

WEEKLY CORPORATE UPDATES

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(Curated & compiled by)

Team Indiacorp Law

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SEBI UPDATES

Sebi issues new format for disclosing payment of fees

Dated: 10 November, 2022

Sebi on Thursday issued a new format for disclosing details pertaining to payment of fees applicable under the issuance of debt securities rules. In July, Sebi said that market infrastructure institutions, including stock exchanges, registered intermediaries and companies that have listed or are intending to list their securities on a stock exchange have to pay 18 per cent GST on the fees charged by the regulator.

This is also applicable for persons who are dealing in the securities market. The tax rate was effective from July 18.

The Securities and Exchange Board of India (Sebi) has amended the chapter that deals with bank account details for payment of fees of the NCS (Issue and Listing of Non-Convertible Securities) rules, according to a circular.

Under the new format, issuers who have listed and/or propose to list non-convertible securities, stock exchanges and other entities will have to disclose to Sebi about date of remittance, amount remitted -- break-up of fee and GST thereof -- GST Registration number of remitter, among other details.

Related Link: https://economictimes.indiatimes.com/markets/stocks/news/sebi-issues-new-format-for-disclosing-paymentoffees/articleshow/95432511.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppt

SEBI seeks to protect public shareholders' interests during CIRP

Dated: 10 November, 2022

Market regulator SEBI has carved out a way to protect millions of public shareholders of listed companies that undergo the Corporate Insolvency Resolution Process (CIRP). Until now, the CIRP catered only to the interests of banks and other big creditors, but shareholders lost their rights over a company the moment it got admitted into the debt restructuring process, and the new owner, post-restructuring, gained 100 per cent control of the entity.

In a consultation paper issued on Thursday, SEBI has now proposed that the existing public shareholders of a company under CIRP should also become shareholders in the company post its restructuring, and they should have a right to participate in the process in proportion to their shareholding.

SEBI has said that the existing public shareholders should also have the opportunity to acquire capital in the new entity at the same cost at which the new acquirer has come in. As per SEBI, if a company has to remain

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listed post-restructuring, then existing shareholders should have a right to hold at least 5 per cent of the equity in the company at the cost or value at which 95 per cent of the holding was acquired by the new acquirer. SEBI said it received numerous complaints and representation from minority shareholders, who lost their value and rights once a company was admitted into CIRP.

Related Link: <https://www.thehindubusinessline.com/markets/public-shareholders-to-get-stake-in-companies-post-insolvency-process-sebi/article66121192.ece>

Separate MII functions into three verticals, recommends SEBI expert panel

Dated: 10 November, 2022

An expert group constituted by the Securities and Exchange Board of India (Sebi) to strengthen governance at market infrastructure institutions (MIIs) has suggested the creation of three distinct verticals to avoid conflict of interest. These include critical operations; regulatory, compliance and risk management and other functions such as business development. The committee has recommended that in terms of hierarchy, the key managerial personnel (KMPs) of all three verticals will be at par. However, in terms of resource allocation and utilisation, the functions under the first two verticals separately should be given higher priority. MIIs are considered to be the pillars of the stock market ecosystem. These include stock exchanges, clearing corporations and depositories.

In April, the markets regulator had constituted an ad hoc committee under the leadership of its former whole-time member G. Mahalingam. The move came in the wake of alleged governance lapses at NSE over the appointment and promotion of over appointment and promotion of Anand Subramanian as group operating officer of NSE.

Related Link: https://www.business-standard.com/article/markets/separate-mii-functions-into-three-verticals-recommends-sebi-expert-panel-122110901707_1.html

RBI UPDATES

Municipal corps should explore land-based models to raise funds: RBI

Dated: 11 November, 2022

In a first ever comprehensive analysis of Municipal finances, it said MCs need to adopt sound and transparent accounting practices with proper monitoring. The municipal corporations (MC) in the country need to explore different innovative bond and land based financing mechanisms to augment their resources, said a Reserve Bank of India's study. In a first ever comprehensive analysis of Municipal finances, it said MCs need to adopt sound and transparent accounting practices with proper monitoring and documentation of various receipt and expenditure items. The study on the theme -- 'Alternative Sources of Financing for Municipal Corporations' covered 201 municipal corporations (MCs) across all States. The rapid

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growth of urbanisation in India has not been accompanied by a corresponding increase in urban infrastructure, which is reflected in the performance of the urban local bodies, especially MCs, it added. The size of the municipal budgets in India are much smaller than peers in other countries. However, revenues are dominated by property tax collections and devolution of taxes and grants from upper tiers of government, resulting in lack of financial autonomy, RBI said.

Related Link: https://www.business-standard.com/article/finance/municipal-corps-should-explore-land-based-models-to-raise-funds-rbi-122111001470_1.html

NCLT AND M & A UPDATES

Advance paid for services is Operational Debt u/s 5(21) of IBC, even if no contract could be entered into between Operational Creditor and Corporate Debtor – NCLAT New Delhi bench

Dated: 10th November, 2022

*Being aggrieved with the order dated 06.01.2022 passed by the Hon'ble NCLT New Delhi bench in IB-112/ND/2020 wherein a section 9 application filed against the Corporate Debtor i.e. M/s Punj Llyod Aviation Ltd. was rejected on the ground that advance payment paid is not an Operational Debt, the present appeal **Chipsan Aviation Pvt. Ltd. Vs. Punj Llyod Aviation Ltd.** [Company Appeal (AT) (Ins.) No. 261 of 2022] has been filed by the Operational Creditor challenging the order dated 06.01.2022.*

While hearing the appeal, the Hon'ble Appellate Tribunal noted that even though there was no contract between the Appellant and the Corporate Debtor for providing aviation services, however, the payment of Rs. 60 lakhs to the Corporate Debtor reflecting by the bank transactions cannot be denied. Further, the Corporate Debtors contention that there being no privity of contract between the Appellant and the Corporate Debtor, the advance amount cannot be said to be advanced for providing any goods and services, was clarified by the Appellant Tribunal stating that the materials on record does indicate that advance of Rs.60 lakhs was given by the Operational Creditor to the Corporate Debtor for availing the aviation services. It was also observed correspondence and various requests from the Operational Creditor to the Corporate Debtor with regard to goods and services shows that an amount of Rs.60 lakhs was advanced for providing goods and services to the Corporate Debtor.

Thus view of the facts in the present case, the Hon'ble Appellate Tribunal held that advance payment of Rs.60 lakhs was clearly an Operational Debt and the Adjudicating Authority committed error in rejecting Section 9 Application on the above ground.

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<https://cdn.ibclaw.online/insolvency/nclat/2022/Nov/Chipsan+Aviation+Pvt.+Ltd.+Vs.+Punj+Llyod+Aviation+Ltd.+NCLAT+New+Delhi.pdf>

Tax appellate tribunal asks CBIC to frame norms for tax recovery in insolvency cases

Giving the ruling in Ultratech Nathdwara Cement Ltd. case, the Ahmedabad bench of Customs, Excise & Service Tax Appellate Tribunal (CESTAT) observed that the revenue department has no proper guideline as to what stand is to be taken in a case where the proceedings under the Insolvency and Bankruptcy Code (IBC) is in progress before the Hon'ble NCLT/ NCLAT or a higher forum. The Tribunal noted that the assessee against whom the IBC proceedings are initiated approach CESTAT for disposing of the appeals in the light of the NCLT's order, however in the absence of any guideline by the CBIC, the tax officers are unaware as to what stand is to be taken in such cases.

Thus, considering the ambiguous situation created for the tax officers in such cases, the Indirect tax appellate tribunal (CESTAT) has asked the Central Board of Indirect Taxes and Customs (CBIC) to frame guidelines/ procedure for dealing with cases wherein there are outstanding tax demands against companies facing insolvency proceedings.

Related Link: <https://economictimes.indiatimes.com/news/economy/finance/tax-appellate-tribunal-asks-cbic-to-frame-norms-for-tax-recovery-in-insolvency-cases/articleshow/95126063.cms>

Jio moves NCLT for early resolution of Reliance Infratel bankruptcy process

Dated: 07th November, 2022

Reliance Project & Property Management Services Limited, a subsidiary of Jio has recently moved a fresh application before the Hon'ble NCLT Mumbai bench, offering to deposit the total resolution sum of Rs. 3,500 crore in a State Bank of India (SBI) escrow account to acquire Reliance Infratel Limited which is undergoing liquidation. In its application, Jio stated that delay in acquisition of RITL's assets due to inter-creditor disputes would deteriorate the value of assets. The offered to be deposited will be distributed amongst the lenders once the inter-creditors dispute over the distribution of resolution funds is settled amongst the lenders.

Related Link: <https://www.financialexpress.com/industry/jio-proposes-to-deposit-rs-3720-crore-in-escrow-account-to-acquire-rcoms-tower-fibre-assets/2777010/>

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Viatrix buys Taparias' eyecare business for Rs. 2,460 crore

Dated: 08th November, 2022

Viatrix Inc. (formerly known as Mylan Labs) has agreed to acquire the ophthalmology business of Taparia family backed Famy Life Sciences for a total cash payout of around Rs 2,460 crore (\$300 million). With this acquisition, Viatrix Inc. aims to add \$1 billion by 2028 as global sales.

Related Link: <https://economictimes.indiatimes.com/industry/healthcare/biotech/healthcare/vitaris-buys-taparias-eyecare-business-for-rs-2300-crore/articleshow/95360653.cms>

Shriram Group merger gets NCLT nod; new entity to take birth by Nov-end

Dated: 10th November, 2022

The National Company Law Tribunal Chennai bench has given its nod for the mega three-way merger of Shriram Capital and Shriram City Union Finance with Shriram Transport Finance, to create a combined entity called Shriram Finance. The new entity is expected to have a combined assets under management of more than Rs. 1.5 lakh crore, some two crore customers and a distribution network of around 3,500.

Related Link: https://www.business-standard.com/article/companies/shriram-group-merger-gets-nclt-nod-new-entity-to-take-birth-by-nov-end-122111001681_1.html

Thanking You,

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