

WEEKLY CORPORATE UPDATES

Saturday 29th July, 2023

(Curated & compiled by)

Team Indiacorp Law

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MCA UPDATES

More than 1.2 lac forms have been filed on V3 portal in last 4 days since 25th Jul 2023.

Dated: 24th July, 2023

The Ministry of Corporate Affairs (MCA) vide issuing important update dated July 24, 2023 has informed the stakeholders about the below mentioned data: • 16,665 LLP got incorporated from 1st April 2023 to 19th July 2023, which is higher than the previous year's count of 8,764 for the same period. • 2,46,826 LLP forms have been filed from 1st April 2023 to 19th July 2023, which is higher than the previous year's count of 1,86,653 for the same period. • 11,865 Company Incorporation forms have been filed from 1st July 2023 to 19th July 2023, which is higher than the previous years count of 10,208 for the same period. • 56,782 Company 46 forms have been filed from 1st July 2023 to 19th July 2023, which is higher than the previous year's count of 54,988 for the same period.

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

SEBI UPDATES

'No Violation': SAT junks Sebi's penalty on Ambanis

Dated: 29th July, 2023

Mumbai: The Securities Appellate Tribunal (SAT) set aside the Securities and Exchange Board of India (Sebi) order imposing a penalty of ₹25 crore on Mukesh Ambani, Anil Ambani, Reliance Industries Holdings and eight other entities for the alleged violation of takeover rules.

The tribunal directed Sebi to refund the ₹25 crore penalties within four weeks, while also pulling up the regulator for what it called the "inordinate delay" in proceedings.

"We find that appellants (Reliance Industries Holdings) have not violated Regulation 11 (1) of SAST (Substantial Acquisition of Shares and Takeovers) Regulations, 2011," SAT presiding officer Justice Tarun Agarwala said in the ruling on Friday. "The imposition of penalty upon the appellant is without any authority of law."

Show Cause Issued after 11 Years: SAT "Consequently, in view of this, (the) Sebi order cannot be sustained, (and is) therefore quashed and appeal allowed."

SAT said it took 11 years from the time of the alleged violation in January 2000 to issue a show cause notice. It took Sebi another nine years to decide on the consent application. Sebi's order imposing the penalty came 21 years after the alleged violation.

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"We find that the delay has caused serious prejudice to the appellant," the two-member bench said. "There is an inordinate delay in the initiation of the proceedings but also in the disposal of the proceedings. The impugned order, thus, is liable to be set aside also on this ground."

The counsel for Reliance Industries Holdings contended that the penalty imposed under the Sebi Act came into existence on September 8, 2015. The alleged violations, if any, took place in January 2000 and therefore the provisions existing on that date should apply.

However, the counsel for Sebi argued that though the shares were acquired 21 years ago without making an open offer, the promoters continued to hold the shares and exercise voting rights, so the later rules would apply.

The tribunal held that the alleged violation is not a continuing offence.

"Thus, in our opinion, the provision relating to the alleged violation would apply on the date when the violation was committed," it said.

Relevant Link: <https://economictimes.indiatimes.com/markets/stocks/news/no-violation-sat-junks-sebis-penalty-on-ambanis/articleshow/102222040.cms>

SEBI aims to introduce instant settlement in stock markets by FY25

Dated: 25th July, 2023

Capital markets regulator SEBI is aiming to introduce instantaneous settlement of trades on the stock exchanges by next fiscal, its Chairperson Madhabi Puri Buch said on July 24, 2023, Monday. SEBI, which has trimmed the settlement timelines to as short as one day after transaction, is looking to shorten the same further and instantaneous settlements are not far, she told reporters in Mumbai. SEBI's plans hinge on the success of the newly introduced Application supported by blocked amount (ASBA) for secondary market transactions, Buch said, adding that she is confident of succeeding on the recent introduction.

Relevant Link: <https://www.moneycontrol.com/news/business/markets/sebi-aims-to-introduce-instant-settlement-in-stockmarkets-by-fy25-11020421.html>

SEBI may ease delisting process, review insider trading rules

Dated: 24th July, 2023

SEBI is planning to simplify the delisting process for listed companies. Addressing a press conference on July 24, 2023, Monday, SEBI chairperson Madhabi Puri Buch said the move was important since any participant entering the listed markets should be able to exit it. The regulator is also looking at reviewing the insider trading rules pertaining to 'trading plans' to be disclosed by company insiders.

Relevant Link:

<https://www.livemint.com/companies/news/sebi-plan-to-simplify-delisting-process-for-listed-companies-and-review-insider-trading-rules-in-india-s-markets11690216096215.html>

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SEBI seeks curbs to limit retail investor's derivatives risk

Dated: 28th July, 2023

India's market regulator, seeking to reduce risks for retail investors, will propose linking the amount of equity derivatives they may trade to their wealth, two people with direct knowledge of the matter said. With Indian share prices near record highs, drawing increased retail investor interest, the regulator is concerned smaller players could suffer losses on derivatives if markets turn volatile.

Retail investor participation in the equity derivatives market jumped 500% in the three years through March, according to data from the Securities and Exchange Board of India (SEBI). Nine in 10 individual traders, dominated by people in their 30s, lost money in the previous fiscal year, with average losses averaging 110,000 Indian rupees (\$1,300), a SEBI study found in January.

SEBI has previously asked brokers to disclose risks associated while trading in derivatives prominently on their websites but is now considering stricter measures. The regulator is discussing measures to track and control "disproportionate trading" to safeguard retail investors by linking the value of trades in futures and options to their income and net worth, the sources said. They asked not to be identified as they are not authorised to speak to the media. Once a broker discloses an investor's net worth and income, exchanges could monitor the person's exposure to futures and options contracts across brokerage firms, the other source said.

Trading would be capped at a threshold that the first source said would be a multiple of net worth. A discussion paper, the first step toward crafting regulations, will be issued soon, the sources said.

SEBI had proposed a similar framework in 2017 but dropped the idea when brokers cited difficulties in assessing the net worth of their clients. The regulator revived the idea of curbs because of the study showing widespread losses on equity derivatives trades, the sources said.

Norms for product suitability are common in many markets, mostly applying "to high-risk investments such as venture funds, hedge funds, commodity and equity derivatives", the first source said.

South Korea's financial markets regulator in 2011 introduced entry barriers for retail investors to trade in equity derivatives, including a minimum deposit and compulsory training. It eased those restrictions in 2019. The number of derivatives contracts traded in India stood at 5.56 billion as of June, the latest data available shows. Options trading accounts for 98% of the derivatives contracts.

Relevant Link: <https://economictimes.indiatimes.com/markets/stocks/news/sebi-seeks-curbs-to-limit-retail-investors-derivatives-risk-sources/articleshow/102195858.cms>

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RBI UPDATES

Reserve Bank of India clarifies on Star Series Banknotes

Dated: 27th July, 2023

It has come to the notice of the Reserve Bank that the validity of banknotes with a Star () symbol present on the number panel has recently been the subject of discussions on some social media platforms. In this connection, it is informed that the Star (*) symbol is inserted in the number panel of a banknote that is used as replacement for defectively printed banknotes in a packet of 100 pieces of serially numbered banknotes. A banknote with a Star (*) symbol is identical to any other legal banknote, except that in the number panel a Star (*) symbol is added between the prefix and the serial number. The Star (*) symbol is an identifier that it is a replaced / reprinted banknote. Information about the "Star Series" banknotes is available on the RBI website as part of FAQs (https://rbi.org.in/scripts/FS_FAQs.aspx?id=136&fn=2753) on Indian Currency.*

Relevant Link: https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=56103

RBI permits banks to open Vostro accounts from 22 countries for trade in rupee

Dated: 26th July, 2023

The Reserve Bank has permitted 20 banks operating in the country to open 92 Special Rupee Vostro Accounts (SRVAs) of partner banks from 22 countries as part of efforts to promote bilateral trade in local currencies, the Government said on July 26, 2023. In a written reply to Lok Sabha, Minister of State for Commerce and Industry Som Parkash also informed that a MoU has been signed between the Reserve Bank of India (RBI) and the Central Bank of UAE on July 15. This would enable exporters and importers to invoice and pay in their respective domestic currencies enabling the development of a bilateral foreign exchange market.

Relevant Link:

<https://economictimes.indiatimes.com/industry/banking/finance/banking/rbi-permits-banksto-open-vostro-accounts-from-22-countries-for-trade-in-rupee/articleshow/102144580.cms>

RBI notified regarding the Implementation of Section 51A of UAPA, 1967: Updates to UNSC's 1267/ 1989 ISIL (Da'esh) & Al-Qaida Sanctions List: Amendments in 02 Entries

Dated: 25th July, 2023

The Reserve Bank of India (RBI) on July 24, 2023, issued a notification regarding the Implementation of Section 51A of UAPA, 1967: Updates to UNSC's 1267/ 1989 ISIL (Da'esh) & Al-Qaida Sanctions List: Amendments in 02 Entries

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This has a reference to Section 51 of the Master Direction on Know Your Customer dated February 25, 2016, as amended on May 04, 2023.

The following has been stated namely: -

- *It has been informed that in the UNSC press release SC/15363 dated July 21, 2023, wherein the Security Council Committee pursuant to resolutions 1267 (1999), 1989 (2011) and 2253 (2015) concerning ISIL (Da'esh), Al Qaida and associated individuals, groups, undertakings, and entities enacted the amendments specified with strikethrough and/or underline in the entries below on its ISIL (Da'esh) and Al-Qaida Sanctions List of individuals and entities subject to the assets freeze, travel ban and arms embargo set out in paragraph 1 of Security Council resolution 2610 (2021), and adopted under Chapter VII of the Charter of the United Nations.*
- *It states that the details of the sanction measures and exemptions are available at the following URL: https://www.un.org/securitycouncil/sanctions/1267#further_information*
- *The REs are advised to take appropriate action in terms of Section 51 of the MD on KYC and strictly follow the procedure as laid down in the UAPA Order dated February 02, 2021, which has been annexed to the MD on KYC.*
- *The Updated lists of individuals and entities linked to ISIL (Da'esh), Al-Qaida, and Taliban are available at: www.un.org/securitycouncil/sanctions/1267/aq_sanctions_list, <https://www.un.org/securitycouncil/sanctions/1988/materials>*
- *It states that as per the instructions from the Ministry of Home Affairs, any request for delisting received by any RE is to be forwarded electronically to Joint Secretary (CTCR), MHA for consideration. Individuals, groups, undertakings, or entities seeking to be removed from the Security Council's ISIL (Da'esh) and Al-Qaida Sanctions List can submit their request for delisting to an independent and impartial Ombudsperson who has been appointed by the United Nations Secretary-General. More details are available at the following URL: <https://www.un.org/securitycouncil/ombudsperson/application>*
- *All the REs are advised to take note of the aforementioned UNSC communications and ensure meticulous compliance.*

[Notification No. RBI/2023-24/50 DOR.AML.REC.26/14.06.001/2023-24]

Relevant Link: <https://www.teamleasereqtech.com/updates/article/25144/rbi-notified-regarding-the-implementation-of-section-51a-of-uapa-1967/>

NCLT AND M & A UPDATES

Bankruptcy court admits insolvency plea against Cafe Coffee Day parent

Dated: 24th July, 2023

Coffee Day Global Ltd (CDGL), which owns and operates the popular coffee chain Cafe Coffee Day chains, on Monday, July 24, said the company was admitted for corporate insolvency by the Bengaluru bench of the National Company Law Tribunal (NCLT). The NCLT passed an order over a plea filed by a financial creditor of the company, claiming dues of Rs 94 crore, Coffee Day Enterprises Ltd, CDGL's parent company said in a regulatory filing. "The application filed by

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one of the lenders against the material subsidiary CDGL before NCLT, Bengaluru, has been admitted (oral order) under Section 7 of Insolvency and Bankruptcy Code, 2016 for initiating CIRP for Rs 94 crore," it said. However, CDGL is waiting for the written order from the NCLT, it added.

Relevant Link: <https://www.cnbctv18.com/business/companies/bankruptcy-courtadmits-insolvency-plea-against-cafe-coffee-day-parent17318721.htm>

The non-mentioning of the Date of Default does not affect the merits of the Section 9 Application filed by the Operational Creditor under IBC – M/s. Geocon Infra Pvt. Ltd. Vs. M/s. Brij Gopal Construction Company Pvt. Ltd. – NCLT New Delhi Bench Court-III

Dated: 28th July, 2023

This Application was filed by M/s. Geocon Infra Pvt. Ltd., the Applicant/Operational Creditor on 05.07.2022, before this Adjudicating Authority under Section 9 of the IBC for initiating the CIRP against M/s. Brij Gopal Construction Company Pvt. Ltd., the Respondent/Corporate Debtor on the ground that the Corporate Debtor has defaulted/failed to clear the outstanding amount of Rs. 1, 55, 06,384/-

The Adjudicating Authority held that:

It is relevant to mention that in the present matter, the date of default has not been specifically mentioned neither in the Demand Notice nor in Part-IV of the application. On perusal of Invoice no. 003 dated 13.12.2021 issued by the Operational Creditor to the Corporate Debtor, it appears that the goods were delivered on 13.12.2021. The payment by the Corporate Debtor was to be made within 30 days i.e. by 12.01.2022, as per Invoice no. 003 which has not been made. Therefore, the default occurred and thus we assume the date of default in the present matter to be 12.01.2022. Hence, we observe that **the non-mentioning of the Date of Default does not affect the merits of the present case**. Further, we note that as per the submissions of the Operational Creditor, Invoice no. 003 dated 13.12.2021 remained unpaid, owing to which default was committed by the Corporate Debtor.

The Corporate Debtor has not denied receipt of the invoice dated 13.12.2021 sent vide email dated 16.12.2021. Further, the Corporate Debtor does not dispute or deny the ledger account of the Applicant reflecting the payments/unpaid amount after adjusting part-payments received from the Corporate Debtor pursuant to the Invoice dated 13.12.2021.

We are of the opinion that the Corporate Debtor has merely sought to rely upon the notional application of various clauses of the Agreement, without even placing a single document on record to establish that any issue or dispute as raised at any time when the Invoice was raised by the Operational Creditor, reminders were sent or part-payments were made by the Corporate Debtor.

The scope of IBC is limited to see whether there is a debt due and if any default has occurred in the payment/re-payment, hence the application is filed. Having regard to the facts of the case, we are of the considered view that the debt arises out of the work order dated 18.04.2018, the said amount is a debt disbursed against the consideration owned by the Operational Creditor, hence it is covered under the definition of "Operational Debt" as defined under

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Section 5(21) of the Code and the Applicant will be treated as “Operational Creditor” as defined under Section 5(20) of the Code.

From the bare perusal of the definition of “Operational Debt”, it is amply clear that for a debt to be classified as an Operational debt, the claim amount should be in respect of sales of any goods or rendering of contractual services or employment. Admittedly, the claim made by the Applicant is in respect of the provision of goods or services. Accordingly, the work done by the Applicant as per mandate in terms of the Work Order be treated as an “Operational Debt” as defined under section 5(21) of the Code.

Thus, the present application is legally tenable even after the argument of the Respondent is taken into consideration. In view of the above, we are inclined to **admit** this application.

Relevant Link: <https://ibclaw.in/m-s-geocon-infra-pvt-ltd-vs-m-s-brij-gopal-construction-company-pvt-ltd-nclt-new-delhi-bench-court-iii/>

Whether an Award of MSME can give a fresh lease of life to a belated claim? – Pan Pacific Engineering Services Pvt. Ltd. Vs. Ayyappa Hydro Power Ltd. – NCLT Kolkata Bench

Dated: 28th July, 2023

This company petition is filed under section 9 of the IBC by Director, Pan Pacific Engineering Services Pvt. Ltd. (Operational Creditor) who claims to be duly authorised vide Board Resolution dated 21 October, 2021 for initiation of CIRP against Ayyappa Hydro Power Ltd. (Corporate Debtor).

While it is true that failure in payment of a debt triggers the right to initiate the CIRP, and a Petition under Section 7 or 9 of the IBC is required to be filed within the period of limitation prescribed by law, which would be three years vide from the date of default by virtue of Law. The Hon’ble Supreme Court laid down the following ‘basics’ pertaining to the application of principles of limitation to Code in several Preceded rulings–

- (a) That the Code is a beneficial legislation intended to put the corporate debtor back on its feet and is not a mere money recovery legislation (Swiss Ribbons (P) Ltd. v. UOI) (2019) ibclaw.in 03 SC);
- (b) That CIRP is not intended to be adversarial to the corporate debtor but is aimed at protecting the interests of the corporate debtor (Babulal Vardharji Gurjar v. Veer Gurjar Aluminium Industries Pvt. Ltd. and Ors. [2020] ibclaw.in 16 SC);
- (c) That intention of the Code is not to give a new lease of life to debts which are time-barred. (Babulal Vardharji Gurjar v. Veer Gurjar Aluminium Industries Pvt. Ltd. and Ors. [2020] ibclaw.in 16 SC);
- (d) That the period of limitation for an application seeking initiation of CIRP under Section 7 of the Code is governed by Article 137 of the Limitation Act and is, therefore, three years from the date when right to apply accrues (Babulal Vardharji Gurjar v. Veer Gurjar Aluminium Industries Pvt. Ltd. and Ors. [2020] ibclaw.in 16 SC);
- (e) That the trigger for initiation of CIRP by a financial creditor is default on the part of the corporate debtor, that is to say, that the right to apply under the Code accrues on the date when default occurs (Laxmi Pat Surana vs. Union Bank of India and Ors. (2021) ibclaw.in 53 SC);

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(f) That default referred to in the Code is that of actual non-payment by the corporate debtor when a debt has become due and payable (*Laxmi Pat Surana vs. Union Bank of India and Ors.* (2021) ibclaw.in 53 SC); and;

(g) That if default had occurred over three years prior to the date of filing of the application, the application would be time-barred save and except in those cases where, on facts, the delay in filing may be condoned; (2021) ibclaw.in 16 SC. **(p10)**

The applicability of Article 137 of the Limitation Act, 1963 has been dealt with by the Hon'ble Apex Court in *B.K. Educational Services Pvt. Ltd. v. Parag Gupta & Associates* [2018] ibclaw.in 32 SC and *Jignesh Shah and Ors. v. Union of India (UOI) and Ors.* [2019] ibclaw.in 19 SC. **(p11-12)**

The admitted date of default in this case is 15th June, 2015 which is over a three year period prior to the date of filing of the Application. Even going by phantasmagorical thoughts, under no circumstances can this application be held to be within the prescribed period of limitation. **(p13)**

Further even if the date of default is taken as the date of passing of the order by MSME i.e. 10th November 2020, then the petition does not cross the barrier of Section 4 of IBC. The pendency of an appeal against such an award is thus of no consequence and does not extend the date of default on this count as well. **(p14)**

In view of the above facts and circumstances the C.P. (IB) No. 04/KB/2022 stands rejected. Resultantly, the I.A. (IB) No. 933/KB/2022 also stands dismissed as infructuous. The Petitioner is, however, at liberty to pursue other available means under the law for recovery. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities. **(P15-16)**

Relevant Link:

<https://ibclaw.in/pan-pacific-engineering-services-pvt-ltd-vs-ayyappa-hydro-power-ltd-nclt-kolkata-bench/>

Relaxation of IBBI Regulatory Fee in cases where the approved resolution plan in respect of a Real Estate Project is from an Association or Group of Allottees – IBBI (CIRP) (Amendment) Regulations, 2023, Notification No. IBBI/2023-24/GN/REG102 dated 20.07.2023

Dated: 21st July, 2023

Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Amendment) Regulations, 2023

No. IBBI/2023-24/GN/REG102. — In exercise of the powers conferred by clause (e) of sub-section (13) of section 5, and clause (a) and (f) of sub-section (2) of section 30, and clauses (aa), (c) and (t) of sub-section (1) of section 196 read with section 240 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Insolvency and Bankruptcy Board of India hereby makes the following regulations further to amend the [Insolvency and Bankruptcy Board of India \(Insolvency Resolution Process for Corporate Persons\) Regulations, 2016](#), namely: –

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(1) These regulations may be called the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Amendment) Regulations, 2023.

(2) They shall come into force on the date of publication in the Official Gazette.

In the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, in [regulation 31A](#), in sub-regulation (1), after the proviso, the following Explanation shall be inserted, namely: –
“Explanation: For removal of doubts, it is hereby clarified that the regulatory fee under this sub-regulation, shall not be payable in cases where the approved resolution plan in respect of insolvency resolution of a real estate project is from an association or group of allottees in such real estate project.”

Relevant Link: <https://ibclaw.in/insolvency-and-bankruptcy-board-of-india-insolvency-resolution-process-for-corporate-persons-amendment-regulations-2023/>

OTHERS

Goods & services Tax GST Council to finalize taxing rules on online gaming on August 2

Dated: 27th July, 2023

The Goods and Services Tax (GST) Council, which is expected to meet on August 2, will finalize draft rules on taxing online gaming, casinos, and horse racing, government officials told Business Standard. At its meeting on July 11, the all-powerful Council decided to levy a uniform 28 per cent tax on the full face value or bet amount for these entities. The Centre was expected to bring in a legislative amendment to facilitate this during the ongoing monsoon session of Parliament, enabling the inclusion of online gaming and horse racing under actionable claims. Currently, most online gaming platforms pay an 18 per cent tax on the commission collected for each game. Those involved in betting or gambling attract a 28 per cent GST. For horse racing, GST is levied at 28 per cent on the total bet value.

Relevant Link:

https://www.business-standard.com/economy/news/gstcouncil-to-finalise-taxing-rules-on-online-gaming-on-august-2-123072600936_1.html

Direct Tax CBDT condoning delay for claiming Deduction u/s 80P for AY 2018-19 to AY 2022-23 [Circular No. 13]

Dated: 26th July, 2023

The CBDT has issued Circular regarding the condonation of delay for returns of income claiming deduction under section 80P (deduction in respect of income of co-operative societies) of Income Tax Act for various assessment years from AY 2018-19 to AY 2022-23. In order to mitigate genuine hardship in cases, the Board directs that the Chief Commissioners of Income-tax (CCSIT) / Directors General of Income-tax (DGSIT) are authorised to deal with such applications of condonation of delay pending before the Board, upon transfer of such applications by the Board, and

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decide such applications on merits, in accordance with the law. The CCSIT/DGSIT shall examine the following while deciding such applications – (i) the delay in furnishing the return of income within the due date was caused due to circumstances beyond the control of the assessee with appropriate documentary evidence/s; (ii) where delay in furnishing return of income was caused due to delay in getting the accounts audited by statutory auditors appointed under the respective State Law under, the date of completion of audit vis-à-vis the due date of furnishing the return of income; and (iii) any other issue indicating towards tax avoidance or tax evasion specific to the case, which comes into the light in the course of verification and having bearing either in the relevant assessment year or establishing connection of relevant assessment year with other assessment year/s. The CCSIT/DGSIT shall preferably dispose the application within three months from the end of the month in which such application is received from the applicant or transferred by the Board. No order rejecting the application under section 119(2)(b) of the Act shall be passed without providing the applicant an opportunity of being heard.

Relevant Link: <https://incometaxindia.gov.in/communications/circular/circular-13-2023.pdf>

Delhi HC imposes Rs 2 lakh costs on restaurant associations in case against service charge ban

Dated: 27th July, 2023

The Delhi High Court has imposed total costs of Rs 2 lakh on two restaurant bodies for failing to comply with an order passed in relation to their challenge to the guidelines prohibiting hotels and restaurants from automatically levying service charge on food bills. Justice Prathiba M Singh directed that the costs shall be paid to the Department of Consumer Affairs.

On April 12, the court had directed National Restaurant Association of India and Federation of Hotels and Restaurant Associations of India to disclose the complete list of their members in support of the petitions and also state the percentage of its members who were imposing service charge as a mandatory condition as well as those were willing to make it a voluntary contribution. The petitioners were also asked to state if they had any objection over the term "service charge" being replaced with an alternative terminology such as "staff welfare fund" so as to prevent confusion in the minds of the consumer that the same was not a government levy.

"It is evident that the petitioners had to make various compliances. Neither of the Petitioners has filed the affidavits in terms of the said order," the court said.

"Accordingly, one last opportunity is granted to the Petitioners to properly file these affidavits within four days subject to payment of Rs.1,00,000/- as costs in each of the petitions which shall be paid to the Pay and Accounts Office, Department of Consumer Affairs, New Delhi by way of a Demand Draft," the court ordered. The court clarified that without the cost being deposited, the affidavits shall not be taken on record.

The petitioners have said service charge, which has been in existence for the last several years, is a "traditional charge" and is distributed amongst those staffers who are not before the customers and the restaurants are seeking the same after displaying due notice on their menu cards and inside their premises. They have argued that the CCPA order is arbitrary, untenable and ought to be quashed.

Seeking dismissal of the petitions, the CCPA, in its counter affidavit, has said the petitioners have totally failed to appreciate the rights of the consumers whose hard-earned money is unjustly collected automatically or by default in the name of service charge.

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Solicitors and Advocates

It has added that the objective of collecting mandatory service charge from consumers over and above the price of food items and applicable taxes is "unlawful" as no proportionate service is separately provided to consumers. The high court had on July 20, 2022 stayed the CCPA guidelines and said the stay is subject to the petitioners ensuring that the levy of service charge, in addition to the price and taxes, and the obligation of the customer to pay the same is duly and prominently displayed on the menu or other places. The matter would be heard next on September 5.

Relevant Link: <https://economictimes.indiatimes.com/industry/services/hotels-/restaurants/delhi-hc-imposes-rs-2-lakh-costs-on-restaurant-associations-in-case-against-service-charge-ban/articleshow/102177789.cms?from=mdr>

Thanking You,

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