

LEXPORT NEWSLETTER

August 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



Disclaimer

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

Indirect Tax

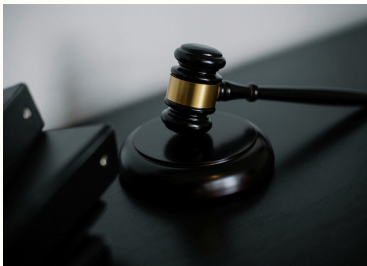
Section 74 proceedings cannot be sustained on a mere allegation of fraud or suppression: Supreme Court

The Supreme Court set aside the show cause notice issued to M/s. G.R. Infra Projects Limited for the assessment year 2018-19 under Section 74 of the CGST Act and MPGST Act. The Court noted that the notice dated 13.06.2025 was issued after the limitation period applicable under Section 73 had expired. While the Revenue sought to justify invocation of Section 74 by referring to allegations of fraud and suppression contained in its counter-affidavit, the Court held that the basis for invoking the extended limitation under Section 74 must emanate from the show cause notice itself and cannot subsequently be supplemented through a counter-affidavit. The Court observed that the impugned notice merely contained a general reference to "fraud or concealment of facts" without stating how fraud was inferred or how concealment or suppression of facts had been established. It held that a mechanical reference to "fraud, willful misstatement or suppression of facts" is insufficient where the notice does not set out the circumstances or allegations leading to such inference. Accordingly, the Supreme Court set aside the High Court's order as well as the show cause notice and directed the respondent-State to desist from taking any further proceedings pursuant to the said notice.

M/s G.R. Infra Projects Limited, Ratlam Versus The State of Madhya Pradesh & Ors., Civil Appeal No. 11277 of 2026 (Supreme Court)



Soumya Shrivastava

**Lexport**
Interpreting India
for commerce**Quick Bites**

SUPREME COURT: MERE ALLEGATION OF FRAUD CANNOT SUSTAIN SECTION 74 PROCEEDINGS



The Supreme Court held that a mere mechanical reference to fraud, willful misstatement or suppression is insufficient to invoke the extended limitation under Section 74. The specific facts and circumstances forming the basis of such allegations must be clearly stated in the show cause notice itself.

Case Title: M/s G.R. Infra Projects Limited, Ratlam Versus The State of Madhya Pradesh & Ors., Civil Appeal No. 11277 of 2026 (Supreme Court)

Delhi | Bengaluru

www.lexport.in

Indirect Tax

Supreme Court dismisses review petitions in Bharti Airtel ITC dispute concerning telecom towers

The Supreme Court dismissed the review petitions filed by the Commissioner, CGST Appeal-I, Delhi and others against its earlier order in the proceedings involving Bharti Airtel Limited and others. The Court considered the review petitions and the grounds raised therein and held that there was no error apparent on the face of the record in the impugned order that would justify its reconsideration. Accordingly, finding no merit in the review petitions, the Court dismissed them. The delay in filing the review petitions was first condoned, and pending applications, if any, were also disposed of.

Commissioner, CGST Appeal-I, Delhi & Ors. Versus Bharti Airtel Limited & Ors., Review Petition (Civil) Diary No. 10915/2026 in SLP (C) Nos. 22060-22062 of 2025 (Supreme Court)



Soumya Shrivastava



Lexport
Interpreting India
for commerce

Quick Bites

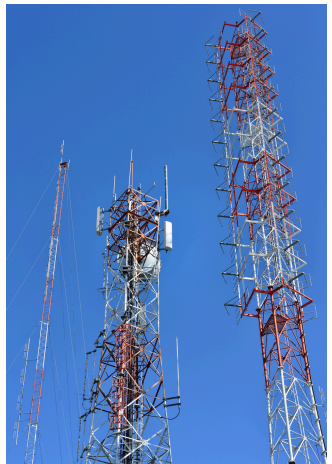
SUPREME COURT DISMISSES REVIEW PETITIONS IN BHARTI AIRTEL ITC DISPUTE

The Supreme Court found no error apparent on the face of the record warranting reconsideration of its earlier order concerning ITC on telecom towers. The review petitions filed by the CGST authorities were accordingly dismissed, reaffirming the earlier decision.

Case Title: Commissioner, CGST Appeal-I, Delhi & Ors. Versus Bharti Airtel Limited & Ors., Review Petition (Civil) Diary No. 10915/2026 in SLP (C) Nos. 22060-22062 of 2025 (Supreme Court)

Delhi | Bengaluru

www.lexport.in



Indirect Tax

Referral charges received by TVS Motor from banks and insurer taxable as Business Auxiliary Service; penalty set aside for pre-notice tax payment: Supreme Court

The Supreme Court held that the referral charges received by TVS Motor Company Limited from HDFC Bank, ICICI Bank and Oriental Insurance Company in connection with vehicle loans and insurance policies availed by its customers were taxable as Business Auxiliary Service under Section 65(105)(zzb) of the Finance Act, 1994. The Court noted that TVS Motor was promoting the business of the banks and insurance company and received consideration for such activity under the agreements entered into with them. On the issue of penalty, the Court noted that the entire service tax liability had been deposited by TVS Motor between March 2005 and March 2007, before the show cause notice was issued on 2 April 2008. The Court also noted that there was some confusion regarding the taxability of the referral charges during the relevant period from 2003-04 to 2006-07, due to which the income was not disclosed as Business Auxiliary Service in the service tax returns. Accordingly, while upholding the taxability of the referral charges, the Court set aside the penalty imposed under Section 78 of the Finance Act, 1994. The penalty under Section 76 had already been set aside by the Tribunal.

M/s. TVS Motor Company Limited Versus Commissioner of Central Excise, Chennai-III, Civil Appeal No. 7947 of 2013, 2026 INSC 892 (Supreme Court)



Soumya Shrivastava

Quick Bites

Referral Charges Taxable, Penalty Set Aside

The Supreme Court held that referral charges received by TVS Motor from banks and an insurer were taxable as Business Auxiliary Service. However, the Section 78 penalty was set aside as the entire service tax liability had been paid before the show cause notice, amid uncertainty over taxability during the relevant period.

Case Title: M/s. TVS Motor Company Limited Versus Commissioner of Central Excise, Chennai-III, Civil Appeal No. 7947 of 2013, 2026 INSC 892 (Supreme Court)

Delhi | Bengaluru
www.lexport.in



Indirect Tax

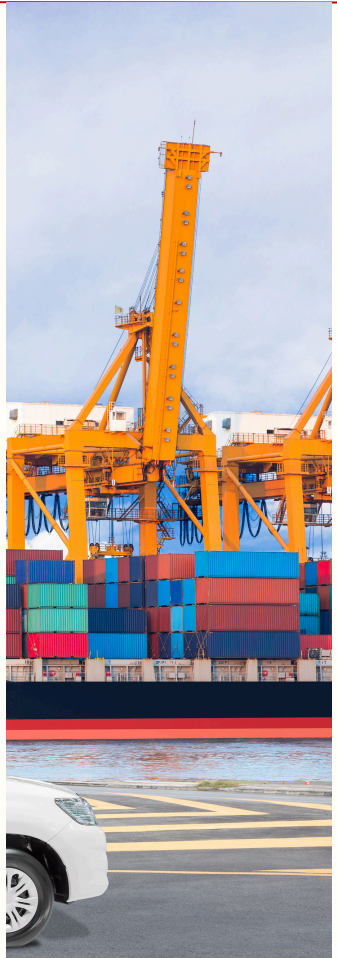
Facilitation of Customs Clearance and Mere Involvement in Clearance Process without Proof of Knowledge or Agency under Section 147(3) Cannot Form Basis to Treat Freight Forwarder as Beneficial Owner or Fasten Differential Duty and Penalties

The petitioner, proprietor of M/s. The Sea Shipping Forwarders, challenged Order-in-Original No. 105387/2024 dated 19.03.2024 insofar as it held him jointly and severally liable to pay differential customs duty of Rs. 4,56,00,374/- under Section 28(4) read with Section 28(8) of the Customs Act, 1962, together with applicable interest under Section 28AA and penalty of an equivalent amount under Section 114A, as well as a penalty of Rs. 10,00,000/- under Section 114AA. The dispute arose out of an import covered by Bill of Entry No. 4228874 dated 01.12.2017 filed in the name of M/s. R.M. Enterprises, where an interception by the Directorate of Revenue Intelligence (DRI) revealed 2,01,13,000 pieces of sewing machine needles and 70,200 pieces of steel measuring tapes concealed behind declared gas stoves. The Revenue alleged that the petitioner received documents from an untraceable individual named Vishal, instructed the Customs Broker to file the Bill of Entry, paid customs duty from his firm's account, obtained delivery orders, and arranged examination, thereby making him a beneficial owner under Section 2(26). In a previous round of litigation (W.P. No. 1738 of 2021) the High Court set aside the demand and remitted the matter, holding that the inability to trace the actual importer could not justify treating the petitioner as a beneficial owner and directed the respondent to determine whether the petitioner had knowledge of the attempted smuggling. Upon re-examination, the respondent passed the impugned order reiterating the petitioner's joint liability. The petitioner contended that he was neither the owner nor the beneficial owner, that agency under Section 147(3) was not established, and that reliance on an alleged previous smuggling attempt was unsustainable since the penalty therein had been set aside by CESTAT. The High Court observed that while the petitioner was involved in the clearance process on a lump-sum basis, such involvement does not establish ownership, beneficial ownership, or guilty knowledge. The Court held that invoking Section 147(3) requires foundational facts of agency, and imposing penalties under Sections 114A and 114AA requires a specific finding of prior knowledge or intentional use of false documents, which the respondent failed to record. Holding that the impugned order failed to address the specific issue remitted during the earlier proceedings, the High Court set aside Order-in-Original No. 105387/2024 regarding the petitioner's liability for differential duty, interest, and penalties, and allowed the writ petition.

C. Solomon Selvaraj v. Principal Commissioner of Customs, W.P. No. 16050 of 2024 and W.M.P. No. 17554 of 2024 (High Court of Judicature at Madras)



Soumya Shrivastava



Indirect Tax

ITC cannot be availed where the supplier has failed to actually deposit the tax with the Government under Section 16(2)(c) of the CGST Act

The Rajasthan High Court considered a challenge to an order passed under Section 74 of the CGST Act, whereby Input Tax Credit availed by the petitioner was sought to be recovered on account of the supplier's failure to deposit the corresponding tax with the Government. The petitioner, a supplier of electronic goods, had procured goods from M/s Techno Kart India Limited for Rs.59,42,860.91, involving tax of Rs.13,00,000, and had availed ITC on the basis that the supplier had paid the corresponding tax. The supplier subsequently became insolvent and proceedings were initiated under the Insolvency and Bankruptcy Code, 2016, following which the petitioner contended that the tax liability of the supplier ought to have been dealt with in the insolvency proceedings and that the petitioner could not be required to reverse ITC already availed. The petitioner also challenged the constitutional validity of Section 16(2)(c) of the CGST Act, contending that there was no mechanism enabling the purchaser to ascertain whether the supplier had actually deposited the tax and relying upon the principle of *lex non cogit ad impossibilia*. The Court, however, held that Section 16(2)(c), subject to Section 41, is a mandatory condition for availment of ITC and requires the tax charged in respect of the supply to have been actually paid to the Government. It observed that the purchaser, without ascertaining whether the supplier had paid the tax, ought not to have availed the ITC and that where the supplier had not discharged the tax liability, recovery of the ITC was permissible in accordance with law. The Court also considered the Gujarat High Court's decision in *Maruti Enterprise*, which held that the conditions under Section 16(2) are to be read conjointly and that the burden lies upon the person claiming ITC to establish eligibility, and found no ground to take a different view. The Court further held that the Supreme Court's decision in *Ghanashyam Mishra & Sons (P.) Ltd.* concerning the effect of an approved resolution plan under the IBC did not dispense with the statutory condition governing entitlement to ITC under Section 16(2)(c). Accordingly, the Court found no ground to interfere with the impugned order and dismissed the writ petition.

M/s Shree Kami Electrovision v. Union of India & Ors., D.B. Civil Writ Petition No. 4266/2023, High Court of Judicature for Rajasthan at Jodhpur



Soumya Shrivastava



Indirect Tax

Supreme Court Holds Section 69 GST Arrest Order Must Be Communicated Before Arrest

The Supreme Court has held that an order under Section 69 of the CGST Act, 2017, authorising arrest and recording the Commissioner's "reasons to believe", must be communicated to the person sought to be arrested before the arrest can take place. The Court held that such communication is necessary to protect the person's right to seek anticipatory bail.

The case arose from an investigation by the Directorate General of GST Intelligence into alleged wrongful availment and passing of Input Tax Credit, circular invoicing and non-payment of GST on import of services. The respondent had been issued summons under Section 70 but no order under Section 69 had initially been passed. The Supreme Court clarified that mere issuance of summons does not make a person an accused and that an order under Section 69 is a sine qua non for seeking pre-arrest bail.

The Court held that the "reasons to believe" recorded by the Commissioner must refer to the underlying material and evidence and demonstrate application of mind. Since the Section 69 order triggers the right to seek anticipatory bail, withholding the order could have serious consequences for personal liberty. The Court therefore held that the order must be communicated before arrest and may also be communicated electronically.

The Court accordingly directed communication of the Section 69 order to the respondent and reiterated that without such communication, the question of arrest would not arise.

Union of India v. Sunil Biyani — 2026 INSC 849 / 2026 LiveLaw (SC) 797.



Meyank Pandey



Indirect Tax

Supreme Court Holds General Allegations of Fraud or Suppression Insufficient to Invoke Extended Limitation under Section 74 of CGST Act

The Supreme Court has held that a show-cause notice ("SCN") invoking Section 74 of the Central Goods and Services Tax Act, 2017 ("CGST Act") must itself set out the foundational facts establishing fraud, wilful misrepresentation or suppression of facts. Mere mechanical use of these expressions cannot justify invocation of the extended limitation period under Section 74.

The proceedings against Tata Steel Ltd. concerned alleged irregularities in the availment of input tax credit ("ITC") and short payment of tax for three financial years. The Department invoked Section 74, which permits an extended limitation period where such non-payment or short payment is attributable to fraud, wilful misstatement or suppression of facts. Tata Steel challenged the SCN on the ground that it contained no specific allegations establishing these ingredients.

The Court held that proceedings under Sections 73 and 74 can be initiated only upon the satisfaction of the Assessing Officer. In a Section 74 proceeding, it is not sufficient for the officer to be satisfied merely that there has been an ITC mismatch or short payment of tax; the officer must also be satisfied that such mismatch or short payment resulted from fraud, wilful misrepresentation or suppression of facts.

The Court found that the SCN contained only a "bland statement" alleging suppression and did not disclose the foundational facts necessary to establish any deliberate device to evade tax or avail excess ITC. It therefore quashed the SCN and the consequential order. However, the Department was granted liberty to initiate appropriate proceedings under Section 74, if permissible in law, provided the foundational facts are set out in the notice and the order is passed before 28 February 2027.

M/s Tata Steel Limited v. Union of India & Ors. — 2026 LiveLaw (SC) 862



Meyank Pandey

Lexport
Interpreting India
for commerce

Quick Bites

SECTION 74: ALLEGATIONS NEED FACTS



The Supreme Court held that merely alleging fraud, wilful misstatement or suppression of facts is not enough to invoke the extended limitation under Section 74 of the CGST Act. A show-cause notice must disclose the foundational facts showing deliberate conduct; a mechanical allegation cannot justify Section 74 proceedings.

CASE TITLE: M/s Tata Steel Limited v. Union of India & Ors. — 2026 LiveLaw (SC) 862

Delhi | Bengaluru

www.lexport.in



Intellectual Property Right

Bombay High Court Grants Injunction to Jyothy Labs in "NEEM" Toothpaste Trademark Dispute

The Bombay High Court granted interim relief to Jyothy Labs Ltd., restraining Dabur India Ltd. from using its impugned "NEEM" label for toothpaste. Jyothy Labs relied on three registered marks in which "NEEM" was the leading and essential feature, with the registrations covering toothpaste and dentifrices. Dabur argued that "NEEM" was generic, descriptive and common to the trade, and that it was not separately registered by Jyothy Labs. The Court held that these issues required evidence and could not be conclusively determined at the interim stage. It found that Jyothy Labs had established a prima facie case of both infringement and passing off, with the balance of convenience in its favour. Importantly, the Court clarified that the injunction does not prevent Dabur from using "NEEM" descriptively to indicate the ingredient in its toothpaste.

Jyothy Labs Ltd. v. Dabur India Ltd., Commercial IP Suit No. 240 of 2021



Anushka Tripathi



Lexport

Interpreting India
for commerce

Quick Bites

***"NEEM" CAN BE PROTECTED
BUT NOT IN EVERY USE***



The Bombay High Court protected Jyothy Labs' trademark rights while clarifying that "neem" may still be used descriptively to identify the ingredient in toothpaste.

Case Title: Jyothy Labs Ltd. v. Dabur India Ltd., Commercial IP Suit No. 240 of 2021

Delhi | Bengaluru

www.lexport.in



Intellectual Property Right

Delhi High Court Restrains Use of “SMOOTH” in Parle Agro’s “SMOODH” Trademark Dispute

The Delhi High Court granted an ex parte ad interim injunction in favour of Parle Agro Pvt. Ltd., restraining Varun Beverages Ltd. from using “SMOOTH” or any deceptively similar mark for dairy-based yoghurt drinks. Parle Agro has used the SMOODH trademark since 2021 and established substantial goodwill, with sales of approximately ₹1,648.2 crore between 2021-22 and 2025-26. Justice Jyoti Singh found SMOOTH prima facie nearly identical and deceptively similar to SMOODH, noting that the defendants had essentially replaced only the letter “D” with “T”. The Court also considered the packaging significant, as the defendants’ own brand “CALPIS” was displayed in a smaller font, giving greater prominence to “SMOOTH” and strengthening the likelihood of an association with Parle Agro. Since the rival goods, trade channels and consumer base were identical, the Court found a likelihood of confusion and a prima facie case of trademark infringement and passing off. Accordingly, the defendants were restrained, until the next date of hearing, from using “SMOOTH” or any identical or deceptively similar mark to SMOODH, including the impugned packaging.

Parle Agro Private Limited v. Varun Beverages Limited & Anr., CS(COMM) 897/2026



Anushka Tripathi



Lexport
Interpreting India
for commerce

Quick Bites

**ONE LETTER DIFFERENCE. A WORLD OF
TRADEMARK CONSEQUENCES.**

The Delhi High Court restrained the use of “SMOOTH” in connection with dairy-based yoghurt drinks, finding it prima facie deceptively similar to Parle Agro’s “SMOODH” mark. The Court noted that the rival products, consumers and trade channels were identical, while the prominent use of “SMOOTH” on the packaging increased the likelihood of confusion and association.

CASE TITLE: Parle Agro Private Limited v. Varun Beverages Limited & Anr., CS(COMM) 897/2026

Delhi | Bengaluru www.lexport.in



Intellectual Property Right

Delhi High Court Restrains Use of “ANANTARA” for Spa and Massage Services

The Delhi High Court granted an ex parte ad interim injunction restraining the Defendant from using “ANANTARA”, “ANANTARA SPA” or deceptively similar marks in relation to spa, massage, wellness and allied services. The Plaintiffs, part of the Minor Hotel Group, had adopted the “ANANTARA” mark in 2000 and established substantial goodwill through extensive use for hotels, resorts and spas across several countries. The Court noted that the Defendant’s marks subsumed the Plaintiffs’ ANANTARA mark in its entirety and were being used for spa services, which formed part of the Plaintiffs’ own business activities. Given the deceptive similarity, overlapping services and established reputation of the Plaintiffs, the Court found a strong likelihood of confusion and held that the Defendant had no plausible justification for adopting the impugned marks. The Court also considered the Defendant’s use particularly prejudicial to the Plaintiffs’ reputation, noting the potential for dilution and tarnishment of the ANANTARA marks. Finding a prima facie case, balance of convenience and likelihood of irreparable harm, the Court restrained the Defendant from using the impugned marks and directed it to remove all references to the ANANTARA marks from its websites, online listings, social media, advertisements and other promotional material within three weeks.

MHG IP Holding Singapore Pte. Ltd. & Ors. v. Anantara Spa and Massage, CS(COMM) 914/2026



Anushka Tripathi



Lexport
Interpreting India
for commerce

Quick Bites

**REPUTATION BUILT OVER YEARS.
PROTECTED BY LAW.**

The Delhi High Court restrained the use of “ANANTARA” and deceptively similar marks for spa, massage and wellness services. Finding substantial goodwill, overlapping services and a strong likelihood of confusion, the Court also recognised the risk of dilution and tarnishment of the Plaintiffs’ established mark.

Case Title: MHG IP Holding Singapore Pte. Ltd. & Ors. v. Anantara Spa and Massage, CS(COMM) 914/2026

Delhi | Bengaluru www.lexport.in



Intellectual Property Right

Delhi High Court Restrains Use of “THUNDER 15000” for Beer

The Delhi High Court granted an ex parte ad interim injunction in favour of Inbrev Beverages Pvt. Ltd., proprietor of the well-known THUNDERBOLT trademark for beer, against the use of the mark THUNDER 15000 by Kinjore Brewery Pvt. Ltd. and another. The Plaintiff traced its rights in the THUNDERBOLT mark to 1984 and demonstrated extensive goodwill and reputation through longstanding use and substantial sales. The Court found that the Defendants had adopted THUNDER, the dominant and essential feature of the Plaintiff's mark, in its entirety and that the addition of the numeral “15000” was insufficient to distinguish the rival marks. Noting that the competing products were identical, the trade channels and consumer base were common, and the Defendants lacked any trademark registration in India, the Court held that there was a clear likelihood of confusion and deception amongst consumers. The Court further observed that the Defendants had attempted to come as close as possible to the Plaintiff's mark in order to misrepresent an association with the Plaintiff and exploit the goodwill attached to THUNDERBOLT. Finding a prima facie case of trademark infringement and passing off, the Court restrained the Defendants from manufacturing, selling, advertising, importing, exporting or otherwise dealing in alcoholic beverages under the mark THUNDER 15000 or any deceptively similar mark.

Inbrev Beverages Private Limited v. Kinjore Brewery Private Limited & Anr., CS(COMM) 491/2026



Anushka Tripathi



ADDING “15000” DOESN'T MAKE A MARK DISTINCTIVE



The Delhi High Court restrained the use of “THUNDER 15000” for beer, finding it deceptively similar to THUNDERBOLT. The Court held that the defendants had adopted “THUNDER”, the dominant feature of the Plaintiff's mark, in its entirety, while the addition of “15000” was insufficient to distinguish the competing marks.

With identical goods, overlapping consumers and trade channels, the Court found a clear likelihood of confusion and a prima facie case of trademark infringement and passing off.

Case Title: Inbrev Beverages Private Limited v. Kinjore Brewery Private Limited & Anr., CS(COMM) 491/2026

Delhi | Bengaluru

www.lexport.in



Litigation

Special Intensive Revision of electoral rolls in Bihar upheld by Supreme Court; ECI empowered under Article 324 and Section 21(3) of RP Act, 1950

The Supreme Court held that the Election Commission of India's (ECI) order directing a Special Intensive Revision (SIR) of electoral rolls in Bihar ahead of the November 2025 Legislative Assembly elections was legally valid under Article 324 of the Constitution read with Section 21(3) of the Representation of the People Act, 1950. The Court noted that the ECI possessed the necessary authority to conduct a special revision to address structural exigencies, rapid urbanization, migrations, and two decades of unverified changes since the last intensive revision in 2003. On the issue of safeguards, the Court noted that adequate procedural protections were put in place, including the inclusion of the Aadhaar Card as a valid identity document, the public publication of lists for initially excluded voters, and grassroots assistance through Booth Level Agents and Para-Legal Volunteers. Accordingly, while upholding the validity of the statewide SIR and rejecting absolute evidentiary protection for unverified legacy entries, the Court ensured procedural fairness throughout the revision process.

Association For Democratic Reforms & Ors. Versus Election Commission of India & Ors., Writ Petition (Civil) No. 640 of 2025, 2026 INSC 892 (Supreme Court)



Maitreya Mahaleya



Litigation

Passive euthanasia and right to die with dignity upheld by Supreme Court; Clinically Assisted Nutrition and Hydration (CANH) classified as "medical treatment" subject to withdrawal under Article 21

The Supreme Court held that Clinically Assisted Nutrition and Hydration (CANH) administered via a Percutaneous Endoscopic Gastrostomy (PEG) tube constitutes a form of medical life-support treatment rather than basic natural care, making it legally permissible to withhold or withdraw under the framework of passive euthanasia. The Court noted that for a patient trapped in an irreversible Permanent Vegetative State (PVS) for 13 years following a traumatic brain injury, continuing artificial medical intervention serves no therapeutic purpose, violates bodily integrity, and merely prolongs physical agony. On the issue of judicial safeguards, the Court noted that adequate procedural protections were met through unanimous medical board consensus, the application of the "best interests" standard, and structured family consultations under the Common Cause guidelines. Accordingly, while upholding the validity of passive euthanasia for incapacitated individuals lacking an advance medical directive, the Court ensured rigorous clinical oversight, proper palliative care, and administrative streamlining across medical institutions.

Harish Rana Versus Union of India & Ors., Miscellaneous Application No. 2238 of 2025 in Special Leave Petition (Civil) No. 18225 of 2024, 2026 INSC 222 (Supreme Court)



Maitreya Mahaley



Lexport
Interpreting India
for commerce

Quick Bites

PASSIVE EUTHANASIA: DIGNITY WITH SAFEGUARDS

The Supreme Court recognised Clinically Assisted Nutrition and Hydration (CANH) through a PEG tube as medical treatment, which may be withheld or withdrawn in appropriate cases under the legal framework governing passive euthanasia. For patients in an irreversible Permanent Vegetative State, the decision must be guided by medical assessment, best interests, family consultation and procedural safeguards.

CASE TITLE: Harish Rana Versus Union of India & Ors., Miscellaneous Application No. 2238 of 2025 in Special Leave Petition (Civil) No. 18225 of 2024, 2026 INSC 222 (Supreme Court)

Delhi | Bengaluru
www.lexport.in



Litigation

Application of Section 5 of the Limitation Act, 1963 to first appeals under Section 74 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (the "2013 Act") upheld by Supreme Court; condonation of delay permitted.

The Supreme Court held that Section 74 of the 2013 Act does not expressly exclude the application of Sections 4 to 24 of the Limitation Act, 1963, and that Section 103 of the 2013 Act ensures its provisions operate in addition to and not in derogation of other laws. The Court noted that the High Court possesses the requisite jurisdiction under Section 5 of the Limitation Act to condone delays in filing appeals upon sufficient cause being shown, reinforcing that technicalities should not defeat substantive rights of access to justice under beneficial welfare legislation. On the issue of procedural outcomes, the Court noted that all High Court judgments dismissing appeals solely on strict limitation grounds without factoring in the applicability of Section 5 must be set aside. Accordingly, while setting aside erroneous dismissals, the Court ensured administrative streamlining by remanding matters back to the respective forums to decide delay applications and appeals on their merits.

The Deputy Commissioner and Special Land Acquisition Officer v. M/S S.V. Global Mill Limited, Civil Appeal arising out of SLP (C) Nos. 215–216 of 2023 and connected matters, 2026 INSC 138 (Supreme Court)



Maitreya Mahale

**Lexport**Interpreting India
for commerce**Quick Bites**

LIMITATION CANNOT CLOSE THE DOOR TO JUSTICE



The Supreme Court held that Section 5 of the Limitation Act, 1963 applies to appeals under Section 74 of the 2013 Land Acquisition Act. Where sufficient cause is shown, delay may be condoned, ensuring that procedural timelines do not defeat substantive rights or access to justice.

Case Title: The Deputy Commissioner and Special Land Acquisition Officer v. M/S S.V. Global Mill Limited, Civil Appeal arising out of SLP (C) Nos. 215–216 of 2023 and connected matters, 2026 INSC 138 (Supreme Court)

Delhi | Bengaluru

www.lexport.in

Litigation

Continuous failure by a builder to obtain an occupancy certificate constitutes a "continuing wrong" under Section 22 of the Limitation Act, 1963, making a consumer complaint seeking compensation for higher municipal taxes and water charges fully maintainable and not barred by limitation.

The Supreme Court held that Sections 3 and 6 of the Maharashtra Ownership Flats Act, 1963 (MOFA) impose a mandatory legal duty on a promoter to secure an occupancy certificate and pay outgoings until the property is transferred. The Court noted that the failure to obtain an occupancy certificate amounts to a "deficiency in service" under Section 2(1)(g) of the Consumer Protection Act, 1986. The Court further emphasized that flat owners and cooperative housing societies are well within their rights as "consumers" to claim compensation as a recompense for financial liabilities—such as paying 25% higher property taxes and 50% higher water charges—directly resulting from the lack of an occupancy certificate. On the issue of procedural outcomes, the Court noted that the contrary order passed by the National Consumer Disputes Redressal Commission (NCDRC) dismissing the complaint as time-barred and not maintainable must be set aside. Accordingly, while setting aside the erroneous dismissal, the Court ensured administrative streamlining by holding the complaint maintainable and directing the NCDRC to decide the matter on its merits within three months.

Samruddhi Coop. Housing Society Ltd. v. Mumbai Mahalaxmi Construction (P) Ltd., Civil Appeal No. 4000 of 2019, (2022) 4 SCC 103 (Supreme Court)



Maitreya Mahale



Quick Bites

NO OCCUPANCY CERTIFICATE? THE WRONG CAN KEEP RUNNING.



The Supreme Court held that a builder's continued failure to obtain an Occupancy Certificate constitutes a continuing wrong. Such failure may amount to deficiency in service, and flat owners or housing societies can seek compensation for additional financial burdens, including higher property taxes and water charges.

Case Title: Samruddhi Coop. Housing Society Ltd. v. Mumbai Mahalaxmi Construction (P) Ltd., Civil Appeal No. 4000 of 2019, (2022) 4 SCC 103 (Supreme Court)

Delhi | Bengaluru

www.lexport.in



Litigation

Dr. Sanchari Ghosh v. National Board of Examination in Medical Sciences & Anr., W.P. (C) 8158/2026

The Delhi High Court held that eligibility conditions and cut off dates prescribed for competitive examinations must be applied strictly and uniformly. A candidate who did not possess the requisite qualification on the prescribed cut off date cannot become eligible merely because she acquired the qualification subsequently. The Court rejected the argument that subsequent acquisition could retrospectively cure the defect, holding that a cut off date necessarily determines the class of candidates eligible for a particular admission cycle.

The Court further held that provisional admission, document verification, allotment of a seat or permitting a candidate to undergo training does not create a vested or indefeasible right to continue where the candidate was ineligible from the outset. Administrative delay in detecting the defect cannot enlarge eligibility or validate an otherwise invalid admission. More importantly, where the candidate has herself made repeated incorrect declarations regarding her eligibility, she cannot invoke equity or estoppel to seek continuation in the course.

The Court distinguished cases where courts have protected students from cancellation after admission, observing that such relief is premised on absence of wrongdoing or default on the candidate's part. Here, the petitioner had repeatedly represented that she had obtained her DrNB qualification by 31.12.2024, although she actually obtained it only on 29.05.2025. Therefore, the Court held that she could not claim equitable relief merely because she had undergone several months of training.

Law: A prescribed eligibility cut off is substantive and cannot be retrospectively diluted by subsequent qualification. Provisional admission or administrative delay cannot create a vested right in an ineligible candidate, particularly where eligibility was secured through material misrepresentation. However, the Court also emphasised that examining authorities themselves must exercise due diligence in verification and cannot escape institutional responsibility for allowing an ineligible candidate to proceed through examination, counselling, allotment and training.

Dr. Sanchari Ghosh v. National Board of Examination in Medical Sciences & Anr., W.P.(C) 8158/2026



Hardik Jain

The Delhi High Court held that eligibility conditions and cut off dates prescribed for competitive examinations must be applied strictly and uniformly. A candidate who did not possess the requisite qualification on the prescribed cut off date cannot become eligible merely because she acquired the qualification subsequently. The Court rejected the argument that subsequent acquisition could retrospectively cure the defect, holding that a cut off date necessarily determines the class of candidates eligible for a particular admission cycle.

The Court further held that provisional admission, document verification, allotment of a seat or permitting a candidate to undergo training does not create a vested or indefeasible right to continue where the candidate was ineligible from the outset. Administrative delay in detecting the defect cannot enlarge eligibility or validate an otherwise invalid admission. More importantly, where the candidate has herself made repeated incorrect declarations regarding her eligibility, she cannot invoke equity or estoppel to seek continuation in the course.

The Court distinguished cases where courts have protected students from cancellation after admission, observing that such relief is premised on absence of wrongdoing or default on the candidate's part. Here, the petitioner had repeatedly represented that she had obtained her DrNB qualification by 31.12.2024, although she actually obtained it only on 29.05.2025. Therefore, the Court held that she could not claim equitable relief merely because she had undergone several months of training.



Quick Bites

A CUT-OFF DATE CANNOT BE CHANGED BY A LATER QUALIFICATION



The Delhi High Court held that eligibility must be assessed strictly as on the prescribed cut-off date. Subsequent qualification, provisional admission or administrative delay cannot cure initial ineligibility, particularly where the candidate made incorrect declarations regarding her eligibility.

Case Title: Dr. Sanchari Ghosh v. National Board of Examination in Medical Sciences & Anr. | W.P.(C) 8158/2026 | Delhi High Court

Delhi | Bengaluru

www.lexport.in

Litigation

Hindustan Unilever Limited v. Kwick Living (I) Private Limited

In *Hindustan Unilever Limited v. Kwick Living (I) Private Limited*, the Delhi High Court was concerned with a suit seeking an injunction against the defendant's advertising campaign, "War on What's Hidden", which allegedly disparaged the plaintiff's products, Vim and Surf Excel. The defendant raised a preliminary objection that the Delhi High Court lacked territorial jurisdiction, pointing out that both parties had their registered offices in Mumbai and that the plaintiff had specifically pleaded an instance of the impugned hoarding only in Mumbai. The plaintiff, on the other hand, relied upon the accessibility of the campaign through YouTube, Instagram and the defendant's website in Delhi, the availability of the defendant's products for sale in Delhi, and the existence of the plaintiff's corporate office in Delhi. The jurisdictional question was therefore examined principally with reference to Section 20(c) of the CPC, Section 134(2) of the Trade Marks Act, 1999 and Section 62(2) of the Copyright Act, 1957.

The Court considered the apparent divergence in the authorities governing territorial jurisdiction in intellectual property disputes. The defendant relied principally upon the Supreme Court's decision in *Indian Performing Rights Society Ltd. v. Sanjay Dalia*, which adopts a restrictive interpretation of Sections 134(2) of the Trade Marks Act and 62(2) of the Copyright Act. Under *Sanjay Dalia*, where the plaintiff has its principal office at a place and a part of the cause of action has also arisen there, the plaintiff cannot choose a distant forum merely because it has a subordinate office or otherwise carries on business there. The Delhi High Court also considered *Ultra Home Construction*, which systematised this principle into four situations depending upon the location of the plaintiff's principal and subordinate offices and the place where the cause of action arose.

The Court then considered the authorities dealing specifically with internet-based activities. In *Banyan Tree Holding*, the Division Bench had held that mere accessibility of a defendant's website within the forum would not confer jurisdiction. The plaintiff must prima facie establish purposeful avilment of the forum and specific targeting of persons within that jurisdiction; where the "effects" test is invoked, the plaintiff must also establish an injurious effect within the forum. Thus, mere accessibility of an interactive website does not automatically create a cause of action in every territory from which it can be accessed. Conversely, *World Wrestling Entertainment* adopted a broader approach to the expression "carries on business", holding that where an interactive website permits commercial transactions, the plaintiff may be regarded as carrying on business wherever such transactions can be concluded, even without proof of an actually completed transaction. *ation of constitution of a Larger Bench*

The Court also considered *Burger King*, which proceeded on the basis that Sections 134 and 62 operate in addition to, and not in exclusion of, Section 20 CPC. It held that in a trademark action, "use" of a mark in the course of trade constitutes the cause of action and that such use includes advertising, promotion and publicity. Consequently, under that approach, every place where the mark is used could potentially constitute a place where a part of the cause of action arises. This approach was found to sit uneasily with *Sanjay Dalia* and *Ultra Home Construction*, which restrict the choice of forum where the cause of action has arisen at the plaintiff's principal office. The Court further noted the apparent conflict between *Banyan Tree*, which requires purposeful targeting in internet cases, and *Nilesh Girkar*, which treated nationwide communication of content through an OTT platform, including its availability in Delhi, as sufficient to constitute part of the cause of action under Section 20(c).

The Court also noticed that subsequent decisions had added further uncertainty. *Kohinoor Seed Fields* distinguished between "cause of action" under Section 20(c) and "carrying on business" under Section 134(2), while relying upon *World Wrestling Entertainment* to adopt a broader understanding of carrying on business in the e-commerce context. It recognised that an interactive website capable of concluding commercial transactions could constitute a marketplace even without an actual completed transaction. At the same time, *Kohinoor Seed Fields* expressed reservations regarding the proposition in *Ultra Home Construction* that a plaintiff must sue at the subordinate-office location when the cause of action arises there, observing that such an interpretation could amount to rewriting Section 134 of the Trade Marks Act. The Court therefore found an unresolved tension between the restrictive rule in *Sanjay Dalia* and the broader approach emerging from the subsequent Delhi High Court decisions.

Against this background, the Court observed that the development of the internet and the ability to access goods and services from virtually any location cannot result in territorial jurisdiction becoming so broad or uncertain that a corporation is permitted to institute proceedings at virtually any place in the country. Such an approach, according to the Court, would undermine the very concept of territorial jurisdiction. It accordingly concluded that the conflicting authorities required authoritative resolution by a Larger Bench. The Court referred three questions: first, whether intellectual property suits are governed by Section 20 CPC, Section 134 of the Trade Marks Act or Section 62 of the Copyright Act, or by an interplay of these provisions; second, whether a corporate plaintiff must sue only at its principal or registered office when part of the cause of action has arisen there; and third, what territorial-jurisdictional rule should govern online transactions in IP disputes in view of the conflicting approaches in *Banyan Tree*, *World Wrestling Entertainment* and *Kohinoor Seed Fields*. The Registry was consequently directed to place the judgment before the Chief Justice for consider



Hardik Jain

Litigation

Radhey Shyam Pahwa v. Universal Polychem (India) Pvt. Ltd. & Ors.

The present appeal before the Delhi High Court arose from an auction conducted for sale of property bearing J-60, First Floor, Lajpat Nagar-III, New Delhi, in execution of a decree against the judgment debtor, MP Telelinks Ltd. The property had been ordered to be sold by public auction with a reserve price of ₹1.70 crore. At the auction held on 06.05.2025, Respondent No. 2, Lokesh Mendiratta, submitted a bid of ₹2.60 crore in accordance with the prescribed bidding increment of ₹10 lakh. The Appellant thereafter offered ₹2.61 crore and Respondent No. 2 offered ₹2.62 crore; however, these subsequent bids were not accepted by the Court Auctioneer as they did not conform to the prescribed lot size and, in the case of the final bid, the auction had already concluded at 1:00 PM. Respondent No. 2 was accordingly recorded as the highest bidder. Although Respondent No. 2 deposited 25% of his bid amount, the Appellant subsequently deposited the entire amount of his own bid and challenged the auction proceedings, alleging material irregularities, arbitrariness and collusion. The Executing Court rejected the objections and, by order dated 05.05.2026, declared Respondent No. 2 to be the successful purchaser, leading to the present appeal.

The principal contention of the Appellant was that Respondent No. 2 had failed to comply with the mandatory requirements of Order XXI Rules 84 and 85 of the CPC, which require payment of 25% of the purchase money immediately upon declaration as purchaser and the balance amount within fifteen days. According to the Appellant, these periods ought to have commenced from the date of the auction itself, since Respondent No. 2 had emerged as the highest bidder on 06.05.2025. The Appellant also contended that his bid of ₹2.61 crore ought to have been accepted as the highest valid bid and that the Court Auctioneer had no authority to prescribe the ₹10 lakh lot size. Reliance was placed on several judgments holding that non-compliance with Rules 84 and 85 would render an auction sale invalid.

The Court rejected these contentions. It held that although Respondent No. 2's bid had been recorded as the highest bid by the Court Auctioneer, he had not been declared the purchaser on the date of the auction. There was a subsisting dispute regarding whether Respondent No. 2 or the Appellant was the successful bidder, and the matter had therefore been placed before the Executing Court for determination. The Court emphasised that the deposits made by the competing bidders did not by themselves crystallise any right in favour of either bidder. In these peculiar circumstances, the statutory period under Order XXI Rules 84 and 85 could not be reckoned from 06.05.2025, as the identity of the purchaser had not yet been determined. Respondent No. 2 was ultimately declared the successful purchaser only by the Executing Court's order dated 05.05.2026, and he deposited the balance 75% of the bid amount on the very same day. Consequently, there was no violation of the time prescribed under Rule 85.

The Court further held that the Appellant's higher bid did not entitle him to be declared the purchaser because the bid was not made in accordance with the terms of the Proclamation of Sale. The Court Auctioneer had fixed the bidding increment at ₹10 lakh and had declined the request to reduce it to ₹1 lakh. The mere fact that the Appellant offered ₹2.61 crore could not override the prescribed conditions of the auction. The Court also distinguished the authorities relied upon by the Appellant concerning mandatory deposits under Order XXI Rules 84 and 85, observing that those cases involved situations where the purchaser had already been identified and declared, whereas in the present case the very identity of the successful purchaser remained in dispute.

The Court ultimately relied upon the principle that a court auction conducted by an officer appointed by the Court remains a sale by the Court and is not complete merely because a bidder has submitted the highest bid. Formal acceptance by the Court and declaration of the purchaser are material to completion of the sale. Since Respondent No. 2 was declared the successful purchaser only through the order dated 05.05.2026, the Court found no reason to interfere with the Executing Court's decision. The impugned order was accordingly upheld, the interim orders were vacated, and the appeal was dismissed.



Hardik Jain



Litigation

Anil Laxminarayan Biyani v. Union of India & Anr.

The present writ petition was filed before the Delhi High Court challenging the order dated 31.10.2025 issued by the Ministry of Corporate Affairs (MCA) under Section 212(1)(c) of the Companies Act, 2013, directing the Serious Fraud Investigation Office (SFIO) to investigate the affairs of Future Retail Limited (FRL) and Future Consumer Retail Private Limited (FCRPL). FRL and FCRPL were part of the Future Group, with their registered offices situated in Mumbai. The investigation followed, inter alia, references by the Central Economic Intelligence Bureau and the Insolvency and Bankruptcy Board of India concerning alleged transactions involving the companies. The petitioner sought quashing of the investigation order and all consequential proceedings.

A preliminary objection was raised by the Union of India that the Delhi High Court lacked territorial jurisdiction to entertain the petition. It was contended that the companies under investigation had their registered offices in Mumbai; their statutory, financial and other records were maintained there; the concerned Registrar of Companies was ROC Mumbai; the insolvency and avoidance proceedings were pending before the NCLT, Mumbai Bench; and any prosecution arising from the investigation would be before the competent Special Court having jurisdiction in Mumbai. The respondents therefore submitted that the mere fact that the MCA had passed the impugned order from New Delhi could not confer territorial jurisdiction upon the Delhi High Court. Reliance was placed upon the principles laid down by the Supreme Court in *ONGC v. Utpal Kumar Basu and Kusum Ingots & Alloys Ltd. v. Union of India*, including the doctrine of forum conveniens.

The petitioner, on the other hand, contended that a substantial part of the cause of action had arisen in Delhi because the impugned order had been issued by the MCA from New Delhi and the SFIO's investigation was being controlled from its Delhi headquarters. It was further submitted that notices issued to the petitioner under Section 217(2) of the Companies Act emanated from the SFIO office in New Delhi and required him to furnish documents and appear before the Investigating Officer in Delhi. The petitioner also argued that the pendency of proceedings before the Bombay High Court instituted by another individual connected with the companies could not affect his independent right to invoke the jurisdiction of the Delhi High Court under Article 226(2) of the Constitution.



Hardik Jain

The Court, however, rejected the petitioner's contention. It held that merely because the MCA, a central authority situated in Delhi, had passed the order directing an investigation into companies situated in Mumbai, Delhi jurisdiction would not automatically arise. Although Article 226(2) permits a High Court to exercise jurisdiction where a part of the cause of action arises within its territory, the existence of such a part does not compel the Court to exercise jurisdiction in every case. The Court is required to consider the nature of the dispute, the overall circumstances and the forum having the closest and most substantial connection with the subject matter. The Court also rejected the argument that the mere fact that an SFIO officer stationed at its Delhi headquarters had filed an affidavit established that the investigation had its principal nexus with Delhi.

The Court found that the principal and substantial nexus of the investigation was with Mumbai. The companies under investigation had their registered offices there, their statutory and financial records were maintained there, the concerned ROC was situated there, and the insolvency and avoidance proceedings were pending before the NCLT, Mumbai Bench. Further, any prosecution arising from the investigation would fall within the jurisdiction of the competent Special Court at Mumbai. The Court emphasised that an investigation into the affairs of a company necessarily concerns its transactions, records and statutory compliances, and the fact that the authority directing the investigation is situated in Delhi does not mean that the investigation itself must be carried out in Delhi.

The Court also considered the fact that another Director connected with the same companies had already instituted proceedings before the Bombay High Court, which had entertained those proceedings. While recognising that the petitioner and the other Director were distinct individuals, the Court held that the question of forum conveniens had to be considered with reference to the underlying subject matter and investigation. Permitting different persons connected with the same companies and substantially the same transactions to invoke the jurisdiction of different High Courts merely because they were individually situated differently would disregard the overall nexus of the dispute.

Accordingly, the Court held that the High Court of Bombay was the appropriate and convenient forum for adjudication of the dispute, since the investigation, the companies, their records, the statutory authorities, the insolvency proceedings and any consequential prosecution were principally connected with Mumbai. The writ petition and pending application were therefore dismissed on the ground of territorial jurisdiction. The Court expressly clarified that it had not expressed any opinion on the merits of the investigation order or any other issue relating to the investigation.

Litigation

General Manager, Telecom District, Bharat Sanchar Nigam Ltd. v. Micro and Small Enterprises Facilitation Council & Ors.

The present writ petition was filed by Bharat Sanchar Nigam Limited (BSNL) under Articles 226 and 227 of the Constitution seeking quashing of the reference dated 16.04.2024 made by the Micro and Small Enterprises Facilitation Council (MSEFC) to the Delhi International Arbitration Centre (DIAC), as well as restraint against further arbitral proceedings. The dispute arose from an agreement dated 22.06.2015 entered into by BSNL with Respondent No. 2 for execution of telecom infrastructure works in Pathankot, Punjab. The work was completed and the last invoice was raised on 01.02.2018. Thereafter, Respondent No. 2 obtained registration as a Micro, Small and Medium Enterprise on 26.03.2021 and subsequently raised a claim before the MSEFC on 25.07.2022, which was referred to arbitration before the DIAC. BSNL challenged the reference principally on the ground that Respondent No. 2, having obtained MSME registration only after completion of the contract, could not retrospectively invoke the benefits of the Micro, Small and Medium Enterprises Development Act, 2006 (MSMED Act). It was also contended that the claim was barred by limitation.

The petitioner relied upon the Supreme Court's judgment in *Silpi Industries v. Kerala SRTC*, contending that an enterprise which obtained MSME registration after completion of the transaction could not retrospectively claim the benefits of the MSMED Act in respect of that transaction. The Court, however, observed that the subsequent judgment of the Supreme Court in *Gujarat State Civil Supplies Corporation Ltd. v. Mahakali Foods Pvt. Ltd.* also had to be considered. In that decision, the Supreme Court, while taking note of *Silpi Industries*, had held that objections concerning the status of a party seeking to invoke the MSMED Act and its entitlement to do so could be raised before the forum seized of the arbitral proceedings. Accordingly, the Delhi High Court held that the question whether Respondent No. 2, having obtained MSME registration on 26.03.2021, could invoke the MSMED Act in respect of the 2015 agreement and work completed in 2018 was an objection capable of being raised before the Arbitral Tribunal. The Court therefore declined to examine the applicability of *Silpi Industries* to the facts of the case at the writ stage.

The Court similarly held that the objection regarding limitation could be raised before the Arbitral Tribunal. Although BSNL contended that the claim was barred because the last invoice had been raised on 01.02.2018 whereas the claim before the MSEFC was made only on 25.07.2022, the Court observed that determination of limitation would depend upon the nature of the claim, the contractual terms and the date on which the cause of action accrued. These were matters appropriately examinable by the Arbitral Tribunal.

The Court emphasised that the mere assertion that the reference itself was without jurisdiction did not justify invocation of writ jurisdiction where the petitioner had an efficacious remedy of raising its objections before the Arbitral Tribunal under the applicable arbitration law. It reiterated that the jurisdiction of the High Court under Articles 226 and 227 in relation to arbitral proceedings is to be exercised sparingly and that, where the objections raised by a party can be considered by the Arbitral Tribunal under the statutory scheme, the High Court ought not to interfere at the threshold. Accordingly, the petition was dismissed as not maintainable at that stage. However, BSNL was expressly granted liberty to raise before the Arbitral Tribunal all its objections, including those concerning the date of Respondent No. 2's MSME registration, applicability of the MSMED Act to the transaction and limitation. The Court clarified that it had expressed no opinion on the merits of any of these objections, leaving them open for determination by the Arbitral Tribunal in accordance with law.



Hardik Jain



Litigation

Supreme Court Holds Agreement to Sell Does Not Automatically Terminate Existing Tenancy

The Supreme Court has held that the mere execution of an agreement to sell between a landlord and tenant does not, by itself, terminate the existing landlord-tenant relationship. The tenancy will cease only where the terms of the agreement or the unequivocal conduct of the parties establish an express or implied surrender under Section 111(e) or (f) of the Transfer of Property Act, 1882.

The dispute concerned a tenant who had been occupying a shop at a monthly rent of ₹1,500. During the subsistence of the tenancy, the landlord agreed to sell the premises to him for ₹1.90 lakh, against which ₹40,000 was paid. The tenant subsequently contended that execution of the agreement to sell had changed the relationship from landlord-tenant to vendor-purchaser. The Courts below rejected this contention and directed him to vacate the premises.

The Supreme Court distinguished its earlier decision in *R. Kanthimathi v. Beatrice Xavier*, observing that the agreement in that case contained specific terms indicating that possession was thereafter referable to the agreement to sell and that a substantial portion of the consideration had already been paid. In the present case, the agreement contained no provision terminating rent or altering the existing relationship. On the contrary, it contemplated restoration of possession if the proposed purchaser's loan was not sanctioned, indicating continuation of the tenancy.

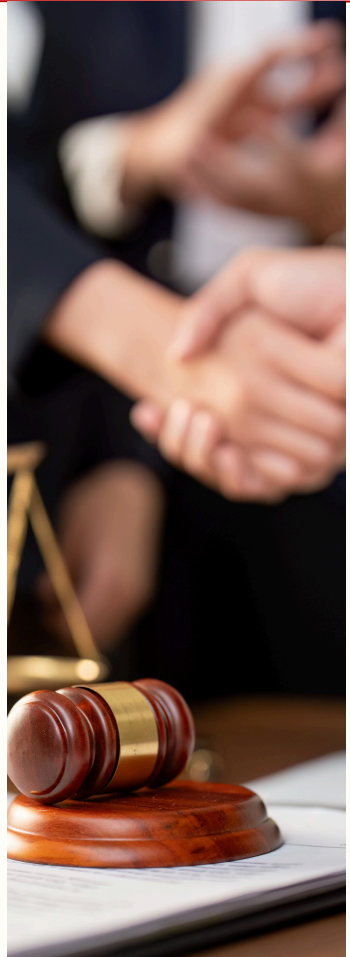
The Court further held that continued possession of a tenant after an agreement to sell does not, by itself, constitute part performance under Section 53A of the Transfer of Property Act. Additionally, since the agreement was executed in 2004 and remained unregistered, it could not confer protection under Section 53A in view of Section 17(1A) of the Registration Act, 1908.

Accordingly, the Supreme Court dismissed the tenant's appeal and upheld the concurrent findings directing him to vacate the premises.

Nazim Shaikh Hasan v. Nasir Mushtaq Shaikh & Ors. — 2026 INSC 853.



Meyank Pandey



Arbitration

Supreme Court Refers Validity of Pre-Deposit Conditions for Invoking Arbitration to Larger Bench

The Supreme Court has referred to a larger Bench the question of whether arbitration clauses requiring contractors to deposit a percentage of the claim amount before invoking arbitration are legally valid. The Court expressed doubts over the continued applicability of the three-Judge Bench decision in *S.K. Jain v. State of Haryana* (2009), which had upheld such pre-deposit conditions.

The dispute arose from a contract awarded by Haryana State Industrial and Infrastructure Development Corporation Ltd. to the appellant for execution of storm-water drainage systems. The contract required a contractor raising claims exceeding ₹1 lakh to deposit 10% of the claim amount as security before referring the dispute to arbitration. When the appellant invoked arbitration without making the deposit, the respondent challenged the maintainability of the reference. The arbitrator upheld the objection and dismissed the claim, relying on *S.K. Jain*.

The Supreme Court noted that a subsequent two-Judge Bench in *ICOMM Tele Ltd. v. Punjab State Water Supply & Sewerage Board* (2019) had struck down similar pre-deposit conditions, observing that they could discourage arbitration by making the process unduly expensive. However, the two-Judge decision could not override the earlier three-Judge Bench ruling in *S.K. Jain*.

The Court has therefore referred questions concerning the validity of such conditions under Section 18 of the Arbitration and Conciliation Act, 1996, their potential conflict with Article 14 of the Constitution and Section 28 of the Indian Contract Act, 1872, and whether refundable deposits should be treated differently. It has also specifically questioned whether *S.K. Jain* remains good law.

M/s Santosh Associate Private Limited v. Haryana State Industrial and Infrastructure Development Corporation Ltd. — 2026 LiveLaw (SC) 818



Meyank Pandey

**Lexport**Interpreting India
for commerce**Quick Bites**

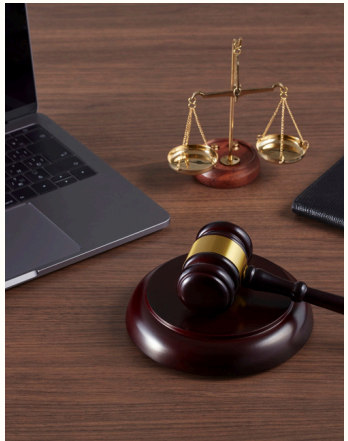
CAN YOU BE MADE TO PAY BEFORE YOU CAN ARBITRATE?



The Supreme Court has referred to a Larger Bench the question of whether contractual clauses requiring a contractor to deposit a percentage of the claim amount before invoking arbitration are legally valid. The Court has questioned the continued applicability of *S.K. Jain* (2009) in light of the later decision in *ICOMM Tele* (2019), which struck down similar pre-deposit requirements.

CASE TITLE: *M/s Santosh Associate Private Limited v. Haryana State Industrial and Infrastructure Development Corporation Ltd.* — 2026 LiveLaw (SC) 818.

Delhi | Bengaluru

www.lexport.in

Corporate

SEBI Introduces IT Resilience Index for Market Infrastructure Institutions

SEBI, through its Circular dated August 24, 2026, has introduced an IT Resilience Index (ITRI) framework for Market Infrastructure Institutions (MIIs), including stock exchanges, clearing corporations and depositories. The framework aims to assess and strengthen the robustness, reliability, availability and cyber resilience of critical IT systems, thereby ensuring uninterrupted and efficient functioning of the securities market.

The ITRI will be computed based on nine parameters, with Availability and Security carrying the highest weightage of 20% each, followed by Integrity, Governance, Reliability and Monitoring, Business Continuity, Modularity and Flexibility, Scalability, and other factors such as incident handling. The Industry Standards Forum (ISF) is required to finalise the sub-parameters and detailed measurement criteria by November 30, 2026.

MIIs must compute the ITRI on a half-yearly basis, using a system-driven process with minimal manual intervention, and submit comparative analysis and corrective measures to their Standing Committee on Technology and Governing Board. They must also establish an Early Warning System and systems for continuous monitoring of service delivery and IT performance.

The ITRI framework, including the Early Warning System and real-time service monitoring, is required to be operational by February 28, 2027, with the first ITRI submission covering the half-year ending March 31, 2027.



Rishav Sagar



Interpreting India for commerce

Quick Bites

SEBI Puts a Score on IT Resilience.



SEBI has introduced the IT Resilience Index (ITRI) for Market Infrastructure Institutions to assess the resilience of their critical IT systems.

The framework measures nine parameters, with Availability and Security carrying the highest weightage of 20% each. MIIs will compute the ITRI half-yearly and undertake corrective measures based on the assessment.

SEBI Circular dated 24 August 2026

IT Resilience Index (ITRI) for Market Infrastructure Institutions

Applicable to: Stock Exchanges, Clearing Corporations & Depositories

Delhi | Bengaluru

www.lexport.in



Corporate

SEBI Proposes Comprehensive Review of SME IPO Framework

SEBI is planning a comprehensive review of the regulatory framework governing Small and Medium Enterprise (SME) listings, with the objective of addressing existing market inefficiencies and strengthening investor confidence. SEBI Chairman Tuhin Kanta Pandey has indicated that a consultation paper will be issued as part of the proposed regulatory overhaul.

The proposed review is expected to cover several aspects of the SME listing framework, including trading lot sizes, minimum application sizes, market-making requirements, underwriting obligations, migration from SME platforms to the mainboard and paid-up capital requirements. SEBI has particularly identified issues relating to odd lots, limited liquidity and the effectiveness and cost of the existing market-making framework.

The need for reform has become more significant with increasing participation in SME IPOs. According to data cited by Business Standard, 125 SME IPOs have debuted in 2026 so far, raising approximately ₹5,724 crore. In comparison, 267 SME companies raised ₹11,455 crore in 2025. Despite the economic significance of SMEs, which account for nearly one-third of GDP, they constitute only around 0.2% of India's overall equity market capitalisation.

Analysts believe that improving liquidity, increasing retail float and rationalising listing-related costs could make SME stocks more fundamentally driven and reduce risks for investors. The proposed reforms are therefore expected to improve the functioning of the SME market while facilitating greater access to capital for growing enterprises.



Rishav Sagar



SEBI Moves to Strengthen the SME IPO Framework



SEBI's proposed comprehensive review aims to address key challenges in the SME market, including limited liquidity, odd lot sizes, market-making concerns and listing-related costs, while improving investor protection, market efficiency and access to capital for growing enterprises.

Reference: SEBI Consultation Paper dated 19 November 2024.



Corporate

SEBI Drops Proceedings Against Max Financial and Axis Entities in Max Life Share Deal

SEBI has disposed of proceedings against Max Financial Services Ltd., Max Life Insurance Company Ltd. and various Axis Group entities in relation to transactions involving Max Life shares. The proceedings arose from SEBI's investigation into transactions between the Max and Axis groups during financial years 2009-10 to 2021-22 and followed a show-cause notice issued in October 2024.

The matter involved allegations relating to inadequate or delayed disclosures, fraudulent conduct and transactions that allegedly resulted in an adverse financial impact of approximately ₹3,911–3,912 crore on Max Financial and its shareholders. SEBI examined the transactions under, among other provisions, the SEBI Act, SCRA, PFUTP Regulations and LODR Regulations.

After considering the material available on record, SEBI concluded that the allegations could not be established with sufficient evidence. In particular, the regulator found no adequate basis to establish the alleged fraudulent scheme or active concealment of material information, while the disclosure-related allegations were also not sustained.

Accordingly, SEBI dropped the proceedings against the concerned entities and individuals, including Max Financial founder Aniljit Singh. The order removes a significant regulatory overhang concerning the transactions and brings the proceedings to a close without adverse findings against the noticees.



Rishav Sagar



SEBI CLEARS THE CLOUD: PROCEEDINGS DROPPED



SEBI has disposed of proceedings against Max Financial Services, Max Life Insurance, and Axis Group entities, finding that the allegations of fraudulent conduct, concealment and disclosure violations could not be established with sufficient evidence. The proceedings were accordingly dropped, with no adverse findings against the concerned noticees.

CASE TITLE: SEBI Order dated 2026

Proceedings against Max Financial Services Ltd., Max Life Insurance Co. Ltd. & Axis Group entities – Disposed of / Proceedings Dropped

Delhi | Bengaluru

www.lexport.in



Corporate

Bonus Eligibility and Calculation under the Code on Wages, 2019

The Ministry of Labour and Employment has notified the framework governing statutory bonus eligibility and calculation under the Code on Wages, 2019. As per the notification dated August 25, 2026, employees drawing wages of up to ₹21,000 per month are eligible for statutory bonus under Section 26(1) of the Code. The notification has been given retrospective effect from November 21, 2025.

For eligible employees earning more than ₹7,000 per month, the bonus is not calculated on their actual wages. Instead, the calculation is based on ₹7,000 per month or the applicable minimum wage, whichever is higher. Thus, employees earning between ₹7,000 and ₹21,000 may remain eligible for statutory bonus, but the amount of bonus is subject to the prescribed calculation ceiling.

The Code retains the broader statutory bonus framework, including a minimum bonus of 8.33% and maximum bonus of 20%, subject to the applicable conditions.

The notifications provide greater clarity for employers in determining bonus eligibility and provisioning obligations under the new wage regime.



Rishav Sagar



₹21,000 FOR ELIGIBILITY. ₹7,000 FOR CALCULATION.



The Ministry of Labour and Employment has clarified the statutory bonus framework under the Code on Wages, 2019. Employees earning up to ₹21,000 per month remain eligible for statutory bonus, while for employees earning above ₹7,000, the bonus is calculated on ₹7,000 or the applicable minimum wage, whichever is higher.

The framework retains the statutory bonus range of 8.33% to 20%, subject to applicable conditions.

Regulatory Update | Ministry of Labour & Employment
Code on Wages, 2019 – Statutory Bonus Framework
Notification dated 25 August 2026

Delhi | Bengaluru

www.lexport.in



About Us

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

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

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

Our Legal Team

Srinivas Kotni

Managing Partner, Lexport

Litigation Team

Hardik Jain

Meyank Pandey

Maitreya Mahale

IPR Team

Rajlatha Kotni

Anushka Tripathi

Shreya Panda

IDT Team

Srinivas Kotni

Gurdeep 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

