

## **WEEKLY CORPORATE UPDATES**

**Saturday 28<sup>th</sup> January, 2023**

(Curated & compiled by)

### **Team Indiacorp Law**

**Headed by:**

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## MCA UPDATES

### *The Companies (Share Capital and Debentures) Amendment Rules, 2023*

*Dated: 21<sup>st</sup> January, 2023*

*The Ministry of Corporate Affairs (MCA) vide its notification dated 21<sup>st</sup> January, 2023 has notified the Companies (Share Capital and Debentures) Amendment Rules, 2023 which shall come into force with effect from 23<sup>rd</sup> January, 2023.*

*According to the amendments, Companies (Share Capital and Debentures) Rules, 2014 has been amended relating to the provision relating to buy-back of shares or other securities. The requirement of annexing a certificate along with the return in Form SH. 11 has been substituted with submitting of a declaration instead. This declaration must be signed by two directors of the company including the managing director, if any, certifying that the buy-back of securities has been made in compliance with the provisions of the Act and the rules made thereunder.*

*Additionally, the amendment has also brought about revisions in the following forms:*

*Form No. SH. 7- Notice to Registrar of any alteration of share capital*

*Form No. SH. 8- Letter of Offer*

*Form No. SH. 9 – Declaration of Solvency*

*Related*

*<https://www.mca.gov.in/bin/dms/getdocument?mds=no0mAJuS1uPsr5l9HsgDzw%253D%253D&type=open>*

*Link:*

### *The Companies (Management and Administration) Amendment Rules, 2023*

*Notification No.: G.S.R. 44(E)*

*Dated: 21<sup>st</sup> January, 2023*

*The Ministry of Corporate Affairs (MCA) vide its notification dated 21<sup>st</sup> January, 2023 has notified the Companies (Management and Administration) Amendment Rules, 2023 which shall come into force with effect from 23<sup>rd</sup> January, 2023.*

*According to the amendments, in the Companies (Management and Administration) Rules, 2014, Form MGT-3 has been substituted.*

*Related Link: <https://egazette.nic.in/WriteReadData/2023/242179.pdf>*

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## ***The Companies (Miscellaneous) Amendment Rules, 2023***

Notification No.: G.S.R. 46(E)

Dated: 20<sup>th</sup> January, 2023

*The Ministry of Corporate Affairs (MCA) vide its notification dated 20<sup>th</sup> January, 2023 has notified the Companies (Miscellaneous) Amendment Rules, 2023 which shall come into force with effect from 23<sup>rd</sup> January, 2023.*

*According to the amendments, in the Companies (Miscellaneous) Rules, 2014,- (i) in the proviso of rule 3,- (a) in the proviso of clause (iv), the words, letters and figure “and enclosing the same with Form MSC-1” shall be omitted; (b) in clause (v), the words, letters and figure “and a certificate in this regard is enclosed with Form MSC-1” shall be omitted; (ii) for Forms No. MSC-1, MSC-3 and MSC-4 shall be substituted.*

Related Link: <https://egazette.nic.in/WriteReadData/2023/243238.pdf>

## ***The Companies (Registration Offices and Fees) Amendment Rules, 2023***

Notification No.: G.S.R. 45(E)

Dated: 20<sup>th</sup> January, 2023

*The Ministry of Corporate Affairs (MCA) vide its notification dated 20<sup>th</sup> January, 2023 has notified the Companies (Registration Offices and Fees) Amendment Rules, 2023 which shall come into force with effect from 23<sup>rd</sup> January, 2023.*

*According to the amendments, in the Companies (Registration Offices and Fees) Rules, 2014, rule 8A has been inserted stating; e-forms wherever applicable shall be signed by Insolvency resolution professional or resolution professional or liquidator of companies under insolvency or liquidation, as the case may be, and filed with the Registrar along with the fee as mentioned in Table annexed these rules.*

*Further, Form GNL-2, GNL-3 and GNL-4 have been substituted.*

Related Link: <https://egazette.nic.in/WriteReadData/2023/242170.pdf>

## ***The Companies (Accounts) Amendment Rules, 2023***

Notification No.:G.S.R. 40(E)

Dated: 20<sup>th</sup> January, 2013

*The Ministry of Corporate Affairs (MCA) vide its notification dated 20<sup>th</sup> January, 2013 has notified The Companies (Accounts) Amendment Rules, 2023 which shall come into force with effect from 23<sup>rd</sup> January, 2023.*

*According to the amendments, in the Companies (Accounts) Rules, 2014, Form No. AOC-5 has been substituted.*

Related Link: <https://egazette.nic.in/WriteReadData/2023/242155.pdf>

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## ***The Companies Appointment and Qualification of Directors Amendment Rules 2023***

Notification No.: G.S.R. 38(E)

Dated: 20<sup>th</sup> January, 2023

*The Ministry of Corporate Affairs (MCA) vide its notification dated 20<sup>th</sup> January, 2023 has notified the Companies Appointment and Qualification of Directors Amendment Rules 2023 which shall come into force with effect from 23<sup>rd</sup> January, 2023.*

*According to the amendments, in the Companies (Appointment and Qualification of Directors) Rules, 2014,-*

*(a) In rule 14,*

*(i) In sub-rule (1) after the words "disqualification under", the words, brackets and figure "sub-section (1) or" shall be inserted;*

*(ii) After sub-rule (1), following shall be inserted, namely:- "(1A) Whenever a company receives the information in Form DIR-8, company shall, within thirty days of such receipt, file Form DIR-9 with the Registrar."*

*(iii) In sub-rule (5), after the words, letters and figure "Form DIR-10", the words "and filed before the Regional Director." shall be inserted;*

*(b) In Annexure, - for Forms DIR-3, DIR-3C, DIR-5, DIR-6, DIR-8, DIR-9, DIR-10, DIR-11 and DIR-12 have been substituted.*

Related Link: <https://egazette.nic.in/WriteReadData/2023/243215.pdf>

## ***The Companies (Prospectus and allotment of securities) Amendment Rules, 2023***

Notification No.: G.S.R. 37(E)

Dated: 20<sup>th</sup> January, 2023

*The Ministry of Corporate Affairs (MCA) vide its notification dated 20<sup>th</sup> January, 2023 has notified the Companies (Prospectus and allotment of securities) Amendment Rules, 2023 which shall come into force with effect from 23<sup>rd</sup> January, 2023.*

*According to the amendments, In the Companies (Prospectus and Allotment of Securities) Rules, 2014,-*

*(i) Sub-rule (6) of rule 12 shall be omitted;*

*(ii) In the Annexure, for Form-PAS-2, Form-PAS-3 and Form-PAS-6 the following Forms shall be substituted.*

Related Link: <https://egazette.nic.in/WriteReadData/2023/242177.pdf>

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## ***The Companies (Registration of Foreign Companies) Amendment Rules, 2023***

Notification No.: G.S.R. 36(E)

Dated: 20<sup>th</sup> January, 2023

*The Ministry of Corporate Affairs (MCA) vide its notification dated 20<sup>th</sup> January, 2023 has notified the Companies (Registration of Foreign Companies) Amendment Rules, 2023 which shall come into force with effect from 23<sup>rd</sup> January, 2023.*

*According to the amendments, in the Companies (Registration of Foreign Companies) Rules, 2014*

*(a) In sub-rule 2 of rule 3, for clause (c), the following clause shall be substituted, namely:- “ (c) father’s name or mother’s name or spouse’s name;”*

*(b) In the Annexure, for the FORM FC-1, FORM FC-2, FORM FC-3 and FORM FC-4 shall be substituted.*

Related Link: <https://egazette.nic.in/WriteReadData/2023/242164.pdf>

## ***The Nidhi (Amendment) Rules, 2023***

Notification No.: G.S.R. 35 (E)

Dated: 20<sup>th</sup> January, 2023

*The Ministry of Corporate Affairs (MCA) vide its notification dated 20<sup>th</sup> January, 2023 has notified the Nidhi (Amendment) Rules, 2023 which shall come into force with effect from 23<sup>rd</sup> January, 2023.*

*According to the amendments, in the Nidhi rules, 2014, Form NDH-1, Form NDH-2, Form NDH-3 and Form NDH-4 have been substituted.*

Related Link: <https://egazette.nic.in/WriteReadData/2023/242165.pdf>

## ***The Companies (Incorporation) Amendment Rules, 2023***

Notification No.: G.S.R. 42(E)

Dated: 19<sup>th</sup> January, 2023

*The Ministry of Corporate Affairs (MCA) vide its notification dated 19<sup>th</sup> January, 2023 has notified the Companies (Incorporation) Amendment Rules, 2023 which shall come into force with effect from 23<sup>rd</sup> January, 2023.*

*According to the amendments, in the Companies (Incorporation) Rules, 2014, Rules 4, 6, 7, 19, 20, 21, 22, 28, 30, 33, 37, 39, 40 and 41 are amended.*

*Forms INC-3 (One Person Company – Nominee Consent Form), INC-14 (Declaration), INC-15 (Declaration) and RD-GNL-5 (filing addendum for rectification of defects or incompleteness) omitted.*

*Forms RUN, INC-4, INC-6, INC-9, INC-12, INC-13, INC-18, INC-20, INC-20A, INC-22, INC-23, INC-24, INC-27, INC-28, INC-31, SPICE+ (INC-32), INC-33, INC-34, INC-35 (AGILE-PRO-S) and RD-1 substituted.*

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## **The Companies (Appointment and Remuneration of Managerial Personnel) Amendment Rules, 2023**

Notification No.: G.S.R. 41(E)

Dated: 19<sup>th</sup> January, 2023

The Ministry of Corporate Affairs (MCA) vide its notification dated 19<sup>th</sup> January, 2023 has notified the Companies (Appointment and Remuneration of Managerial Personnel) Amendment Rules, 2023 which shall come into force with effect from 23<sup>rd</sup> January, 2023.

According to the amendments, in the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014, in the Annexure, Form No. MR.1 and Form No. MR.2 shall be substituted.

Related Link: <https://egazette.nic.in/WriteReadData/2023/243181.pdf>

## **The Companies (Authorized to Register) Amendment Rules, 2023**

Notification No.: G.S.R. 39(E)

Dated: 19<sup>th</sup> January, 2023

The Ministry of Corporate Affairs (MCA) vide its notifications dated 19<sup>th</sup> January, 2023 has notified the Companies (Authorized to Register) Amendment Rules, 2023 which shall come into force with effect from 23<sup>rd</sup> January, 2023.

According to the amendments, in the Companies (Authorised to Register) Rules, 2014, the following amendment has been made namely: -

In Rule 3 which states "incorporation of the company" in sub-rule (2)

1) In clause (a),

(i) For sub-clause (iv), the following sub-clause shall be substituted, namely: -

"(iv) No Objection Certificate from secured creditor along-with charge holder, if applicable;"

(ii) Sub-clauses (v) and (vi) shall be omitted.

2) In clause(b),

(i) For sub-clause (v), the following sub-clause shall be substituted, namely: -

"(v) No Objection Certificate from secured creditor along -with charge holder, if applicable;"

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Form No. URC-1 which states "Application by a company for registration under section 366" is substituted.

Related Link: <https://egazette.nic.in/WriteReadData/2023/242156.pdf>

## SEBI UPDATES

### **SEBI launches information database on municipal bonds**

*Dated: 22<sup>nd</sup> January, 2023*

*The Securities and Exchange Board of India (SEBI) has launched an information database including a repository of information pertaining to municipal bonds on its website to assist municipal debt issuers and other stakeholders in the municipal debt market. The information database will also be accessible by using a QR Code. Users will gain access to a wide range of information in the form of statistics and regulations, circulars, guidance note, and FAQs issued by SEBI concerning municipal debt securities. The repository also contains various checklists for pre-listing requirements and sample letters and certificates from various intermediaries to be obtained by an issuer who plans to tap the municipal bond market; templates for agreements between various stakeholders and an indicative due diligence questionnaire for merchant bankers are also included.*

Related Link: <https://www.moneycontrol.com/news/business/markets/sebi-launches-informationdatabase-on-municipal-bonds-9912981.html>

### **SEBI bans 19 entities from securities market for fraudulent trading in Superior Fin lease shares**

*Dated: 27<sup>th</sup> January, 2023*

*Capital markets regulator SEBI has barred 19 entities from the securities market for indulging in fraudulent trading in the shares of Superior Finlease Ltd*

*(SFL) and impounded unlawful gains worth Rs 3.89 crore. The investigation conducted by Sebi led to the collection of various pieces of evidence corroborating the fraudulent activities of these players and such evidence was primarily found from the sources, such as oath statements, bank account statements, trade details, call data records, audio call recordings and Whatsapp chats.*

*In this case, shares of SFL were first purchased from the market platform and eventually, with the help of the persons operating Telegram Channels, a false recommendation message to buy shares of SFL was floated on such channels, thereby inducing the subscribers there to buy the shares of SFL; and in the whole process, the shares owned by the perpetrator of the scheme through his front entities were dumped and huge profits were earned, Sebi revealed in its order.*

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"Any person indulging in spreading misinformation or false and misleading information through the use of social media messaging applications like Telegram, Whatsapp etc., which are being used by millions of people can cause irreparable damage to the integrity of the securities market within a short span of time like a forest fire, thereby eroding the confidence of the investors in the securities market in a matter of no time," SEBI noted.

The regulator, prima facie, found the accrual of large amounts of unlawful profits to the accounts of 14 entities, whom the rest of the other five entities had facilitated and enabled to earn such unlawful gains in their trading accounts.

It noted that the amount of unlawful gains of Rs 2.13 crore earned during the period of February 01, 2021, to September 13, 2021, by manipulating the share price of SFL and an amount of unlawful gains of Rs 1.75 crore generated by way of dumping the shares of SFL on the recommendation day -- September 14, 2021.

Accordingly, SEBI has impounded Rs 3.89 crore, jointly and severally, from these entities.

Related Link: <https://economictimes.indiatimes.com/markets/stocks/news/sebi-bans-19-entities-from-securities-mkt-for-fraudulent-trading-in-superior-finlease-shares/articleshow/97381568.cms>

## **MC Exclusive: SEBI may force large mutual fund houses to lower fees**

Dated: 28<sup>th</sup> January, 2023

SEBI is contemplating reducing a mutual fund's Total Expense ratio, for larger fund houses

Capital market regulator Securities and Exchange Board of India (SEBI) is planning to prevent large mutual fund (MF) houses from charging high expense ratios.

In December 2022, the market regulator announced that it has initiated an internal study to re-look at the expenses that fund houses charge unitholders.

Money control has now learnt that SEBI may put a threshold on the overall equity assets under management (AUM) of fund houses to determine the expense ratio it can charge its investors.

For instance, if a fund house's equity AUM is Rs 50,000 crore (a figure that SEBI appears to be ideating around), then the fund house's existing schemes as well as new schemes would be made to charge a lower expense ratio, compared to what they are qualified for under the present norms.

Money control has learnt that the new expense ratio for such fund houses may likely be either 1.25 percent or 1.50 percent.

Related Link: <https://www.moneycontrol.com/news/business/personal-finance/sebi-might-reduce-fees-for-mutual-funds-9949911.html>

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## Settling Securities Transactions, T+2

Dated: 25<sup>th</sup> January, 2023

Investors must complete or "settle" their security transactions within two business days. This settlement cycle is known as "T+2," shorthand for "trade date plus two days."

T+2 means that when you buy a security, your payment must be received by your brokerage firm no later than two business days after the trade is executed. When you sell a security, you must deliver to your brokerage firm your securities certificate no later than two business days after the sale.

The two-day settlement date applies to most security transactions, including stocks, bonds, municipal securities, mutual funds traded through a brokerage firm, and limited partnerships that trade on an exchange. Government securities and stock options settle on the next business day following the trade.

Related Link: <https://www.investor.gov/introduction-investing/investing-basics/glossary/settling-securities-transactions-t2>

### RBI UPDATES

## Ministry asks PSU banks' heads to start talks on wage revision

Dated: 23<sup>rd</sup> January, 2023

The Finance Ministry has asked Public Sector Banks (PSUs) to begin negotiations for the next round of wage revision for employees, due from November 01, 2022. Wage revision in PSU banks has always been a tedious and time-consuming process with bank managements and unions engaging in tough negotiations. The All-India Bank Employees Association (AIBEA) has already called a strike on January 30 and 31 for implementing various demands, including wage revision, five-day week and reversion to the old pension scheme.

Related Link: <https://indianexpress.com/article/business/banking-and-finance/ministry-asks-psubanks-heads-to-start-talks-on-wage-revision-8398158/>

## Credit guarantee scheme. ECLGS saved about 12% of outstanding MSME credit from slipping into NPA: SBI report

Dated: 23<sup>rd</sup> January, 2023

Incentives provided by the Emergency Credit Line Guarantee Scheme (ECLGS) has helped in boosting credit flow to MSMEs, with at least 14.6 lakh MSME (Micro, Small and Medium Enterprise) accounts being saved due to the scheme, according to an analysis by State Bank of India's economic research department. In absolute terms, MSME loan

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accounts worth ₹2.2 lakh crore improved since inception of ECLGS for the entire banking industry, per the ERD's analysis.

Related Link: <https://www.thehindubusinessline.com/money-and-banking/eclgs-saved-about-12-of-outstanding-msme-credit-from-slipping-into-npa-sbi-report/article66422691.ece>

## **RBI extends time for renewal of agreements for existing Safe Deposit Locker/Safe Custody Article Facility Provided by Banks**

Dated: 23<sup>rd</sup> January, 2023

The Reserve Bank of India had issued revised instructions with respect to Safe Deposit Locker/Safe Custody Article Facility that inter alia required banks to enter into revised agreements with the existing locker holders by January 01, 2023. However, it has come to the notice of RBI that a large number of customers are yet to sign the revised agreement. In many cases, the banks are yet to inform the customers about the need to do so before the stipulated date (January 01, 2023). Accordingly, it has been decided to extend the deadline for banks to complete the process of renewal of agreements for the existing safe deposit lockers in a phased manner by December 31, 2023, with intermediate milestones of 50 per cent by June 30, 2023, and 75 per cent by September 30, 2023.

Related Link: [https://www.rbi.org.in/Scripts/BS\\_PressReleaseDisplay.aspx?prid=55092](https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=55092)

## **Rupee may firm past 81 per dollar, bond yields to edge up ahead of Budget**

Dated: 23<sup>rd</sup> January, 2023

The Indian rupee is expected to extend its gains this week, while Government bond yields may move marginally higher due to worries about yet another year of elevated borrowing. With a holiday-shortened week in India, the Chinese New Year, and no major data releases apart from U.S. economic growth and consumption prints towards the end of the week, market participants will keep a close eye on foreign portfolio inflows into Indian markets.

Related Link: [https://www.business-standard.com/article/finance/rupee-may-firm-past-81-per-dollar-bond-yields-to-edge-up-ahead-of-budget-123012300068\\_1.html](https://www.business-standard.com/article/finance/rupee-may-firm-past-81-per-dollar-bond-yields-to-edge-up-ahead-of-budget-123012300068_1.html)

## **Action against SBM Bank (India) Ltd., under sections 35 A and 36(1)(a) of the Banking Regulation Act, 1949**

Dated: 23<sup>rd</sup> January, 2023

The Reserve Bank of India has today, in exercise of its powers under sections 35A and 36(1)(a) of the Banking Regulation Act, 1949, directed SBM Bank (India) Ltd to stop, with immediate effect, all transactions under Liberalised Remittance Scheme (LRS) till further orders.

This action is based on certain material supervisory concerns observed in the bank.

Related Link: [https://www.rbi.org.in/Scripts/BS\\_PressReleaseDisplay.aspx?prid=55095](https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=55095)

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## ***NARCL acquires first stressed account from IDBI Bank-led lenders***

*Dated: 24<sup>th</sup> January, 2023*

*After a much delay, lenders, led by IDBI Bank, have transferred the first large stressed account to the National Asset Reconstruction Company (NARCL), last week. The bad loan transferred to NARCL, or bad bank, is Jaypee Infratech, which was among the 12 large accounts referred by the Reserve Bank of India (RBI) to the National Company Law tribunal (NCLT) in 2017.*

*Related Link: <https://indianexpress.com/article/business/narcl-acquires-first-stressed-account-from-idbi-bank-led-lenders-8400221/>*

## ***RBI directs SBM Bank to stop outward remittance business***

*Dated: 24<sup>th</sup> January, 2023*

*The Reserve Bank of India (RBI) on January 24, 2023 barred SBM Bank (India) Ltd. from undertaking outward remittance transactions till further orders. SBM Bank India is a subsidiary of the State Bank of Mauritius and became the first foreign bank to receive a universal banking licence under an Indian scheme for wholly owned subsidiaries, which allowed foreign lenders to compete with Indian banks.*

*Related Link: <https://www.livemint.com/news/india/rbi-directs-sbm-bank-to-stop-outward-remittance-business-11674499785448.html>*

## ***Banks face one-time impact on capital with transition to ECL framework: ICRA***

*Dated: 24<sup>th</sup> January, 2023*

*The Reserve Bank of India's (RBI) discussion paper on the implementation of the Expected Credit Loss (ECL)-based loss provisioning by banks is expected to be an important step towards their eventual shift to the Indian Accounting Standards (IND-AS) regime, said a new report by ICRA. The methodology/basis of computation of ECL is central to IND-AS and migration to ECL-based loss provisioning will be a major step towards the eventual shift to an IND-AS regime for banks.*

*Related Link: <https://www.livemint.com/industry/banking/banks-face-one-time-impact-on-capital-with-transition-to-ecl-framework-icra-11674569457918.html>*

## ***800 more cooperative banks set to join AEPS platform***

*Dated: 26<sup>th</sup> January, 2023*

*To promote seamless banking transactions and financial inclusion in semi-urban and rural areas, the Centre will likely unveil measures for the implementation of Aadhaar Enabled Payment System (AEPS) in 800-odd more cooperative banks soon. Currently, around 40 cooperative banks offer this facility to their customers, who from the comfort of*

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*their homes can check balances, deposit, withdraw and interbank transfer funds (Aadhaar to Aadhaar) through business correspondents of banks and point of sale machines (micro ATMs).*

Related Link: <https://www.financialexpress.com/industry/banking-finance/800-more-cooperativebanks-set-to-join-aeps-platform/2960362/>

## **Discussion Paper on Securitization of Stressed Assets Framework (SSAF)**

*Dated: 25 Jan, 2023*

*The Task Force on the Development of Secondary Market for Corporate Loans constituted by the Reserve Bank, which submitted its recommendations in September 2019, had also specifically recommended that securitization of NPAs may be considered as an alternative investment route in stressed assets. It was announced in the Statement on Developmental and Regulatory Policies released on September 30, 2022 that a Discussion Paper (DP) detailing relevant contours of the proposed Framework on Securitization of Stressed Assets (SSAF) will be issued shortly. This DP delineates the broad features of the proposed framework, soliciting views/comments on critical issues of SSAF since securitization of NPAs has features that distinguish it from the securitization of standard assets. Comments may be submitted by February 28, 2023 to The Chief General Manager, Credit Risk Group, Department of Regulation, Central Office, Reserve Bank of India, 12th Floor, Central Office Building, Shahid Bhagat Singh Marg, Fort, Mumbai – 400001, or by strcrgdor@rbi.org.in with the subject line “Discussion Paper on Securitization of Stressed Assets Framework (SSAF)”.*

Related Link: <https://www.rbi.org.in/Scripts/PublicationsView.aspx?id=21728>

### **IBC & NCLT UPDATES**

## **NCLAT Delhi: Landowner in A Development Agreement Not a Financial Creditor**

*Dated: 24<sup>th</sup> January, 2023*

*The National Company Law Appellate Tribunal in the case Ashoka Hi-Tech Builders Pvt. Ltd. v Sanjay Kundra & Anr, wherein the Principal Bench, comprising of Chairperson, Justice Ashok Bhushan and the Technical Member, Mr. Barun Mitra observed while adjudicating an appeal filed and has held that a landowner in a development agreement is not being a financial creditor within the meaning of Section 5(8) of IBC and the same cannot be included in the Committee of Creditors.*

*Facts of the Case: The Landowner/ Appellant, Ashoka Hi-Tech Builders Pvt. Ltd being the owner of an agricultural land admeasuring 11.40 acres on which a development project was proposed to be constructed by the Corporate Debtor. Therefore, the Development Agreement dated 01.04.2009 was executed between the Landowner and the Corporate Debtor and in the agreement it is stated that the Corporate Debtor would carry on construction, and out of total saleable construction 32% will be of the Landowner and remaining 68% shall be owned by the Corporate Debtor.*

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## After Adoption of Swiss Challenge Method, RA Not Allowed to Submit Revised Plan: NCLAT Delhi

Dated: 27<sup>th</sup> January, 2023

The National Company Law Appellate Tribunal (“NCLAT”), Principal Bench, comprising of Justice AshokBhushan (Chairperson) and Mr. Barun Mitra (Technical Member), while adjudicating an appeal filed in *Jindal Stainless Ltd. v Mr. Shailendra Ajmera & Anr.*, has held that after adoption of Swiss Challenge Method to find out the best plan, one Resolution Applicant cannot be allowed to submit a revised plan.

### Background Facts

Mittal Corp Limited (“Corporate Debtor”) was admitted into Corporate Insolvency Resolution Process (“CIRP”) on 10.11.2021 by the Adjudicating Authority. Mr. Shailendra Ajmera was appointed as the Resolution Professional. The Resolution Professional received six resolution plans for the Corporate Debtor including plans from Jindal Stainless Ltd. and Shyam Sel and Power Ltd. The Resolution Applicants were communicated the rules of Challenge Process and gave their unconditional acceptance to the same.

On 15.07.2022, the Challenge Process was conducted and continued for seven rounds, until only one competing Resolution Applicant remained in the Challenge Process. All the Resolution Applicants were notified that the signed and compliance Resolution Plan must be submitted by 18.07.2022. Jindal Stainless Ltd., Shyam Sel and Power Ltd. Alongwith two other resolution applicants submitted their amended Resolution Plans by 18.07.2022.

Related Link: <https://www.livelaw.in/news-updates/after-adoption-of-swiss-challenge-method-ra-not-allowed-to-submitrevisedplannclatdelhi219957#:~:text=The%20Bench%20placed%20reliance%20on,to%20submit%20a%20revised%20plan.>

## No Condonation Beyond 45 Days, IBC Overrides Limitation Act: NCLAT Chennai

Dated: 27<sup>th</sup> January, 2023

The National Company Law Appellate Tribunal (“NCLAT”), Chennai Bench, comprising of Justice M. Venugopal (Judicial Member) and Ms. ShreeshMerla (Technical Member), while adjudicating an appeal filed in *M/s. Platinum Rent A Car (India) Pvt. Ltd. v M/s. Quest Offices Limited*, has held that Section 238 of IBC overrides Section 12 of the Limitation Act, 1963. The Bench declined to condone a delay of 55 days in filing of appeal, which was caused due to time taken to obtain certified copy of order. The Bench further held that Rules of Procedure neither create any right in favor of a person, nor create a Cause of Action. If a Statute requires a certain remedy to be exercised in a particular manner and time, then the same cannot be exercised in any other manner except for the one specified.

### Background Facts

#### Concerns:

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



M/s. Quest Offices Limited (“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 M/s. Platinum Rent A Car (India) Pvt. Ltd. (“Corporate Debtor”). On 08.06.2022 the Adjudicating Authority admitted the Corporate Debtor into CIRP over a default of Rs.10,95,01,185/-. The Corporate Debtor applied for certified copy of the Order dated 08.06.2022 on 21.07.2022, which was provided on 26.07.2022.

Related Link:

<https://www.livelaw.in/newsupdates/nocondonationbeyond45daysibcoverrideslimitationactnclatchennai219955#:~:text=The%20Bench%20held%20that%20NCLAT,self%2Dcontained%20and%20inbuilt%20legislation.>

## **Withdrawal Application U/S 12a Can’t Be Entertained After Approval of Resolution Plan By CoC: NCLAT Delhi**

Dated: 27<sup>th</sup> 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 Hem Singh Bharana v M/s Pawan Doot Estate Pvt. Ltd. &Ors., has held that once the Committee of Creditors approve a resolution plan, no withdrawal application under Section 12A of IBC can be entertained. Approval of a Resolution Plan by the CoC prohibits the Resolution Applicant to modify or withdraw from the Plan, the same embargo is placed on CoC from changing its stand.

### **Background Facts**

On 10.05.2019, Pawan Doot Estate Pvt. Ltd. (“Corporate Debtor”) was admitted into Corporate Insolvency Resolution Process (“CIRP”) by the Adjudicating Authority. M/s Mehar Footwear Pvt. Ltd. (“Successful Resolution Applicant/SRA”) submitted a Resolution Plan for the Corporate Debtor, which was approved by the Committee of Creditors (“CoC”) on 17.01.2020. On 18.01.2020, the Resolution Professional issued a Letter of Intent to the SRA and the same was unconditionally accepted by the latter.

Related Link: <https://www.livelaw.in/news-updates/withdrawal-application-us-12a-cant-be-entertained-after-approval-of-resolution-plan-by-coc-nclat-delhi-220056>

## **Administrator in NCLT for extension to Reliance Capital process**

Dated: 27<sup>th</sup> January, 2023

The administrator of Reliance Capital (RCap) has filed an application seeking a 90-day extension for the completion of the debt-laden firm’s insolvency process. The present deadline to conclude the process ends on January 31.

In its petition filed before the National Company Law Tribunal’s (NCLT) Mumbai bench, the administrator has sought time till May 1 to complete the Corporate Insolvency Resolution Process (CIRP).

### **Concerns:**

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



*Stating that the time lost due to the legal issues and other processes, which were not due to the corporate debtor's (RCAP) fault, the tribunal should "exercise its discretion and grant time for completion of the CIRP beyond the 330-day period", the application filed on Wednesday stated.*

*A lot of time was spent in obtaining clarification or vacation orders in relation to several interim orders, pursuing pending disputes before the tribunal relating to possession of Reliance General Insurance Company's shares and finalizing & approving of resolution plans. Further, there is also an interim stay by the tribunal to the proposed second challenge mechanism.*

*Related Link: <https://www.financialexpress.com/industry/administrator-in-nclt-for-extension-to-reliance-capital-process/2961174/>*

## **M&A UPDATES**

### **CCI's lack of quorum delaying M&A deals**

*Dated: 27th January, 2023*

*According to the CCI website, 16 deals are under review and pending approval, including the acquisition by SALIC International Investment Corporation of LT Foods and Dawat Foods Limited as well as Dalmia Cement's acquisition of clinker, cement and power plants belonging to Jaiprakash Associates.*

*Vinod Dhall, the former head of CCI stated the reason behind such delay was the lack of quorum in the Commission as specified in the Competition Act, 2002 which has affected both merger and enforcement cases. Ever since the previous chairperson Mr. Ashok Kumar Gupta demitted office on 25th October, 2022, the CCI has been without a full time head and working with only two members, i.e. Sangeeta Verma and Bhagwant Singh Bishnoi. To remedy this, the Ministry of Corporate Affairs has initiated the process for appointing three members to the CCI, the deadline for which is March 3 and it is expected that to complete the entire process it may take another two months. Industry experts have recommended that the Centre should consider passing an ordinance for an interim management of six months suspending the quorum requirement under section 22(3) of the Competition Act for the operation of CCI's functions only under Sections 31 and 33 of the Act.*

*Related Link: <https://www.financialexpress.com/industry/india-inc-seeks-alternative-mechanism-in-cci-to-clear-deals/2961158/>*

### **Easy Trip Acquires 55% Stake InCheQin Through Primary Route.**

*Dated: 24<sup>th</sup> January, 2023*

*EaseMyTrip.com owner Easy Trip Planners Ltd announced on Tuesday that it has purchased a 55% share in hotel booking website cheQin for an undisclosed sum via the main channel.*

*"CheQin maintains a method that enables travellers to stay at affordable hotels and encourages them to pay directly at the establishment. On the other hand, according to a filing with the stock exchange by Easy Trip, the company employs the cheQin application to give hoteliers access to real-time booking requests and the capacity to manage their bookings.*

#### **Concerns:**

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

*EasyMyTrip is concentrating on expanding its non-air sectors. The hotel industry is poised to undergo a transformation due to this transaction. Nishant Pitti, co-founder and CEO of EaseMyTrip, expressed his firm belief that cheQin offers unmatched possibilities in all segments and has the ability to grow and deepen cross-selling.*

*CheQin asserts to have over 60,000 properties, including three-, four-, and five-star hotels, individual residences, rental homes for the holidays, and beach resorts. Recently, cheQin signed contracts with more than 5,000 hotels in Singapore, Thailand, Indonesia, Vietnam, Malaysia, and the United Arab Emirates.*

*cheQin and EasyMyTrip might work well together. Customers would become attracted to cheQin's bargaining algorithm more quickly than before. We think cheQin can succeed for last-minute, massive, long-term, and short-term reservations.*

Related Link: <https://www.vccircle.com/easytrip-acquires-55-stake-in-cheqin-through-primary-route>

## **Happiest Minds Acquires Madurai-Based SMI For ₹111 Crore**

*Dated: 25th January, 2023*

*On Wednesday, Bengaluru-based midcap IT services provider Happiest Minds announced the purchase of Madurai-based IT services provider Sri Mookambika Infosolutions (SMI). The transaction cost 111 crores in total, including cash and deferred stock payments.*

*Over 400 SMI workers who work remotely will also be accommodated by Happiest Minds as part of the agreement. According to its quarterly financial report, the former had 4,611 total employees as of the December quarter.*

*Happiest Minds stated that SMI is a "profitable" business with an annual revenue run rate of \$9 million as of FY22 in a regulatory filing with the Bombay Stock Exchange (BSE).*

*Before Wednesday's market close, the deal was made public. Shares of Happiest Minds finished at 861.80, down 1.67%. On Wednesday, the BSE 500 index, which includes Happiest Minds, closed 1.39% lower at 24,164.16.*

*On January 19, Happiest Minds released financial results for the third quarter. The company's rupee revenue in the December quarter increased 3.2% sequentially to 366.88 crores. Operating margin fell by 110 basis points to 15.4%, while net profit fell by 3.1% sequentially to 57.58 crores. Additionally, the company recorded attrition at 20.9%, and net employee utilization fell 50 basis points sequentially to 80.1%. Nine deals were also added by the corporation in the December quarter.*

Related Link: <https://www.vccircle.com/happiestminds-acquires-madurai-based-smi-for-111-crore>

### **OTHER UPDATES**

## **US-based Hindenburg Research accuses Adani Group of share rigging, fraud**

*Dated: 25th January, 2023*

*A US-based investment research firm, Hindenburg Research, alleged on Wednesday that the Adani group had engaged in "a brazen stock manipulation and accounting fraud scheme". It also accused the conglomerate of improper use of offshore tax havens, and flagged concerns about the group's high debt.*

#### **Concerns:**

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*Shares of Adani group companies lost Rs 85,761 crore in market value after Hindenburg issued the report and said it had taken short positions in the group's stocks.*

*The Adani group dismissed the report, calling it a "malicious combination of selective misinformation and stale, baseless and discredited allegations that have been tested and rejected by India's highest courts".*

*"The timing of the report's publication clearly betrays a brazen, mala fide intention to undermine the Adani group's reputation with the principal objective of damaging the upcoming follow-on public offering from Adani Enterprises," Jugeshinder Singh, chief financial officer of the Adani group, said in a statement.*

*The allegations by Hindenburg Research came just two days before the launch of the Rs 20,000-crore FPO. The anchor investors' book, which opened on Wednesday, received demand worth Rs 9,000 crore from leading financial institutions, as against the allocation of Rs 6,000 crore worth of shares.*

*Hindenburg accused Adani family members of creating and managing "a vast labyrinth of offshore shell entities" in tax havens like Mauritius, Cyprus and the UAE. Some of these entities were used for market manipulation, claimed the report. The report identified 38 Mauritius-based entities controlled by Vinod Adani, the elder brother of billionaire Gautam Adani, and his closed associates.*

*Related Link: [https://www.business-standard.com/article/companies/us-based-hindenburg-research-accuses-adani-group-of-share-rigging-fraud-123012501585\\_1.html](https://www.business-standard.com/article/companies/us-based-hindenburg-research-accuses-adani-group-of-share-rigging-fraud-123012501585_1.html)*

## **Adani Group's Stocks Crash after Hindenburg Report Alleges Fraud, Lose Rs 46,000 Crore in Market Cap: Report**

*Dated: 25th January, 2023*

*With the release of the Hindenburg report with allegations against Adani Group, the company's stocks have directly been impacted. As per a report, the shares of Adani Group companies crashed and were seen trading in red soon after Hindenburg Research alleged fraud and stock manipulation by the group.*

*As per a report in Livemint.com, as a reaction to the Hindenburg allegations, the seven Adani Group stocks lost Rs 46,086 crore in market cap on Wednesday. If one were to look at the finer nuances, the report adds that Adani Total Gas lost Rs 12,366 crore, followed by Adani Ports that lost Rs 8,342 crore and then Adani Transmission, that lost Rs 8,039 crore.*

*The Hindenburg Research report that caused this fall in Adani share prices was prepared after two years of research and investigation by this forensic financial research firm. In an official tweet, Hindenburg Research writes, "Today we reveal the findings of our 2-year investigation, presenting evidence that the INR 17.8 trillion (U.S. \$218 billion) Indian conglomerate Adani Group has engaged in a brazen stock manipulation and accounting fraud scheme over the course of decades."*

### **Concerns:**

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Related Link: <https://www.outlookindia.com/business/adani-group-s-stocks-crash-after-hindenburg-report-alleges-fraud-lose-rs-46-000-crore-in-market-cap-report-news-256609>

**Thanking You,**

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