

WEEKLY CORPORATE UPDATES

Saturday 26th November, 2022

(Curated & compiled by)

Team Indiacorp Law

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MCA UPDATES

The Companies (Registered Valuers and Valuation) Amendment Rules, 2022

Dated: 21 Nov, 2022

The Ministry of Corporate Affairs (MCA) vide its notification dated November 21, 2022 has notified “the Companies (Registered Valuers and Valuation) Amendment Rules, 2022” which has come into force on the date of its publication in the Official Gazette. According to the amendment new rule 7A is inserted specifying provisions pertaining to intimation of changes in personal details etc., by registered valuer to authority: a registered valuer shall intimate the authority for change in the personal details, or any modification in the composition of partners or directors, or any modification in any clause of the partnership agreement or Memorandum of Association, which may affect registration of registered valuer, after paying fee as per the Table -I in Annexure V. Further, rule 14A is inserted specifying provisions pertaining to intimation of changes in composition of governing board, etc. by the registered valuers organisations to the authority: a registered valuers organisation shall intimate the authority for change in composition of its governing board, or its committees or appellate panel, or other details, after payment of fee as per the Table II in Annexure V.”

Related

Link:<https://www.mca.gov.in/bin/dms/getdocument?mds=jf9MSWpybbeJiak1ynOMQQ%253D%253D&type=op>

SEBI UPDATES

SEBI plans to bring new complaints system

Dated:19 Nov, 2022

SEBI is planning to overhaul the existing investors complaint system SCORES by introducing a newer version of its website and mobile application features. In this regard, SEBI has invited expressions of interest (EoIs) from interested parties to replace the old system with a new version. SCORES (SEBI Complaints Redressal System) is an online platform designed to help investors lodge their complaints pertaining to the securities market, mainly against listed companies and registered intermediaries. It was made operational in June 2011.

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SEBI extends deadline for public comments on cloud framework paper

Dated: 22 Nov, 2022

Capital markets regulator SEBI has extended till November 28, 2022 the deadline for public comments on the consultation paper for cloud framework. The deadline for submission of public comments on the consultation paper, which was floated on November 4, was scheduled to end on November 14. In early November, the regulator proposed a cloud framework for its regulated entities, highlighting key risks and control measures that need to consider before adopting cloud-based solutions.

Related Link: https://www.business-standard.com/article/markets/sebi-extends-deadline-for-publiccomments-on-cloud-framework-paper-122112200939_1.html

SEBI bars AIFs working on priority distribution model from making fresh investments

Dated: 22 Nov, 2022

SEBI barred Alternative Investment Funds (AIF) schemes having priority distribution model from making investments in a new investee company. The capital market regulator has stopped such investments till it takes a view on this. The new rule will come into force with immediate effect, the regulator said. Explaining the logic, the regulator said it has observed that certain schemes of AIFs have adopted a distribution waterfall in such a way that one class of investors share loss more than pro rata to their holding in the AIF than other classes of investors or unit holders, since the later has priority in distribution over former.

Related Link: <https://www.moneycontrol.com/news/business/sebi-bars-aifs-working-on-prioritydistribution-model-from-making-fresh-investments-9589501.html>

RBI UPDATES

NPCI in talks with RBI on volume cap deadline

Dated: 20 Nov, 2022

National Payments Corporation of India (NPCI), which runs the UPI digital pipeline, is in talks with the Reserve Bank of India (RBI) on implementation of its proposed December 31 deadline for limiting the volume

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cap of players to 30 per cent. At present, there is no volume cap. So, two players — Google Pay and PhonePe— account for a market share of about 80 per cent. NPCI in November 2022 had proposed a 30 per cent volume cap for Third-Party App Providers (TPAP) in a bid to avoid concentration risk.

Related Link:<https://www.financialexpress.com/industry/banking-finance/npci-in-talks-with-rbi-on-volume-cap-deadline/2865954/>

Outward remittances under liberalized remittance scheme jump 50% in H1

Dated: 20 Nov, 2022

Outward remittances under the Liberalised Remittance Scheme (LRS) of the Reserve Bank of India (RBI) surged almost 50 per cent in the April-September period of the current financial year as compared to the same period of the previous year. According to the latest data released by the Reserve Bank of India, resident Indians remitted \$13.4 billion during the period as compared to \$8.9 billion in the previous financial year. During the second quarter of FY23, remittances stood at \$7.3 billion, compared to \$5.2 billion a year ago.

Related Link:https://www.business-standard.com/article/finance/outward-remittances-underliberalised-remittance-scheme-jump-50-in-h1-122112000522_1.html

RBI promoting financial inclusion through fintechs in India

Dated: 21 Nov, 2022

The Indian banking and finance sector has undergone an unprecedented transformation with the accelerated adoption of technology, providing consumers with an array of convenient digital financial solutions, and helping financial institutions become more efficient. This has caught the attention of the country's Government and the apex financial body to closely monitor and evaluate the fintech movements and bridge the digital divide to promote financial inclusion. For details:

<https://www.financialexpress.com/money/rbipromoting-financial-inclusion-through-fintechs-inindia/2872117/> HDFC Bank, Canara Bank get RBI nod for rupee trade with Russia: Report (November 21, 2022) The Reserve Bank of India (RBI) has allowed leading private sector lender HDFC Bank Ltd. and state-run Canara Bank Ltd to open a special "vostro account" for trade in rupees with Russia, news agency Reuters quoted a report as saying on November 21, 2022. As many as five Indian banks have received regulatory clearance for rupee trade till now. These includes UCO Bank, Union Bank and IndusInd Bank are the other three.

Related Link:<https://www.livemint.com/industry/banking/hdfcbank-canara-bank-get-rbi-nod-for-rupee-trade-withrussia-report-11669035213542.html>

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Regulating NBFCs like banks to impair lending model: FIDC to FM

Sitharaman

Dated: 22 Nov, 2022

Regulating finance companies akin to banks can disrupt the traditional lending model of such entities, the Finance Industry Development Council (FIDC) told Finance Minister Nirmala Sitharaman in its pre-Budget memorandum. If NBFCs are to be regulated like banks, the typical Non-Banking Finance Company (NBFC) model of lending will suffer, which will have an impact lending to the unbanked/underbanked segment of the society, the FIDC said. "Flexibility" is the key that is required primarily from the borrower's perspective, the memorandum said. After some large systemically important NBFCs went belly up in the past few years, the Reserve Bank of India looked to reduce the regulatory arbitrage between banks and NBFCs by tightening norms and regularly monitoring finance companies.

Related Link: https://www.business-standard.com/article/finance/regulating-nbfc-like-banks-to-impairnbfc-lending-model-fidc-to-fm-122112201018_1.html

Inclusion of Goods and Service Tax Network (GSTN) as a Financial Information Provider under Account Aggregator Framework

Dated: 23 Nov, 2022

With a view to facilitate cash flow-based lending to MSMEs, it has been decided to include Goods and Services Tax Network (GSTN) as a Financial Information Provider (FIP) under the Account Aggregator (AA) framework. Department of Revenue shall be the regulator of GSTN for this specific purpose and Goods and Services Tax (GST) Returns, viz. Form GSTR-1 and Form GSTR-3B, shall be the Financial Information. Accordingly, the select instructions contained in the Master Direction Non-Banking Financial Company - Account Aggregator (Reserve Bank) Directions, 2016 referred to above have been amended.

Related Link: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12412&Mode=0>

Basel III Framework on Liquidity Standards – Standing Deposit Facility

Dated: 23 Nov, 2022

The Reserve Bank of India has received queries from banks seeking clarification on the treatment of SDF under Liquidity Risk Management Framework. Accordingly, it is advised that the overnight balances held by

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banks with RBI under Standing Deposit Facility (SDF) shall be eligible as 'Level 1 High Quality Liquid Assets (HQLA)' for computation of LCR.

Related Link: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12413&Mode=0>

Banking system better placed to sustain loan growth: SBI chairman

Dinesh Khara

Dated: 24 Nov, 2022

Banks are better placed to sustain the current levels of credit growth in this cycle as they are well equipped to make accurate decisions compared to the previous cycle, State Bank of India Chairman Dinesh Khara said on November 23, 2022. With infrastructure in terms of insolvency code and the GST network in place, banks have necessary tools to evaluate risk patterns, he said, adding that the corporate is considerably de-leveraged in the current growth cycle compared to the previous one.

Related Link: <https://www.financialexpress.com/industry/banking-finance/banking-system-betterplaced-to-sustain-loan-growth-sbi-chairman-dinesh-khara/2889115/>

RBI fixes minimum amount due formula for all cards

Dated: 24 Nov, 2022

The Reserve Bank of India (RBI) recently asked banks and card issuers to calculate the minimum amount due on credit card bills in a way that does not result in negative amortization. "The unpaid charges or levies or taxes shall not be capitalized for charging or compounding of interest," the central bank earlier said in a master direction – Credit card and Debit card – Issuance and Conduct Directions, 2022. RBI had asked the banks and card issuers to implement this rule starting from October 01, 2022.

Related Link: <https://economictimes.indiatimes.com/wealth/spend/will-new-credit-card-rule-help-you-rbi-fixes-minimumamount-due-formula-for-allcards/articleshow/95733598.cms>

IBC & NCLT UPDATES

SC declines to allow GUVNL to terminate PPA with CD in liquidation which was willing and able to supply power

Dated: 19 Nov 2022

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SC declines to allow power buyer to terminate PPA with CD in liquidation as CD has not suspended power supply & is willing and able to supply power.

Related Link:<https://www.taxmann.com/research/ibc/top-story/101010000000327370/sc-declines-to-allow-guvnl-to-terminate-ppa-with-cd-in-liquidation-which-was-willing-and-able-to-supply-power-caselaws>

Reasonable opportunity of being heard isn't required to be given by CoC in case of replacement of a RP: NCLAT

Dated: 19 Nov 2022

In terms of section 27, CoC is empowered to change RP with a majority of 66 per cent votes and no opportunity of hearing is to required be given to RP by NCLT before approving resolution of CoC for replacement of RP,

Related Link:<https://www.taxmann.com/research/ibc/top-story/101010000000325838/reasonable-opportunity-of-being-heard-isnt-required-to-be-given-by-coc-in-case-of-replacement-of-a-rp-nclat-caselaws>

Appeal by unsuccessful resolution applicant against resolution plan approved by CoC with 100% voting was to be rejected

Dated: 21 Nov 2022

Where resolution plan submitted by R3 was approved by CoC as per evaluation matrix with 100 per cent voting share and same was further approved by NCLT, there being no contravention in approving resolution plan, appeal filed by unsuccessful resolution applicant challenging CoC's decision declaring R3 as highest bidder and approving its resolution plan was to be dismissed.

Related Link:<https://www.taxmann.com/research/ibc/top-story/101010000000325574/appeal-by-unsuccessful-resolution-applicant-against-resolution-plan-approved-by-coc-with-100-voting-was-to-be-rejected-caselaws>

NCLT directs liquidator for fresh consideration of PNB's claim without being influenced by findings in order of MERC

Dated: 23 Nov 2022

Where applicant, as an operational creditor had filed its claim for liquidated damages alleged to have been caused on failure of corporate debtor to comply with Power Purchase Agreement (PPA) executed between them and Liquidator had dismissed claim being influenced by order of Maharashtra Electricity Regulatory Commission (MERC) which was currently under subject matter of appeal before Appellate Tribunal for Electricity (APTEL),

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Related [Link:https://www.taxmann.com/research/ibc/top-story/101010000000326765/nclt-directs-liquidator-for-fresh-consideration-of-pnbs-claim-without-being-influenced-by-findings-in-order-of-merc-caselaws](https://www.taxmann.com/research/ibc/top-story/101010000000326765/nclt-directs-liquidator-for-fresh-consideration-of-pnbs-claim-without-being-influenced-by-findings-in-order-of-merc-caselaws)

Rejection of CIRP plea on ground of pre-existing dispute was erroneous in absence of any communication from CD: NCLAT

Dated: 23 Nov 2022

Where there was no communication from corporate debtor regarding any defect or quality of goods supplied by operational creditor and there was no evidence of defective goods being returned, impugned order passed by NCLT rejecting application filed under section 9 on ground that a dispute existed before issue of demand notice was erroneous.

Related [Link:https://www.taxmann.com/research/ibc/top-story/101010000000322642/rejection-of-cirp-plea-on-ground-of-pre-existing-dispute-was-erroneous-in-absence-of-any-communication-from-cd-nclat-caselaws](https://www.taxmann.com/research/ibc/top-story/101010000000322642/rejection-of-cirp-plea-on-ground-of-pre-existing-dispute-was-erroneous-in-absence-of-any-communication-from-cd-nclat-caselaws)

Was justified in setting aside e-auction conducted by liquidator for committing material irregularities: NCLAT

Dated: 23 Nov 2022

Where liquidator made an attempt to sell corporate debtor by public auction but committed a serious material irregularity in issuing corrigendum for extension of time for submission of EMD documents and for conducting auction without specifying date and time of inspection of corporate debtor and, thus, deprived many interested bidders to participate in bid and consequently failed to maximize corporate assets,

Related [Link:https://www.taxmann.com/research/ibc/top-story/101010000000326507/nclt-was-justified-in-setting-aside-e-auction-conducted-by-liquidator-for-committing-material-irregularities-nclat-caselaws](https://www.taxmann.com/research/ibc/top-story/101010000000326507/nclt-was-justified-in-setting-aside-e-auction-conducted-by-liquidator-for-committing-material-irregularities-nclat-caselaws)

Transfer of Assets among 'Group Companies' ex facie is not a 'Fraudulent Trading' as per section 66(1): NCLAT

Dated: 23 Nov 2022

Transfer of Assets among 'Group Companies' ex facie is not a 'Fraudulent Trading' as per section 66(1).

Related [Link:https://www.taxmann.com/research/ibc/top-story/101010000000326585/transfer-of-assets-among-group-companies-ex-facie-is-not-a-fraudulent-trading-as-per-section-661-nclat-caselaws](https://www.taxmann.com/research/ibc/top-story/101010000000326585/transfer-of-assets-among-group-companies-ex-facie-is-not-a-fraudulent-trading-as-per-section-661-nclat-caselaws)

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NCLT's directions were to be set aside as suspended directors had already made payments, and same was acknowledged by RP

Dated: 23 Nov 2022

Where for alleged misappropriation of funds of corporate debtor by its suspended board of directors and other related persons including appellant, NCLT issued directions to accused persons including appellant to make contribution of said amount jointly or severally and to realise from their properties on their failure to pay said amount,

Related Link: <https://www.taxmann.com/research/ibc/top-story/101010000000326763/nclts-directions-were-to-be-set-aside-as-suspended-directors-had-already-made-payments-and-same-was-acknowledged-by-rp-caselaws>

NCLT's order to liquidate corporate debtor wasn't to be interfered with as CoC with 100% voting share had resolved to liquidate CD

Dated: 24 Nov 2022

Where CoC in their commercial wisdom resolved to liquidate corporate debtor company with 100 per cent voting share, impugned order passed by NCLT in liquidating corporate debtor was not to be interfered with.

Related Link: <https://www.taxmann.com/research/ibc/top-story/101010000000326761/nclts-order-to-liquidate-corporate-debtor-wasnt-to-be-interfered-with-as-coc-with-100-voting-share-had-resolved-to-liquidate-cd-caselaws>

Application filed u/s 95 in electronic form is said to be completed as soon as it was registered electronically: NCLAT

Dated: 24 Nov 2022

Where application under section 95 was filed in electronic form by respondent bank, filing was said to be completed as soon as it was registered electronically and submission of appellant, guarantor of corporate debtor, that date of filing of application would be that date when application was numbered by registry had rightly been rejected.

Related Link: <https://www.taxmann.com/research/ibc/top-story/101010000000322652/application-filed-us-95-in-electronic-form-is-said-to-be-completed-as-soon-as-it-was-registered-electronically-nclat-caselaws>

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NCLT has jurisdiction u/s 60(5)(c) to determine amount payable to Registered valuer as an intrinsic part of CIRP costs: SC

Dated: 25 Nov 2022

Insolvency and Bankruptcy Board of India (IBBI) is competent authority to deal with allegations against RP; purpose of such grievance redressal mechanism is to penalize errant conduct of RP and not to determine claims of other professionals which form part of CIRP costs and, therefore,.

Related Link:

<https://www.taxmann.com/research/ibc/top-story/10101000000326972/nclt-has-jurisdiction-us-605c-to-determine-amount-payable-to-registered-valuer-as-an-intrinsic-part-of-cirp-costs-sc-caselaws>

IBBI revises fee structure applicable to Insolvency professionals (IPs) and Insolvency Professional Entities (IPEs)

Dated: 25 Nov 2022

IBBI has hiked the fees for Insolvency professionals (IPs) and Insolvency Professional Entities (IPEs). Application fees for IPs (individuals) have been increased to Rs 20,000 from Rs 10,000. Also, Annual fees have been increased from 0.25% of professional fees earned during the last financial year to 1.00%. Further, application fees for recognition as Insolvency Professional Entities has been increased to Rs 2,00,000.

Related Link:<https://www.taxmann.com/research/ibc/top-story/10401000000101624/ibbi-revises-fee-structure-applicable-to-insolvency-professionals-ips-and-insolvency-professional-entities-ipes-cirnot>

Thanking You,

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