

WEEKLY CORPORATE UPDATES

Saturday 21th January, 2023

(Curated & compiled by)

Team Indiacorp Law

Headed by:

Adv. (CS) Alok Kumar Kuchhal, M. Com, LL.B., FCS, Insolvency Professional

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MCA UPDATES

MCA NEWS

Dated: 19th January, 2023

Stakeholders please note that Company Incorporation forms (Spice + Part A, Part B & RUN) will be available for filing purposes in V2 till 21st January 00:00 Hrs. These forms will be enabled on V3 portal from 23rd January 2023 00:00 Hours. Remaining 46 forms will also be available for filing purposes in V3 from 23rd January 2023 00:00 Hours.

In view of the upcoming launch of 56 Company forms, V3 portal will not be available from 21st January 2023 to 22nd January 2023. V2 Portal for Company filing will remain available for all the forms during this period excluding Company Incorporation forms & other 46 forms as referred above

Stakeholders please note that for hassle free form filings in V3, all Signatories have to register themselves as Business User and associate their DSC in V3.

Related Link: <https://www.mca.gov.in/content/mca/global/en/notifications-tender/news-updates/updates.html>

IEPF Authority invites comments from stakeholders for simplifying claims refund process

Press release No: 1891605

Dated: 16th January, 2023

The Investor Education & Protection Fund Authority (IEPFA) invites comments from all stakeholders to simplify and expedite claims settlement process.

The suggestions may be offered through:

- E-Consultation module available at MCA website www.mca.gov.in
- via email at iepfa.consultation@mca.gov.in.

The last date for receiving comments is 27th January, 2023. The Notice inviting comments and the Consultation paper have been uploaded at the website of the Authority www.iepf.gov.in.

Related Link: <https://pib.gov.in/PressReleasePage.aspx?PRID=1891605>

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SEBI UPDATES

Sebi Releases Consultation Paper for ASBA-Like Process for Trading In Secondary Market

Dated: 17th January, 2023

The Securities and Exchange Board of India (Sebi) on Tuesday released a consultation paper to discuss whether to allow trading in secondary markets using blocked funds in a savings bank account instead of transferring them to trading accounts. In a notification, Sebi sought inputs from various stakeholders, including the public, to introduce a facility enabling such a transaction.

Sebi said it “provides client-level settlement visibility (both pay-in and pay-out) to clearing corporation (CC) by a direct settlement of funds and securities between client and CC, thereby implementing a process, which safeguards clients’ assets from misuse, brokers’ default, and risk to their capital.”

The consultation paper follows a series of discussions with stakeholders, including clearing corporations, the National Payments Corporation of India (NPCI), stockbrokers, and banks.

The planned facility is similar to the application supported by the blocked amount (ASBA) procedure used in initial public offers (IPO) and other primary market issues. Under ASBA, the fund, though blocked, remains in your account with interest benefits.

Sebi proposes separating brokers from investors' money

Dated: 17th January, 2023

Capital markets regulator Sebi on Tuesday proposed to discontinue the current practice of an advance transfer of funds to stockbrokers before secondary market trades are executed.

The move, aimed at safeguarding investors' money from misuse and default by stock brokers, is similar to Application Supported by Blocked Amount (ASBA)-like facility already available for the primary market which ensures that money from an investor gets moved only when an allotment happens.

In its consultation paper, Sebi stated that the proposed introduction of a blocking of funds facility for trading in secondary markets will prevent misuse of client funds, brokers' defaults and the consequent risk to investors' capital.

This would provide client level settlement visibility (both pay-in and pay-out) to clearing corporations (CC) by direct settlement of funds and securities between client or investor and CC.

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Under the existing framework, clients' assets pass through stock broker and clearing member before reaching CC. Similarly, the pay-out released by CC follows a similar cycle of passing through clearing members and stock brokers before reaching the client.

While CCs provide final settlement instructions to their members each day, it is the stock broker who settles obligations with clients.

Related Link: <https://www.livemint.com/market/stock-market-news/sebi-proposes-separating-brokers-from-investors-money-11673947929495.html>

SEBI focuses on cyber security, advises exchanges to boost IT infra to avoid repeat of CDSL breach

Dated: 17th January, 2023

In a bid to enhance cyber security, the Securities and Exchange Board of India (SEBI) has advised exchange and market intermediaries to increase their expenditure on IT infrastructure.

SEBI has asked the exchanges and MIIs to spend a larger proportion of their income on cyberinfrastructure. With more financial activities including trading, banking and other happening online these days, cyber security continues to be a growing concern. Recently, SEBI conducted a brainstorming session on cyber security with exchanges and MIIs last week.

With only a few days left for the budget, Parliamentary Standing Committee on Finance is scrutinizing and reviewing the activities of several financial institutions including SEBI, RBI, and many more. Moreover, to enhance their efficiency, such bodies are also taking several measures.

SEBI said that the regulator itself will spend more on cyber security, after the cyber attack on Central Depository Services (India) Ltd or CDSL, the largest depository in India by a number of accounts.

Related Link: <https://www.zeebiz.com/india/news-sebi-focuses-on-cyber-security-advises-exchanges-to-boost-it-infra-to-avoid-repeat-of-cdsl-breach-217703>

Oyo to Refile Draft Papers for IPO with SEBI by Feb

Dated: 16th January, 2023

Oravel Stays Ltd., which operates the hospitality major OYO, will be refiling its public listing application Draft Red Herring Prospectus (DRHP) with the market regulator SEBI by mid-February 2023.

The market regulator had asked the company to update additional sections in its DHRP, such as updated risk factors, KPIs, outstanding litigations, basis for valuation etc. OYO had said the refiling process would take around three months.

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SEBI, in its letter to OYO, had said, "The disclosures contained in present DRHP do not take into account the material changes/disclosures arising from updated financial statements as filed through addendums leading to revised period for disclosures which in turn leads to necessities to make material updates in Risk Factors, Basis of Offer Price, Outstanding Litigations and update other relevant sections of DRHP." Commenting on the same, an OYO spokesperson said, "We are working on updating all key sections simultaneously. Responsibilities have been divided among different teams, with senior company leaders driving the collaboration with the Book Running Lead Managers, essentially the IPO bankers, the lawyers, and the auditors. We are keen on refiling the DRHP by middle of Feb 2023, if not earlier." However, OYO has not provided the timeline for the regulator approval, post-filing.

Related Link: <https://www.thehindubusinessline.com/markets/oyo-to-refile-updated-drhp-to-sebi-by-mid-february/article66396570.ece>

RBI UPDATES

RBI prior approval now a must for picking up over 5% stake in banks

Dated: 16 Jan, 2023

The Reserve Bank of India (RBI) on January 16, 2023 said any person looking to acquire more than 5 per cent stake in a bank will need prior approval from the regulator. The RBI has defined "major shareholding" as "aggregate holding" of 5 per cent or more of the paid up share capital or voting rights in a banking company by a person. Following the due diligence of the entity which plans to acquire a stake in banks, the decision of the regulator to permit or deny or to permit to acquire lower number of shares will be binding on the applicant and the bank, the RBI said. After an acquisition, if the shareholding falls below 5 per cent, the person will be required to seek fresh approval from the RBI if the person intends to again raise the aggregate holding to 5 per cent or more.

Related Link: https://www.business-standard.com/article/finance/prior-rbi-approval-required-to-pickup-more-than-5-stake-in-banks-123011601167_1.html

RBI proposes expected loss-based approach for provisioning by banks

Dated: 17 Jan, 2023

The Reserve Bank of India (RBI) on January 17, 2023 proposed a framework for adoption of an 'expected loss-based' approach for provisioning by banks. Presently, banks are required to make loan loss provisions based on an 'incurred loss' approach, which used to be the standard globally till recently.

Related Link: <https://indianexpress.com/article/business/banking-and-finance/rbi-proposes-expected-loss-based-approach-for-provisioning-by-banks-8385776/>

FinMin to meet heads of PSBs; to review progress of various schemes

Dated: 17 Jan, 2023

The Finance Ministry has called a meeting of heads of Public Sector Banks and Financial Institutions to review the progress of various social sector schemes, including Jan Dhan, Mudra, KCC, and PM SVANidhi. The meeting with

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Managing Director and CEOs of Public Sector banks is scheduled to be held on January 19 and largely for reviewing the schemes to promote financial inclusion.

Related Link: https://www.business-standard.com/article/finance/finmin-to-meet-heads-of-psbs-to-review-progress-of-various-schemes-123011701422_1.html

IBC & NCLT UPDATES

Government plans IBC overhaul; seeks public comments

Dated: 20th January, 2023

The National Company Law Appellate Tribunal (“NCLAT”), Principal Bench, comprising of Justice Ashok Bhushan (Chairperson) and Mr. Barun Mitra (Technical Member), while adjudicating an appeal filed in *Permal Wallace Pvt. Ltd. v Narbada Forest Industries Pvt. Ltd.*, has held upheld the Adjudicating Authority’s dismissal of a Section 9 petition, which was filed merely for recovery of balance interest amount in view of a settlement agreement and not for resolution of the Corporate Debtor.

Background Facts

In 2017, *Permal Wallace Pvt. Ltd.* (“Operational Creditor”) filed a petition under Section 9 of the Insolvency and Bankruptcy Code, 2016 (“IBC”), seeking initiation of Corporate Insolvency Resolution Process (“CIRP”) against *Narbada Forest Industries Pvt. Ltd.* (“Corporate Debtor”). The principal amount in default was Rs. 1,74,16,527/- alongwith an interest of Rs. 48 Lakhs. The petition was withdrawn by the Operational Creditor when the Parties entered into a settlement agreement dated 07.11.2017. The Corporate Debtor paid Rs. 1,74,16,527/- towards full settlement of principal amount and Rs. 16 Lakhs towards settlement of the interest component.

Related Link: <https://www.livemint.com/news/india/government-plans-ibc-overhaul-seeks-public-comments-11674059880293.html>

Government plans IBC overhaul; seeks public comments

Dated: 19th January, 2023

The ministry of corporate affairs on Wednesday proposed major changes to the six-year old Insolvency and Bankruptcy Code (IBC) which include expanding the scope of a simplified bankruptcy regime meant for small businesses to a broader range of companies, a customized bankruptcy regime for the real estate sector, quicker bankruptcy admissions in tribunals and a new challenge mechanism for investors bidding for distressed assets.

The ministry has sought comments on the proposals by 7 February, which indicates that a Bill to amend the Code may be moved in the later part of the budget session of Parliament starting end of this month.

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In a major reform measure, the ministry has proposed that the pre-pack insolvency regime which applies to small businesses could be expanded to other specified classes of companies too. The advantage of this scheme is that most of the corporate restructure related work is done informally and shareholders and the lenders approach a tribunal only in the last leg to secure its seal of approval, even as the existing management which is well versed in the business' operations continues to remain in control.

The ministry proposed that the IBC be amended to include "prescribed categories" of corporate debtors in the pre-pack regime in addition to micro, small and medium enterprises. Also, to initiate such insolvency proceedings, only 51% of financial creditors' approval may be needed, down from the 66% which is the case now. According to the proposal, this would help in quicker and more efficient decision making.

The proposals also seek to omit certain provisions that allow resolution professionals to convert a pre-pack insolvency process to the normal bankruptcy proceedings involving management change. Since the committee of creditors has the discretion to terminate the pre-pack insolvency resolution process at any stage if it believes that it is not viable or the management is involved in any fraudulent activities, this discretion should serve as a sufficient safeguard against abuse of the process, the proposal said.

Related Link: <https://www.livemint.com/news/india/government-plans-ibc-overhaul-seeks-public-comments-11674059880293.html>

NCLT Hyderabad Grants a Series of Concessions/Waivers to the Successful Bidder

Dated: 19th January, 2023

The National Company Law Tribunal ("NCLT"), Hyderabad Bench, comprising of Dr. Venkata Ramakrishna Badarinath Nandula (Judicial Member) and Shri Sri Satya Ranjan Prasad (Technical Member), while adjudicating a petition filed in State Bank of India v K.R.R Infraprojects Pvt. Ltd., has granted several waivers/concessions to the Successful Bidder including waiver from penalties imposed by Registrar of Companies and other authorities. Further, the Bench has granted the Successful Bidder the liberty to approach the concerned authority for seeking offset of any losses as per Income Tax Act against future profits; and clearance from the secured financial creditors and filing of satisfaction of charge by them. The new management shall also not be liable for any payment arising out of the contingent liabilities on account of bank guarantees. State Bank of India ("Financial Creditor") filed a petition under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("IBC"), seeking initiation of Corporate Insolvency Resolution Process ("CIRP") against the K.R.R Infraprojects Pvt. Ltd. ("Corporate Debtor"). On 06.08.2021 the Adjudicating Authority initiated CIRP against the Corporate Debtor. Sri Krishna Mohan Gollamudi was appointed as an Interim Resolution Professional (IRP) and later confirmed as the Resolution Professional.

Related Link: <https://www.livelaw.in/news-updates/nclt-hyderabad-grants-a-series-of-concessions-waivers-to-the-successful-bidder-219371>

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SC refuses to entertain Google's appeal against NCLAT order

Dated: 16th January, 2023

The Supreme Court on Monday listed on 18 January US tech-giant Google's plea challenging the order of the National Company Law Appellate Tribunal (NCLAT) refusing an interim stay on the competition regulator imposing an interim stay on the competition regulator imposing a Rs. 1,337 Crore penalty on it

Related Link: <https://www.livemint.com/news/india/google-vs-cci-no-relief-for-google-sc-to-hear-google-s-plea-against-nclat-order-on-18-jan-11673857937980.html>

Voting for IBC resolution of twin SREI Companies to begin on Thursday.

Dated: 19th January, 2023

Voting for the resolution of twin Srei companies Srei Infrastructure Finance Ltd and Srei Equipment Finance Ltd under the Insolvency and Bankruptcy Code (IBC) will begin on Thursday.

SREI has recovered three compliant resolution plans, which will be voted on by lenders and debenture holders.

Related Link: https://www.business-standard.com/article/companies/voting-for-ibc-resolution-of-twin-srei-companies-to-begin-on-thursday-123011801157_1.html

IBC overhaul seeks to give adjudicating authority a power boost.

Dated: 19th January, 2023

The Ministry of corporate affairs (MCA) has proposed sweeping changes to the Insolvency and Bankruptcy Code to bring more technology, transparency, and speediness to the corporate insolvency resolution process.

The draft proposal gives more power to adjudicating authority, allows mandatory admission of insolvency applications filed by financial creditors (FCs), seeks specialized framework for real estate providing major relief to allottees, and looks at expanding the scope of pre-packaged insolvency scheme beyond MSMEs

Related Link: https://www.business-standard.com/article/companies/govt-proposes-sweeping-changes-for-ibc-to-bring-more-tech-transparency-123011801276_1.html

Sun Pharmaceuticals to acquire Concert Pharmaceuticals to advance the potential treatment of Alopecia Areata

Dated: 19th January, 2023

Sun Pharmaceuticals Industries Limited and Concert Pharmaceuticals Inc. announced that they have executed a definitive agreement under which Sun Pharma will acquire all outstanding shares Concert through a tender offer for an upfront payment of \$8 per share of common stock in cash, i.e. \$576 million in equity value to advance the potential treatment of Alopecia Areata, an Autoimmune Dermatological Disease through its leading product 'AddS

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Deuruxolitinib’ , an oral inhibitor of Janus kinases JAK1 and JAK2. The stockholders of Concert will also receive a non-tradeable contingent value right (CVR) entitling holders to receive up to an additional \$3.50 per share of common stock in cash, payable upon deuruxolitinib achieving certain net sales milestones within specified periods.

Related Link: <https://sunpharma.com/wp-content/uploads/2023/01/Press-Release-Sun-Pharma-to-Acquire-Concert-Pharmaceuticals-Advancing-the-Potential-Treatment-of-Alopecia-Areata.pdf>

After Adoption of Swiss Challenge Method to find out the best plan one resolution applicant cannot be allowed to submit a revised resolution plan - Jindal Stainless Ltd. v. Mr. Shailendra Ajmer, RP of Mittal Corp Ltd & Ors.

Dated: 18th January, 2023

The NCLAT allowed the appeal of Jindal Stainless Ltd. and set aside the NCLT order that permitted rival Shyam Sel and Power Ltd. to submit a revised resolution plan for corporate debtor Mittal Corp Ltd. The NCLT ON 11th August, 2022 permitted Shyam Sel and Power Ltd. to submit a revised resolution plan even after the voting of the Committee of Creditors (CoC) of Mittal Corp had commenced on 7th August, 2022. The CoC had adopted a challenge process to determine the best resolution plan and as a result of the NCLT order, the voting process which had commenced on 7th August, 2022 was abandoned by the Resolution Professional. The two-member bench of the appellate tribunal while setting aside the order of the NCLT said that the Adjudicating Authority without any valid reason ought not to have interfered with the voting on the resolution plan which had already commenced on 7th August, 2022. Since the voting process was disrupted by NCLT, the appellate tribunal was of the view that the Resolution Professional may initiate a fresh voting process which may be completed within a period of one month.

NCLT sanctions amalgamation of Equitas Holdings and Equitas SFB

Dated: 17 Jan, 2023

The National Company Law Tribunal has sanctioned the scheme of amalgamation of Equitas Holdings Limited and Equitas Small Finance Bank, the small finance lender told exchanges on January 17, 2023. The appointed date for the amalgamation is January 01, 2023 and the scheme shall be effective upon the filing of the NCLT’s order with Registrar of Companies, Chennai, the bank said. “Post the reverse merger, 231 shares of Equitas Small Finance Bank are to be

issued to the Shareholders holding 100 shares in Equitas Holdings Limited (all Rs 10 fully paid-up),” it said. In July 2021, Equitas SFB had received the Reserve Bank of India’s approval to apply for amalgamation of the promoter into itself. The intent of the amalgamation is to comply with the RBI norms on small finance banks, mandating the promoter to reduce the stake in the subsidiary to 40 per cent within five years of commencement of operations by the SFB. Equitas Holdings is a non-deposit taking, core investment company. Its operations and activities are limited to investing in and providing loans to group companies.

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OTHER UPDATES

Clarification regarding GST rates and classification of certain goods

Dated: 13th January, 2023

Circular No. 189/01/2023-GST

CBIC makes clarifications, with reference to applicability of GST based on the recommendations of GST Council in its 48th meeting held on December 17, 2022, related to the various items like; Rab, by-products of milling of Dal/ Pulses, Carbonated Beverages of Fruit Drink, fryums, Sports Utility Vehicles (SUVs) etc.

Related Link: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/cir-189-01-2023-cgst.pdf>

Clarifications regarding applicability of GST on certain services

Dated: 13th January, 2023

Circular No. 190/02/2023- GST

CBIC makes clarifications, regarding accommodation services supplied by Air Force Mess to its personnel qualify to be considered as services supplied by Central Government, State Government, Union Territory or local authority hence are exempt from GST. Further, Govt. is clarified that incentives paid by MeitY to acquiring banks under the Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions are in the nature of subsidy and thus not taxable

Related Link: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/cir-190-02-2023-cgst.pdf>

Exemption of COVID-19 vaccine

Dated: 13th January, 2023

Notification No. 01 /2023 –Customs

Central Government exempts the goods (COVID-19 vaccine) when imported into India by Central Government or State Governments, from the whole of the duty of customs leviable thereon. The said notification shall come into force on January 14, 2023 and remain in force upto and inclusive of the March 31, 2023.

Related Link: <https://taxinformation.cbic.gov.in/view-pdf/1009613/ENG/Notifications>

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Fixation of Tariff value of edible oil, Brass Scrap, Palm Oil, Areca nuts, gold & silver

Dated: 13th January, 2023

Notification No. 04/2023-Customs

CBIC makes the amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 36/2001-Customs (N.T.), dated the 3rd August, 2001 for TABLE-1, TABLE-2, and TABLE-3 substituted regarding goods like edible oil, Brass Scrap, Palm Oil, Areca nuts, gold & silver. The said notification shall come into force with effect from the 14th day of January, 2023.

Related Link: <https://taxinformation.cbic.gov.in/view-pdf/1009612/ENG/Notifications>

Thanking You,

Team Indiacorp

0120 - 421 4372, 9810894275, 8826016751

indiacorp@live.com, csaloknoida@gmail.com, info@indiacorplaw.com

www.indiacorplaw.com

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