NEWSLETTER

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Suman Jyoti Khaitan
(Editor)

Ms. Surabhi Chhabra
(Co-Editor)

Mr. Suman Jyoti Khaitan, Advocate, Founder of the Firm Suman Khaitan & Co., Advocates, New Delhi, is pleased to offer you the newsletter for the month of July 2022 published by Suman Khaitan & Co.

Suman Khaitan & Co. is a full-service law firm covering a comprehensive range of legal areas. The firm has been established with a view to blend the experience of several generations of lawyers with young talent with a dynamic business-oriented approach.

The newsletter is a compilation of judgments and recent news associated with the legal industry.

We heartily thank all the readers for their warm response and welcome your views, comments, and suggestions on the cases, content, and further improvement of the newsletter. Furthermore, if you would like any other information from the legal world to be made available to you, please do write to us at info@sumankhaitanco.in

Happy Reading!

SUMAN KHAITAN & CO.
ADVOCATES

ARBITRATION:

- In Kanti Bijlee Utpadan Nigam Ltd. v. Paltech Cooling Towers & Equipments Ltd.,[1] the Hon'ble High Court of Delhi held that an award of an arbitrary amount against specified claims, without adjudication of the said claims is unsustainable.

- In State of Madhya Pradesh v. Nidhi Industries[2] the Hon'ble High Court of Madhya Pradesh in its Order held that it is mandatory to issue notice of application under Section 11 of the Arbitration and Conciliation Act and non-compliance of which would vitiate the proceeding for appointment of arbitrator.

- In Y Harish and Anr. v. Y Satish and Ors.[3] the Hon'ble High Court of Karnataka observed that if the right to refer the dispute to an arbitrator is waived by a party, it cannot be reclaimed.

INSOLVENCY AND BANKRUPTCY:

- In Shrinathji Trading Company v. Sanwaria Consumer Limited,[4] the National Company Law Appellate Tribunal, New Delhi- Bench refused to entertain revised resolution plan beyond the statutory period. The NCLAT reiterated that timely completion of the resolution process is necessary and hence, dismissed the Appeal by upholding the Order passed by the Adjudicating Authority for rejection of the application.

- In Delta Electro Mechanical Pvt. Ltd. v. Sahara Hospitality Ltd.,[5] the National Company Law Tribunal, Mumbai Bench, permitted withdrawal of insolvency proceedings and termination of Corporate Insolvency Resolution Process against Sahara Hospitality Ltd., as Parties have entered a full and final settlement.

[1] 2022 LiveLaw (Del) 692.
[2] Review Petition No. 518 of 2021.
[3] WRIT PETITION NO.10716 OF 2022.
[4] Company Appeal (AT) (Ins.) No. 480 of 2022.
[5] IA 1990/2022 In C.P. (IB)/2430(MB)2018.

- The National Company Law Tribunal, Hyderabad Bench, in NSL Krishnaveni Sugars Ltd. v. Trident Sugars Limited,[6] initiated Corporate Insolvency Resolution Process against Trident Sugars Limited.

INDIRECT TAXATION:

- In Pradeep Goyal v. Union of India & Ors.,[7] the Hon'ble Supreme Court of India in its Order directed the GST Council to issue advisory/instructions/recommendations to the respective States regarding the implementation of the system of electronic (digital) generation of a Document Identification Number (DIN) in the indirect tax administration.

- In All India Haj Umrah Tour Organizer Association Mumbai v. Union of India,[8] the Hon'ble Supreme Court of India held that Haj Group Organisers (HGO) or Private Tour Operators cannot seek exemption from the Goods and Services Tax (GST) for their services as per the Mega Exemption Notification issued under the GST Act. The notification provided exemption for "conduct of any religious ceremony" as stated in Clause 5(b). The Court said that HGOs are not conducting any religious ceremony by themselves and are only facilitating the Haj pilgrimage.

DIRECT TAXATION:

- In State Bank of India v. The Income Tax Officer,[9] the Income Tax Appellate Tribunal in its Order held that the assessee cannot escape tax implication on grounds of change of branch manager.

- The Central Board of Direct Taxes vide Notification No. 05 of 2022 reduced the time limit for verification of Income Tax Return (ITR) from within 120 days to 30 days of transmitting the data of ITR electronically.

[6] CP (IB) No. 331/9/HDB/2020.
[7] WRIT PETITION (CIVIL) NO. 320 OF 2022.
[8] 2022 LiveLaw (SC) 632.
[9] ITA No.330/Bang/2022.

INTELLECTUAL PROPERTY LAW:

- In Mondelez India Foods Pvt. Ltd. and Anr. v. Neeraj Food Products,[10] the Hon'ble High Court of Delhi has passed permanent and mandatory injunction against Neeraj Food Products for infringement of Cadbury's trademark 'GEMS' by using deceptively similar mark and packaging 'JAMES BOND' which was inspired by the character 'GEMS BOND', as used by Cadbury for promotion of their product.

- In International Society for Krishna Consciousness Bangalore v. International Society for Krishna Consciousness and Ors.,[11] the Hon'ble High Court of Bombay has held that the question of Trademark's Proprietorship is to be determined by Registrar.

- In Philips Lighting Holding B.V. v. Jai Prakash Agarwal and Anr.,[12] the Hon'ble High Court of Delhi held that a design identical with or even materially similar to a pre-existing design should not be published or registered. mere trade variants of what is already in existence or what is common to the trade is not capable of being registered.

SECURITIES AND EXCHANGE BOARD OF INDIA

- The Securities and Exchange Board of India vide Press Release No. 25/2022 announced that SEBI and the Financial Regulatory Commission, Mongolia (FRC) have entered into a bilateral Memorandum of Understanding (MoU) for mutual co-operation and technical assistance. The objective of this MoU is to strengthen cross border co-operation in the area of securities regulation.

- The Securities and Exchange Board of India vide Press Release No. 24/2022 announced that Shri Pramod Rao, who holds degree of B.A.L.L.B. (Hons), took charge as Executive Director in SEBI on July 15, 2022. He will handle the Department of Debt and Hybrid Securities (DDHS) and Enquiry and Adjudication Department (EAD).

[10] CS (COMM) 393/2018.
[11] 2022 LiveLaw (Bom) 264.
[12] CS(COMM) 46/2019. b

COMPETITION:

- The Competition Commission of India vide Press Release No. 21/2022-23 approved the acquisition of Ageas Federal Life Insurance Company Limited by Ageas Insurance International NV.

- The Competition Commission of India vide Press Release no. 23/2022-23 approved acquisition of stake in Tata Power Renewable Energy Limited by Greenforest New Energies Bidco Limited. The proposed combination relates to internal reorganization of TPREL and acquisition of up to 11.43% of the equity share capital of TPREL by Greenforest.