



NEWSLETTER

JUNE 2022

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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 June 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 Shriram City Union Finance Ltd. v. Mr. Donald Dayanand Donald,¹ the Hon'ble Karnataka High Court in its Order held that the date for the purpose of quantifying the stamp duty payable on the instrument is the date on which the instrument was signed.
- ❖ In Siliguri Jalpaiguri Development Authority v. Bengal Unitech Siliguri Projects Limited,² the Hon'ble Calcutta High Court held that the award holder should be secured for the entirety of the amount awarded by the Arbitral Tribunal along with interest and other costs.
- ❖ In M/s. India Media Services Private Limited v. M/s. SBPL Infrastructure Limited,³ the Hon'ble Telangana High Court in its Order held that only the Court where an application under Section 9 and/or Section 34 has been filed would have the jurisdiction to entertain an application for enforcement of the arbitral award.
- ❖ In Telangana State Tourism Development Corporation Limited v. M/s. A.A. Avocations Pvt. Ltd.,⁴ the Hon'ble Telangana High Court held that the 'specified value' of the subject dispute is more than one crore and therefore an application under section 9 of the Arbitration and Conciliation Act, 1996 has to be filed in a designated Commercial Court only and Civil Court has no jurisdiction to deal with such applications.

INSOLVENCY AND BANKRUPTCY:

- ❖ In State Bank of India v. Rohit Ferro Tech Limited,⁵ the National Company Law Tribunal, Mumbai Bench, in its Order held that claims or reliefs which were not a part of the

¹ W.P.Nos.205899/2019.

² 2022 LiveLaw (Cal) 254.

³ CIVIL REVISION PETITION NO.507 OF 2021.

⁴ CIVIL MISCELLANEOUS APPEAL NO.163 OF 2022.

⁵ C.P. (IB) No. 1214/KB/2018.

Resolution Plan, cannot be claimed after the said Resolution Plan is approved by the Adjudicating Authority.

- ❖ In Gateway Offshore Private Limited and Anr. v Runwal Realtors Private Limited,⁶ the Hon'ble National Company Law Tribunal, Mumbai Bench, in its Order held that a written contract cannot be treated as a pre-requisite to prove the existence of financial debt and the Adjudicating Authority must be satisfied that the Corporate Debtor is not being dragged into Corporate Insolvency Resolution Process ("CIRP") mala fide for any purpose other than the resolution of the Insolvency.
- ❖ In UCO Bank v. Vinod Kumar Mittal⁷ the National Company Law Tribunal, Kolkata Bench has initiated Corporate Insolvency Resolution Process against Mr. Vinod Kumar Mittal, who is the Personal Guarantor in relation to the credit facilities extended by the Bank in favour of Gontermann-Pipers (India) Limited.
- ❖ In Srei Equipment Finance Limited v. Nirmal Lifestyle (Kalyan) Private Limited,⁸ the National Company Law Tribunal, Mumbai Bench has admitted the application for initiation of Corporate Insolvency Resolution Process against Nirmal Lifestyle (Kalyan) Private Limited.

INDIRECT TAXATION:

- ❖ In Jar Productions Private Limited v. The Union of India & Ors.,⁹ the Hon'ble Bombay High Court has held that GST does not apply to services rendered abroad as they amount to the export of services.

⁶ CP (IB) 954/MB/C-I/2019.

⁷ C.P.(IB)/24(KB)2021.

⁸ CP (IB) No.1337/MB/2020.

⁹ 2022 LiveLaw (Bom) 216.

DIRECT TAXATION:

- ❖ In M/s. Rane Industries Pvt. Ltd. v. DCIT,¹⁰ the Pune Bench of Income Tax Appellate Tribunal ordered to delete the penalty on the grounds that excess claim of deduction was made due to bona fide and unintentional mistake.

- ❖ In Shri Dharampal R. Pandia v. Assistant Commissioner of Income Tax,¹¹ the Hon'ble Madras High Court an assessee can be prosecuted for willfully and deliberately concealing his income by not filing his income tax return within the stipulated time.

- ❖ In Neelam Dhingra, (through husband and legal heir- Vinod Dhingra) v. DCIT,¹² the Delhi Bench of the Income Tax Appellate Tribunal has ruled that the notice for reopening of the assessment against the dead person is invalid.

INTELLECTUAL PROPERTY LAW:

- ❖ In Voltas Limited v. Ashok Kumar & Ors.,¹³ the Hon'ble Delhi High Court in its Order directed the defendants to lock/block/suspend the domain name www.myvoltascare.com and block access to as well as disable the website since the unauthorized use of the plaintiff's trademarks is causing irreparable loss and injury to the plaintiff.

¹⁰ ITA No.555/PUN/2020.

¹¹ 2022 LiveLaw (Mad) 269.

¹² I.T.A. No.4725/DEL/2017.

¹³ CS(COMM) 438/2022.

- ❖ In Hettich Marketing-Und Vertriebs GmbH & Co. KG. v. Gupta Store,¹⁴ the Hon'ble Delhi High Court permanently restrained the Defendant from selling any counterfeit product and/or any other related goods under the trademark and trade name HETTICH and HETTICH Logo or any other deceptively similar mark thereof, amounting to infringement of Plaintiffs' registered trademarks and passing off.
- ❖ In Culver Max Entertainment Private Limited Formerly Known as Sony Pictures Networks India Pvt Ltd v. F1.Mylivecricket.live and Ors.,¹⁵ the Hon'ble Delhi High Court in its Order has granted interim directions in favour of Sony against rogue websites illegally telecasting international cricket series 2022.
- ❖ In Bhanushali Studios Ltd. & Ors. v. Telegram Messenger LLP & Anr.,¹⁶ the Hon'ble Bombay High Court in its Order directed the removal of pirated links of "Janhit Mein Jaari" film produced by Bhanushali Studios as there was an infringement of copyright held by the Producers in the film. The unknown defendants appeared to have no license and/or authority to make available a copy of the film to the public.

MERGER AND ACQUISITIONS:

- ❖ Faridabad-headquartered eyewear company Lenskart announced its acquisition of Japan's Owndays Inc. With this acquisition, Lenskart will extend its market reach to 13 countries, including Japan, Indonesia, Malaysia, Singapore, Thailand, Taiwan, and the Philippines.
- ❖ The Board of the food delivery company Zomato approved the acquisition of quick commerce company Blinkit for Rs. 4,447 crores in an all-stock deal.

¹⁴ CS(COMM) 205/2018.

¹⁵ CS(COMM) 439/2022.

¹⁶ 2022 LiveLaw (Bom) 223.

SECURITIES AND EXCHANGE BOARD OF INDIA

- ❖ The Securities and Exchange Board of India vide Press Release No. 18/2022 declared that Shri Ashwani Bhatia has taken charge as Whole Time Member, Securities and Exchange Board of India, in Mumbai on 01.06.2022.
- ❖ The Securities and Exchange Board of India vide Press Release No. 19/2022 accepted the request for surrender of certificate of registration granted to Principal Mutual Fund (PMF). Consequently, PMF ceases to exist as a mutual fund w.e.f. June 02, 2022.

COMPETITION:

- ❖ The Competition Commission of India vide Press Release No. 12/2022-23 approves acquisition of the entire equity share capital of AirAsia (India) Private Limited by Air India Ltd.
- ❖ The Competition Commission of India vide Press Release No. 15/2022-23 approved the proposed combination involving Google International LLC and Bharti Airtel Limited wherein Google proposed to acquire a minority and non-controlling stake of 1.28% of equity share capital in Bharti Airtel Limited.