court upheld SEBI's finding that RIL violated position limit disclosure requirements under the 2001 SEBI circulars, treating it as a technical regulatory breach rather than fraudulent market manipulation. The case arose from RIL's 2007 sale of RPL shares and alleged short-position trading strategy in the futures and cash segments.



Rishav Sagar



Corporate

Successful Resolution Applicant Cannot Renegotiate Resolution Plan After CoC Approval: Supreme Court

The Supreme Court has reaffirmed the binding nature of resolution plans approved by the Committee of Creditors (CoC) under the Insolvency and Bankruptcy Code, 2016 (IBC), holding that a Successful Resolution Applicant (SRA) cannot subsequently renegotiate or indirectly withdraw from an approved plan by disputing conditions already discussed and accepted during the CIRP process.

The ruling arose from the insolvency proceedings of Oracle Home Textiles Limited, where the appellant's resolution plan had been approved by the CoC with an overwhelming 99.90% voting share. Following approval, disputes emerged regarding the terms of the Letter of Intent (LoI) issued by the Resolution Professional. The appellant alleged that the LoI imposed additional conditions inconsistent with the approved resolution plan and failed to furnish the required performance guarantee within the stipulated timeline.

Consequently, the Resolution Professional forfeited the Earnest Money Deposit (EMD) of ₹1 crore, and the CoC subsequently resolved to liquidate the company under Section 33(2) of the IBC. The NCLT and NCLAT both upheld the liquidation process and rejected the appellant's plea seeking restoration of the EMD.

Dismissing the appeal, the Supreme Court observed that once the CoC exercises its commercial wisdom and approves a resolution plan, the SRA is expected to implement the plan in a time-bound manner and cannot engage in further negotiations. The Court noted that permitting such conduct would undermine the objective of the IBC by delaying the insolvency resolution process.

Relying on its earlier decision in Ebix Singapore Pvt. Ltd. v. Committee of Creditors of Educomp Solutions Ltd., the Court reiterated that post-approval renegotiations are contrary to the framework and intent of the IBC.

Case Title: Sanjay Dave vs. Andhra Bank Ltd. & Ors. Citation: 2026 LiveLaw (SC) 562



Akshita Agarwal



Quick Bites

CoC Approval Ends Renegotiation Rights



The Supreme Court held that a Successful Resolution Applicant cannot renegotiate or indirectly withdraw from a resolution plan after its approval by the Committee of Creditors. Once approved, the plan becomes binding, ensuring certainty, finality, and timely resolution under the IBC.

Case Title: Sanjay Dave vs. Andhra Bank Ltd. & Ors.
Citation: 2026 LiveLaw (SC) 562

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Corporate

Dineshchand Surana v. UCO Bank Supreme Court

In a recent ruling has referred to a larger Bench the issue of whether cheque bounce proceedings under Section 138 of the Negotiable Instruments Act can be stayed during the moratorium period under Part III of the Insolvency and Bankruptcy Code (IBC). A Bench of Justice JB Pardiwala and Justice KV Viswanathan held that Section 138 proceedings are predominantly criminal in nature and not merely debt recovery mechanisms. Disagreeing with the ruling in *P. Mohanraj v. Shah Brothers Ispat Ltd.*, the Court observed that the purpose of Section 138 is to maintain public confidence in cheque-based transactions by penalizing cheque dishonour. The Court adopted a "tiered" approach, distinguishing between the punitive aspect involving imprisonment or fine and the compensatory aspect relating to payment of compensation. It held that moratorium under the IBC cannot bar criminal prosecution, since fines are excluded from debts under Section 79(15) of the IBC. However, recovery of compensation may be stayed during insolvency proceedings because it impacts the debtor's assets. The Bench further held that directors undergoing personal insolvency may also receive protection regarding compensation liability.



Soumya Shrivastava



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Our Legal Team

Srinivas Kotni

Managing Partner, Lexport

Litigation Team

Rohit Dutta

Shyam Kishor Maurya

IPR Team

Rajlatha Kotni

Ananya Singh

Anushka Tripathi

IDT Team

Srinivas Kotni

Surdeep Singh

Akshay Kumar

Rishabh Dev Dixit

Soumya Shrivastava

Corporate Team

Rajiv Sawhney

Akshita Agarwal

Rishav Sagar

Anirban Roy, Editor

Chief Operating Officer, Lexport

Contact

Delhi:

Call us: +91-11-2627 0506, 2627 1514, 3551 6872

Email us: delhi@lexport.in

Visit us: K1/114 First Floor, Chittaranjan (C.R.) Park, New Delhi – 110019, India

Bangalore:

Call us: +91-08048501471

Email us: bangalore@lexport.in

Visit us: 516 10th A Cross 29th Main Sector 1 HSR Layout Bangalore - 560 102, India

