

## **WEEKLY CORPORATE UPDATES**

**Saturday 29<sup>th</sup> October, 2022**

(Curated & compiled by)

### **Team Indiacorp Law**

**Headed by:**

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## SEBI UPDATES

### *SEBI issues clarifications on Block Mechanism in demat account of clients undertaking sale transactions*

*Circular No.: SEBI/HO/MIRSD/DOP/P/CIR/2022/143*

*Dated: 27 October, 2022*

*SEBI, in exercise of powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992, and Section 19 of the Depositories Act, 1996 to protect the interests of investors in securities and in view of the representations received from Depositories and Custodians, clarified that the block mechanism shall not be applicable to clients having arrangements with custodians registered with SEBI for clearing and settlement of trades. It directed the Stock Exchanges and Depositories to:*

- bring the provisions of this circular to the notice of their members / participants and also disseminate the same on their websites;*
- make necessary amendments to the relevant Bye-laws, Rules and Regulations for the implementation of the above decision;*
- communicate to SEBI, the status of the implementation of the provisions of this circular.*

*Related Link: [https://www.sebi.gov.in/legal/circulars/oct-2022/block-mechanism-in-demat-account-of-clients-undertaking-sale-transactions-clarification\\_64384.html](https://www.sebi.gov.in/legal/circulars/oct-2022/block-mechanism-in-demat-account-of-clients-undertaking-sale-transactions-clarification_64384.html)*

### *SEBI reduces denomination for debt securities and non-convertible redeemable preference shares*

*Circular No.: SEBI/HO/DDHS/P/CIR/2022/00144*

*Dated: 28 October, 2022*

*SEBI, with an aim to enhance liquidity in the corporate bond market, notified amendments to chapter V (Denomination of issuance and trading of Non-convertible Securities) of the Operational Circular wherein it reduced the face value of debt security and non-convertible redeemable preference share issued on private placement basis to Rs 1 lakh from the current Rs 10 lakh.*

*The new guidelines will be applicable to all issues of debt securities and non-convertible redeemable preference shares on private placement basis through new ISINs, on or after January 1, 2023. However, with respect to shelf placement memorandum which is valid as on January 1, 2023, the issuer thereof will have the option while raising funds through tranche placement memorandum, to keep the face value at Rs 10 lakh or Rs 1 lakh.*

*Related Link: [https://www.sebi.gov.in/legal/circulars/oct-2022/reduction-in-denomination-for-debt-securities-and-non-convertible-redeemable-preference-shares\\_64429.html](https://www.sebi.gov.in/legal/circulars/oct-2022/reduction-in-denomination-for-debt-securities-and-non-convertible-redeemable-preference-shares_64429.html)*

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## RBI UPDATES

### *RBI announces rate of interest on Government of India Floating Rate Bond, 2034*

*Press Release: 2022-2023/1103*

*Dated: 28 October, 2022*

*The Reserve Bank of India (RBI) announces that the rate of interest on Government of India Floating Rate Bond, 2034 (GOI FRB 2034) applicable for the half year October 30, 2022 to April 29, 2023 shall be 7.69 percent per annum. This 231 basis point higher rate of interest shall be applicable for the half-year period from October 30, 2022 to April 29, 2023.*

*It further stated that FRB, 2034 will carry a coupon, which will have a base rate equivalent to the average of the Weighted Average Yield (WAY) of last 3 auctions of 182 Day T-Bills, plus a fixed spread (0.98%).*

*Related Link: [https://rbi.org.in/Scripts/BS\\_PressReleaseDisplay.aspx?prid=54601](https://rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=54601)*

## IBC & NCLT UPDATES

### *In the absence of any order from the Adjudicating Authority appointing a liquidator, the continuation of a Resolution Professional for a period beyond what was expressly approved by the COC is not in contravention of any provisions of IBC- NCLT Chandigarh bench*

*Dated: 14<sup>th</sup> October, 2022*

*In the matter of **Mr. Sameer Rastogi erstwhile RP Tara Chand Rice Mills Pvt. Ltd. vs. Mr. Rakesh Ahuja Liquidator of M/s. Tara Chand Rice Mills Pvt. Ltd** [IA No.953/2020 In CP (IB) No.121/Chd/Hry/2017], the original CIRP of the Corporate Debtor i.e. Tara Chand Rice Mills Pvt. Ltd concluded on 11.09.2018 which was extended upto 10.12.2018 and accordingly, the CoC had approved the professional fees during the CIRP or any extension. However, for period from 11.12.2018 till 12.02.2019, the Resolution Professional (RP) had managed the affairs of corporate debtor without any approval of the CoC. Now the issue of the claim of fees of the RP was brought up wherein two issues were placed before the Hon'ble NCLT Chandigarh bench for adjudication, firstly that whether payment to the Resolution Professional for the period beyond what was expressly approved by the COC is maintainable; and secondly as to who will decide the fees, if any, due to the erstwhile Resolution Professional.*

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*In the present case while adjudicating upon the said issues, the Hon'ble Chandigarh bench held that in the absence of any order from this Adjudicating Authority appointing a liquidator, the continuation of the RP is not in contravention of any provisions of IBC. Further, contention of the Respondent that no fees is payable for the extended period as the same was not ratified by the CoC was considered as untenable.*

Related Link: <https://ibbi.gov.in/uploads/order/2937014e95d5cd9bf379764eed54655b.pdf>

## **Failure or breach of a Profit Sharing Agreement cannot be a ground to trigger CIRP – NCLAT New Delhi bench**

Dated: 20<sup>th</sup> October, 2022

*Aggrieved by an order dated 15.03.2022 passed by the Hon'ble NCLT Mumbai bench-IV wherein a section 9 application was admitted and CIRP was initiated against the Corporate Debtor i.e. ABMAY Health Ventures LLP, an appeal was filed before the Hon'ble NCLAT New Delhi bench in the matter of **Prashanth Shekara Shetty Vs. Alcuris Healthcare Pvt. Ltd.** [Company Appeal (AT) (Ins.) No. 359 of 2022]*

*In the present matter, an agreement was entered between Alcuris Healthcare Pvt. Ltd. and "ABMAY Health Ventures LLP", (the Corporate Debtor) creating a joint venture named "SRV Heart Centre-unit of MHPCL". wherein the clauses of the agreement were described as "general profit sharing partners" The clauses of the agreement clearly disclosed an intent that both parties shall exercise joint control over the SRV Heart Centre and will be accountable to each other for their respective acts with reference to the functioning of the Cathlab.*

*The Hon'ble Appellate Tribunal observed that when shared control of interest or enterprise and shared liability for profit and losses is so clearly manifested, it cannot be denied that both parties are implicit partners and co-adventurers in the Cathlab venture rather than one being a consumer and the other a service provider. From the material on record, facts and circumstances there arises no clear or unambiguous jural relationship between the two parties as one of Corporate Debtor and Operational Creditor. Rather both the Corporate Debtor and Respondent No. 1 are like the principal as well as the agent of the other party. This spirit is not only captured in the body of the agreement but also demonstrated in the actions and conduct of both parties in their role as "general profit sharing partners".*

*For the said reasons, the Hon'ble Appellate Tribunal refused to agree with the contention of the Respondent No. 1 i.e the Operational Creditor that the outstanding amount so claimed constitutes an operational debt under the IBC. Furthermore, since the claim was not considered to be in the nature of Operational debt, the Hon'ble Appellate did not deem it necessary to examine whether there was any default in respect of a debt which had become due and payable and whether it was laced with pre-existing dispute.*

Related link:

[https://efiling.nclat.gov.in/nclat/order\\_view.php?path=L05DTEFUX0RvY3VtZW50cy9DSVNfRG9jdW1lbnRzL](https://efiling.nclat.gov.in/nclat/order_view.php?path=L05DTEFUX0RvY3VtZW50cy9DSVNfRG9jdW1lbnRzL)

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**Thanking You,**

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