

WEEKLY CORPORATE UPDATES

Saturday 27th August, 2022

(Curated & compiled by)

Team Indiacorp Law

Headed by:

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MCA UPDATES

The Companies (Removal of Names of Companies from the Register of Companies) Second Amendment Rules, 2022

Notification No: G.S.R. 658(E)

Dated: 24th August, 2022

Ministry of Corporate Affairs (MCA) vide its notification dated 24th August, 2022 has notified the Companies (Removal of Names of Companies from the Register of Companies) Second Amendment Rules, 2022 which shall come into force on the date of their publication in the Official Gazette.

Vide above notification, In the Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016, -

(a) in Form No. STK-1, in paragraph (1), for the brackets and words "(tick whichever is applicable)", the following shall be substituted, namely:-

"() the company is not carrying on any business or operations, as revealed after the physical verification carried out under sub-section (9) of section 12.
(tick whichever is applicable)";

(b) in Form STK-5, in paragraph 1, after sub-paragraph (iii) and before the long line, the following shall be inserted, namely:-

"(iv) the following companies are not carrying on any business or operations, as revealed after the physical verification carried out under sub-section (9) of section 12.
M/s. _____ (indicate names of companies)
M/s. _____";

(c) in Form No. STK-5A, in paragraph 1, for the brackets and words "[Strike off whichever is not applicable]", the following shall be substituted, namely:-

"(iv) are not carrying on any business or operations, as revealed after the physical verification carried out under sub-section (9) of section 12.
[Strike off whichever is not applicable]".

Related Link: <https://egazette.nic.in/WriteReadData/2022/238410.pdf>

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Update on MCA21 Version-3

Press Release ID: 1854102

Dated: 24th August, 2022

MCA21 version-3.0 is a technology-driven forward-looking project, envisioned to strengthen enforcement, promote Ease of Doing Business and enhance user experience. MCA21 version-3.0 rollout has been planned in phases to ensure minimum disruption in regulatory filings.

09 company forms (CHG-1, CHG-4, CHG-6, CHG-8, CHG-9, DIR-3 KYC, DIR-3 KYC WEB, DPT-3 and DPT-4) are scheduled to go-live on 01.09.2022 (00:00 hrs). Remaining company forms and other modules like e-Adjudication, Compliance Management System are scheduled to be fully deployed within this Calendar Year.

In view of the upcoming launch of 09 Company forms in version-3, LLP filings on MCA21 V-3 portal will not be available from 27th Aug (00:00AM) to 28th Aug (23:59hrs). However, MCA21 V-2 Portal for company filings will remain available.

Frequently asked questions (FAQs) and demo for these 09 forms are available on the website of MCA (www.mca.gov.in). Several webinars have been conducted to sensitise all stakeholders in association with Institute of Chartered Accountants of India (ICAI) and Institute of Company Secretaries of India (ICSI).

Phase-1 of rollout was completed on 24th May 2021 with launch of e.Book, e. Consultation Modules and a revamped website.

As part of Phase-2, LLP Module for supporting all LLP filings was launched on 08th March 2022.

Related Link: <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1854102>

Centre for Corporate exits being set up

Dated: 22nd August, 2022

The government is set to create a national centre for quick, faceless decision-making on requests from companies for winding up operations as part of efforts to improve the overall regulatory framework.

The ministry of corporate affairs is setting up the national centre for accelerated corporate exit, which will be backed by an IT infrastructure for decision-making at the national level without discretion by individual field officers, said a person familiar with the discussions in the government.

Once set up, businesses downing shutters need not go to the Registrars of Companies (RoCs) —but only file an online request showing they have no liabilities or have enough assets to match or exceed liabilities.

The government believes that ease of exit for businesses that have either failed to take off or want to close operations for various economic reasons will be a key consideration that investors will take into account while making investment decisions.

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The proposed national centre will assign requests from businesses across the country randomly to various officers. It will no longer be the ROC in a particular region where the company is incorporated that will handle such requests. This is expected to reduce human discretion and could also help in preventing any irregularity in winding up of companies, the person said.

Related Link:

<https://www.livemint.com/companies/news/centre-for-corporate-exits-being-set-up-11661099016201.html>

SEBI UPDATES

SEBI Settlement Scheme, 2022

Dated: 19th August, 2022

Pursuant to the order of the Hon'ble Securities Appellate Tribunal ("SAT") dated May 13, 2022, in the matter of illiquid stock options, SEBI has framed a Settlement Scheme ("Scheme, 2022") for the entities against whom proceedings have been initiated and are pending before any forum or authority, viz. Courts/SAT, Adjudicating Officer and Recovery Officer (provided an appeal has been filed and the same is pending before the SAT/Court). The entities may avail the Scheme, 2022 as per its terms and conditions. The terms and conditions of the Scheme, 2022 shall be available on the respective websites of SEBI and BSE on August 22, 2022. The Scheme shall commence on August 22, 2022 and end on November 21, 2022 (both days inclusive) or such other date as approved by the Competent Authority.

Related Link: https://www.sebi.gov.in/media/public-notices/aug-2022/public-notice-in-respect-of-sebi-settlement-scheme-2022_62175.html

SEBI (Portfolio Managers) (Amendment) Regulations, 2022

Notification No.: SEBI/LAD-NRO/GN/2022/94

Dated: 22nd August, 2022

SEBI vide its notification dated August 22, 2022, amends the provisions of SEBI (Portfolio Managers) Regulations, 2020, which shall come into force on the thirtieth day from the date of their publication in the Official Gazette. Vide this amendment SEBI has enhanced prudential norms for investments by portfolio managers including investments in associates/ related parties. It is provided that the portfolio manager may make investments in the securities of its related parties or its associates only after obtaining the prior consent of the client in such manner as may be specified by the SEBI from time to time. Further provided that the portfolio manager shall ensure compliance with the prudential limits on investments as may be specified by the SEBI.

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Four individuals settle with SEBI case related to Sobha Ltd, pay Rs. 2.93 Crore

Settlement Order No.: SO/AA/HP/2022-23/6654-6658

Dated: 22nd August, 2022

Markets regulator SEBI has disposed of the adjudication proceedings against realty firm Sobha Ltd and four individuals following settlement in a case pertaining to alleged fraudulent trading and disclosure lapses. A settlement amount of Rs 2,92,50,000 has been paid by the four individuals. Among others, it was alleged that Sobha Ltd had misrepresented the receivables for the construction of residence of one D K Shivakumar (DKS) and misreported service tax/GST dues of the individual in three financial years - - 2016-17, 2017-18 and 2018-19. There was also the allegation about non-disclosure of change in accounting policy for the same during the said period, according to a settlement order.

Related Link: https://www.business-standard.com/article/markets/four-individuals-settle-with-sebicase-related-to-sobha-ltd-pay-rs-2-93-cr-122082201069_1.html

Titan case: SEBI fines 8 individuals for breach of insider trading norms

Recovery Certificate No.: 4598/2022

Dated: 25th August, 2022

Markets regulator SEBI imposed fines totalling Rs 8 lakh on eight individuals for violation of insider trading norms in the shares of Titan Company Ltd. The transactions were carried out by the designated persons/employees of Titan between April 2018 and March 2019. The order came after SEBI received a letter from Titan Company Ltd (TCL) wherein the company intimated the market watchdog about contravention of the SEBI (Prohibition of Insider Trading) Regulations and the company's code of conduct by some of its designated persons/employees. During their employment, they had transacted in the securities of the firm but failed to make disclosures to the firm under the insider trading norms.

Related Link: https://www.business-standard.com/article/pti-stories/titan-case-sebi-fines-eightindividuals-for-breach-of-insider-trading-norms-122082401181_1.html

Enhanced Disclosures by CRAs and Norms on Rating Withdrawal

Circular No.: SEBI/HO/DDHS/DDHS-RACPOD2/P/CIR/2022/113

Dated: 25th August, 2022

Capital markets regulator Sebi on Friday enhanced disclosure rules for credit rating agencies (CRAs) and put in place a framework for rating withdrawal of perpetual debt securities. The move is aimed at allowing investors and other stakeholders to properly use such disclosures in a fair assessment of CRAs, the Sebi said in a circular.

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The new framework will be applicable to credit ratings of securities that are already listed or proposed to be listed on a stock exchange.

In order to standardise the methodology pertaining to disclosure of a 'sharp rating action', Sebi said CRAs will have to compare two consecutive rating actions.

Further, a CRA will have to disclose a sharp rating action if the rating change between two consecutive rating actions is more than or equal to three notches downward. The regulator has mandated CRAs to frame detailed guidelines on what constitutes non-cooperation by issuers, which includes non-submission of quarterly financial results within prescribed timelines, current and past operational details about capex plans, debt obligations and repayment details, among others, and any other issue felt appropriate by a credit rating agency as per its internal assessment.

CRAs need to have a detailed policy regarding methodology in respect of assessing the risk of non-availability of information from the issuers, including non-cooperative issuers and steps to be taken under various scenarios in order to ascertain the status of non-cooperation by the issuer company.

Related Link: https://www.sebi.gov.in/legal/circulars/aug-2022/enhanced-disclosures-by-cras-and-norms-on-rating-withdrawal_62361.html

Disclosure requirement for Asset Management Companies (AMCs)

Circular No.: SEBI/HO/IMD/DOF2/P/CIR/2022/111

Dated: 25th August, 2022

Capital markets regulator SEBI on Thursday came out with the disclosure framework for asset management companies, mandating a scheme-wise disclosure of investments in securities of entities that are excluded from the definition of 'associate'.

This came after Securities and Exchange Board of India, earlier this month, amended mutual fund rules to remove the applicability of the definition of 'associate' to sponsors that invest in various companies on behalf of the beneficiaries of insurance policies or such other schemes.

Under the rules, associate includes a person who directly or indirectly, by himself, or in combination with relatives, exercises control over the AMC or the trustee, among others.

As part of the new framework, asset management companies will have to make scheme-wise disclosure of investments, as on the last day of each quarter, in securities of such entities that are excluded from the definition of 'associate', the SEBI said in a circular.

Further, disclosure of investment will include ISIN wise value of investment and value as percentage of assets under management of scheme.

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Such disclosure will be made on the websites of respective AMCs and on the website of the Association of Mutual Funds in India, within one month from the close of each quarter.

At present, there are 43 mutual fund houses, which together manage assets worth nearly Rs 38 lakh crore.

Related Link: <https://www.sebi.gov.in/legal/circulars/aug-2022/disclosure-requirement-for-asset-management-companies-amcs-62345.html>

Corrigendum to Master Circular for Depositories dated February 05, 2021 on Opening of demat account in case of HUF

Recovery Certificate No.: SEBI/HO/MRD/MRD-POD-2/P/CIR/2022/114

Dated: 26th August, 2022

In partial modification, Subsection 1.2(a) of Section 1.4 of the Master Circular for Depositories dated February 05, 2021 shall be replaced with the following:

"In the event of death of Karta of HUF, the name of the deceased Karta in the Beneficial Owner (BO) account shall be replaced by the new Karta of the HUF who in such a case shall be eldest coparcener in the HUF or a coparcener who is appointed as Karta by an agreement reached amongst all the coparceners of the HUF"

Related Link: <https://www.sebi.gov.in/legal/circulars/aug-2022/corrigendum-to-master-circular-for-depositories-dated-february-05-2021-on-opening-of-demat-account-in-case-of-huf-62387.html>

Sebi amends rules for portfolio managers' investments in 'associates'

Circular No.: SEBI/HO/IMD/IMD-I/DOF1/P/CIR/2022/112

Dated: 26th August, 2022

Markets regulator Sebi on Friday said portfolio managers can invest a maximum of 30% of clients' assets in the securities of their 'associates' or related parties.

This came after Sebi amended portfolio managers' rules on Monday that mandated prudential limits on investments in associates and related parties of portfolio managers, the requirement of taking prior consent of clients for such investments and restrictions based on the credit rating of securities.

The regulator defined "associate" as a body corporate in which a director or partner of the portfolio manager holds, either individually or collectively, more than 20% of its paid-up equity share capital or partnership interest.

In a circular, the Sebi said "portfolio managers shall invest up to a maximum of 30% of their client's

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portfolio (as a percentage of the client's assets under management) in the securities of their own associates/related parties."

With regard to investment in equity, debt and hybrid securities, the regulator has fixed a limit of 15% each for investment in a single associate or related party, while the same has been set at 25% for investment across multiple associates or related parties.

Related Link: https://www.sebi.gov.in/legal/circulars/aug-2022/circular-for-portfolio-managers_62374.html

RBI UPDATES

Sovereign Gold Bond Scheme 2022-23 (Series II) – Issue Price

Dated: 19th August, 2022s

In terms of Government of India Notification No.4(6)- B(W&M)/2022 dated June 15, 2022, Sovereign Gold Bonds 2022-23 (Series II) will be opened for subscription during the period August 22-26, 2022 with Settlement date August 30, 2022. The issue price of the Bond during the subscription period shall be Rs 5,197 (Rupees five thousand one hundred ninety seven only) per gram, as also published by RBI in their Press Release dated August 19, 2022.

Related Link: <https://www.pib.gov.in/PressReleaseDetail.aspx?PMO=3&PRID=1853194>

Overseas investment rules and regulations notified

Notification No.: RBI/2022-2023/110, FEMA 400/2022-RB

Dated: 22nd August, 2022

In line with the amendment in the Foreign Exchange Management Act, Outward Investments Rules have been framed by the Government of India in consultation with the Reserve Bank. Presently, the overseas investment by a person resident in India is governed by the Foreign Exchange Management (Transfer or Issue of Any Foreign Security) Regulations, 2004 and the Foreign Exchange Management (Acquisition and Transfer of Immovable Property Outside India) Regulations, 2015.

The Government of India in consultation with the Reserve Bank undertook a comprehensive exercise to simplify these regulations. Draft Foreign Exchange Management (Overseas Investment) Rules and draft Foreign Exchange Management (Overseas Investment) Regulations were also put in the public domain for consultations. Extant regulations pertaining to Overseas Investments and Acquisition and Transfer of Immovable Property Outside India have been subsumed within these rules and regulations.

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In view of the evolving needs of businesses in India, in an increasingly integrated global market, there is need of Indian corporates to be part of global value chain. The revised regulatory framework for overseas investment provides for simplification of the existing framework for overseas investment and has been aligned with the current business and economic dynamics. Clarity on Overseas Direct Investment and Overseas Portfolio Investment has been brought in and various overseas investment related transactions that were earlier under approval route are now under automatic route, significantly enhancing "Ease of Doing Business".

Related Link: <https://egazette.nic.in/WriteReadData/2022/238239.pdf>,
<https://egazette.nic.in/WriteReadData/2022/238242.pdf>

Loan defaulters and those facing probe need NOC to invest abroad

Dated: 23rd August, 2022

The Finance Ministry on August 23, 2022 made it tougher for loan defaulters and those facing probe by investigative agencies to invest in overseas entities. They will now have to secure a No-Objection Certificate (NOC) from their lenders, or the regulators or probe agencies concerned before making overseas investments, according to the new norms notified by the Department of Economic Affairs (DEA).

Related Link: <https://www.financialexpress.com/industry/banking-finance/loan-defaulters-and-those-facing-probe-need-noc-to-invest-abroad/2640369/>

RBI Governor say inflation has peaked, 'will approach 4% target in steady manner'

Dated: 23rd August, 2022

Reserve Bank of India Governor Shaktikanta Das seeks to slow India's inflation to 4% within two years after hitting its peak in the last few months. The RBI has raised policy repurchase rate by a total of 140 basis points since May, including back-to-back half point increases in June and August, to cool down inflation within its mandate of 2%-6%. Consumer prices have fallen for three straight months in July but continue to remain above 6% mark.

Related Link: <https://www.livemint.com/industry/banking/rbi-governor-says-inflation-has-peaked-willapproach-4-target-in-steady-manner-11661241892929.html>

Finance Ministry allays worries on UPI charges, says providers may seek 'other means'

Dated: 22nd August, 2022

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After the Reserve Bank of India (RBI) came out with a discussion paper last week on charges in payment systems, the Finance Ministry on August 21, 2022 clarified that there is no consideration in the Government to levy any charges for Unified Payments Interface (UPI) services. In a discussion paper released on August 17, 2022, the RBI had asked stakeholders if the Merchant Discount Rate (MDR), a fee paid by merchants to acquiring banks, should be brought back for UPI transactions. MDR on UPI transactions has been a long-standing demand of the payments industry.

Related Link: <https://indianexpress.com/article/business/banking-and-finance/finance-ministry-allaysworries-on-upi-charges-says-providers-may-seek-other-means-8103834>

RBI lifts business restrictions imposed on American Express

Dated: 24th August, 2022

The Reserve Bank of India (RBI) on August 24, 2022 lifted the ban on American Express, more than a year after it was imposed. The central bank had restricted Amex from onboarding new clients in April last year as it failed to meet data localisation norms.

“In view of the satisfactory compliance demonstrated by American Express Banking Corp. with the circular on Storage of Payment System Data, the restrictions imposed on on-boarding of new domestic customers have been lifted with immediate effect,” the central bank said in a notification.

Related Link: <https://economictimes.indiatimes.com/industry/banking/finance/banking/rbi-lifts-business-restrictions-imposed-on-american-express/articleshow/93759003.cms>

IBC & NCLT UPDATES

CIRP plea filed within 3 years from issuance of recovery certificate by banker was well within limitation period: NCLAT

Dated: 22 Aug 2022

Where appellant-financial creditor granted loan to corporate debtor and account of corporate debtor was declared NPA on 5-4-2008 but recovery certificate was issued by DRT against corporate debtor on 2-7-2019, application filed on 18-11-2019 by appellant under section 7 was well within period of three years from issuance of recovery certificate and, therefore, same could not be dismissed on ground of limitation.

Related Link: [CIRP plea filed within 3 years from issuance of recovery certificate by banker was well within limitation period: NCLAT - Taxmann](#)

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Revenue couldn't proceed to file appeal against order of ITAT if NCLT passed order imposing moratorium under IBC: HC

Dated: 22 Aug 2022

Where National Company Law Tribunal had already passed an order under section 14 of Insolvency & Bankruptcy Code, 2016 imposing moratorium in case of assessee-company, revenue could not pursue appeal against Tribunal's order quashing revision order passed by Principal Commissioner, in light of overriding provisions of Code in terms of section 238 of Insolvency & Bankruptcy Code, 2016 and, thus, said appeal was to be dismissed and question of law was left open.

Related Link: [Revenue couldn't proceed to file appeal against order of ITAT if NCLT passed order imposing moratorium under IBC: HC - Taxmann](#)

Undervalued execution of lease deed by suspended directors after issue of notice u/s 13(2) of SARFAESI was to be set aside

Dated: 23 Aug 2022

Where applicant/Resolution Professional had successfully shown that lease deed executed by suspended board of directors of corporate debtor, on behalf of corporate debtor in favour of respondent No. 3 was grossly undervalued, fraudulent, illegal and void ab initio inasmuch as it had been executed after issuance of notice under section 13(2) of SARFAESI Act, 2002, lease deed was to be set aside.

Related Link: [Undervalued execution of lease deed by suspended directors after issue of notice u/s 13\(2\) of SARFAESI was to be set aside - Taxmann](#)

Promoters of CD who led insolvency process can't claim to submit resolution plan indirectly by way of proposal u/s 12A

Dated: 23 Aug 2022

Promoters of corporate debtor, who led to insolvency process of corporate debtor, cannot claim to submit a resolution plan indirectly by way of proposal under section 12A and ask lenders to evaluate their resolution plan.

Related Link: [Promoters of CD who led insolvency process can't claim to submit resolution plan indirectly by way of proposal u/s 12A - Taxmann](#)

Claim of applicant admitted under category of others as he miserably failed to establish his claim as financial debt

Dated: 23 Aug 2022

Concerns:

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Where applicant as financial creditor filed a claim to RP for amount advanced to corporate debtor, however, applicant had miserably failed to establish that said debt would qualify as financial debt but there was no dispute between parties that amount was received by corporate debtor through banking channel, claim of applicant was to be admitted under category of other creditors.

Related Link: [Claim of applicant admitted under category of others as he miserably failed to establish his claim as financial debt - Taxmann](#)

Whether an investment made by the Director of the Company falls under the definition of Operational Debt? – Akshat Pandey Vs. Avighna Films Pvt. Ltd. – NCLT Kolkata Bench

Date of pronouncing the order: 14.07.2022

Investment made by director of the Corporate debtor does not fall under the purview of operational debt. As per the definition of the term Operational Debt in the Code, it is clear that a debt is considered to be an operational debt, when it is confined under three categories; (i) Goods, or; (ii) Services (including employment), or; (iii) a debt in respect of the re-payment of dues arising under any law for the time being in force and payable to the Central Government, any State Government or any local authority.

Related Link: [Investment made by the Director of the Company does not fall under the purview of an Operational Debt under the IBC-NCLT kolkata – IBC Law Reporter](#)

NCLAT permits corporate debtor to file plea u/s 49(2) to explain facts and circumstance against ex parte order admitting CIRP

Dated: 24 Aug 2022

Where an ex parte order was passed by NCLT admitting CIRP application filed by respondent-bank against corporate debtor, corporate debtor was permitted to file an application under rule 49(2) of NCLT Rules, 2016, wherein corporate debtor would be able to explain facts and circumstances of case.

Related Link: [NCLAT permits corporate debtor to file plea u/s 49\(2\) to explain facts and circumstance against ex parte order admitting CIRP - Taxmann](#)

NCLT directs RP to provide copies of resolution plan to suspended management to deliberate resolution plan afresh

Dated: 24 Aug 2022

Where suspended management being participant of CoC meetings was never provided with copies of resolution plan placed before CoC, Resolution Professional was to be directed to provide resolution plans to suspended management and then convene a meeting of CoC and CoC would deliberate on resolution plans afresh.

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Related Link: [NCLT directs RP to provide copies of resolution plan to suspended management to deliberate resolution plan afresh - Taxmann](#)

Proposal to extinguish claims rejected when such claims were admitted by Claim Management Advisor: NCLAT

Dated: 24 Aug 2022

Where corporate debtor filed an application seeking approval of NCLAT to implement restructuring proposal and sought directions that claims of operational/CAPEX creditors be extinguished, in view of fact that claim of creditors had been admitted by Claim Management Advisor and same had to be dealt with in resolution plan when it would be drawn, restructuring proposal of corporate debtor was to be allowed but relief sought to extinguish claims of operational creditor was not allowed.

Related Link: [Proposal to extinguish claims rejected when such claims were admitted by Claim Management Advisor: NCLAT - Taxmann](#)

Debt relating to unpaid license fee would be fully covered within meaning of operational debt u/s 5(21): NCLAT

Dated: 24 Aug 2022

Where corporate debtor had taken a licensed premises for running an Educational Institution, all cost incurred by corporate debtor and cost which remained unpaid would become a debt on part of operational creditor and, thus, debt pertaining to unpaid license fee would be fully covered within meaning of operational debt under section 5(21).

Related Link: [Debt relating to unpaid license fee would be fully covered within meaning of operational debt u/s 5\(21\): NCLAT - Taxmann](#)

Future Enterprises faces second plea to initiate insolvency

Dated: Aug 24, 2022

Debt-ridden Future Enterprises is now facing a second insolvency plea filed by an operational creditor before National Company Law Tribunal.

The latest petition was filed by Retail Detailz India, claiming default of Rs 4.02 crore before the Mumbai bench of the NCLT.

"The Company has received e-filing confirmation from NCLT with respect to the filing of an application by an Operational Creditor Retail Detailz India Private under section 9 of the IBC for an alleged default amount of Rs 4.02 crore," Future Enterprises said in a filing.

Concerns:

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Related Link: [future enterprise news: Future Enterprises faces second plea to initiate insolvency - The Economic Times \(indiatimes.com\)](https://www.indiatimes.com)

Section 238 overrides other laws, FC can file CIRP before AA even if proceedings are pending before other forums: NCLAT

Dated: 25 Aug 2022

Since by virtue of section 238, provisions of I&B Code have overriding effect on other laws, therefore, financial creditors/operational creditors/corporate persons can file an application under sections 7, 9 and 10 before NCLT even though in respect of same debt any proceedings were pending before other forums.

Related Link: [Section 238 overrides other laws, FC can file CIRP before AA even if proceedings are pending before other forums: NCLAT - Taxmann](#)

Bank guarantee by builder to ensure construction of residential units didn't amount to assets of corporate debtor: NCLAT

Dated: 25 Aug 2022

Where appellant-project owner issued two bank guarantees (performance bank guarantee and mobilisation advance bank guarantee) to corporate debtor to ensure performance of an obligation to construct residential quarters and towards security for execution same, since corporate debtor was unable to execute work with given advance and bank guarantee, same could not be said to be an asset belonging to corporate debtor.

Related Link: [Bank guarantee by builder to ensure construction of residential units didn't amount to assets of corporate debtor: NCLAT - Taxmann](#)

Group of MSMEs can converge and join hand to touch the limit of 1 Crore u/s 7 to initiate CIRP under IBC : HC

Dated: 25 Aug 2022

A group of FCs who are MSMEs can converge & join hands to touch the financial limit of Rs.1 crore u/s 7, so as to initiate a CIRP under the IBC.

Related Link: [Group of MSMEs can converge and join hand to touch the limit of 1 Crore u/s 7 to initiate CIRP under IBC : HC - Taxmann](#)

Non-implementation of resolution plan can't be a ground for High Court to create an alternative remedy : HC

Dated: 25 Aug 2022

Concerns:

M/s Indiacorp Law, Advocates & Solicitors, Noida & Jangpura Extension (New Delhi), Kandivili Mumbai

Where resolution plan approved by Adjudicating Authority is contravened by concerned corporate debtor, any person other than corporate debtor, whose interests are prejudicially affected, may make an application to Adjudicating Authority for an order for liquidation under section 33(3) of IBC. This is scheme under IBC, and if Parliament, in its wisdom.

Related Link: [Non-implementation of resolution plan can't be a ground for High Court to create an alternative remedy : HC - Taxmann](#)

Corporate debtor's plea seeking extinguishment of past liabilities, claims assured by SC's order was to be upheld : HC

Dated: 26 Aug 2022

Where resolution plan approved by Supreme Court in respect of corporate debtor provided that all past dues, claims and liabilities against corporate debtor stood extinguished, civil application filed by corporate debtor seeking extinguishment and discharge of liability raised by operational creditor against corporate debtor towards water charges attributable to period prior to CIRP was to be allowed

Related Link: [Corporate debtor's plea seeking extinguishment of past liabilities, claims assured by SC's order was to be upheld : HC - Taxmann](#)

SC holds in case of conflict Insolvency and Bankruptcy Code prevails over Customs Act

Dated: Aug 26, 2022

The Supreme Court on Friday held that Insolvency and Bankruptcy Code (IBC) will prevail over the Customs Act, to the extent that once moratorium proceedings begin under the Code, the customs authority does not have the power to initiate any recovery actions for dues from the corporate debtor.

The top court also held that the customs authority cannot claim title over the goods and issue notice to sell the goods in terms of the Customs Act when the liquidation process has been initiated . against the corporate debtor.

A bench of Chief Justice NV Ramana and Justices JK Maheshwari and Hima Kohli set aside an order of the National Company Law Appellate Tribunal (NCLAT) by which it had allowed the appeal of the Central Board of Indirect Taxes and Customs (CBIT-C) against the verdict of NCLT directing the release of certain goods lying in the Customs Bonded Warehouses without payment of customs duty and other levies.

Related Link: [customs act: SC holds in case of conflict Insolvency and Bankruptcy Code prevails over Customs Act - The Economic Times \(indiatimes.com\)](#)

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In case of conflict, IBC prevails over Customs Act: Supreme Court

Dated: Aug 27, 2022

The Supreme Court on Friday held that Insolvency and Bankruptcy Code (IBC) will prevail over the Customs Act, to the extent that once moratorium proceedings begin under the Code, the customs authority does not have the power to initiate any recovery actions for dues from the corporate debtor. The top court also held that the customs authority cannot claim title over the goods and issue notice to sell the goods in terms of the Customs Act when the liquidation process has been initiated against the corporate debtor.

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Related Link: [supreme court: In case of conflict, IBC prevails over Customs Act: Supreme Court - The Economic Times \(indiatimes.com\)](https://www.indiatimes.com)

Suspended directors having grievances against RP could approach appropriate forum for investigation u/s 217: HC

Dated: 27 Aug 2022

There is a mechanism provided under sections 217 and 218 for enquiring complaint against insolvency professional and, therefore, if suspended director of corporate debtor had any grievance against insolvency professional, it was open to such director to approach appropriate forum as provided under sections 217 and 218.

Related Link: [Suspended directors having grievances against RP could approach appropriate forum for investigation u/s 217: HC - Taxmann](https://www.taxmann.com)

Thanking You,

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