



## NEWSLETTER

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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 February 2023 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](mailto:info@sumankhaitanco.in)

Happy Reading!

## **INSOLVENCY AND BANKRUPTCY:**

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- ❖ In *Noble Resource International Pvt. Ltd. v. Sona Alloys Pvt. Ltd.*<sup>1</sup> the National Company Law Tribunal, Ahmedabad Bench, held that when Financial Creditors have not been paid in full in the Resolution Plan, the Operational Creditors cannot claim a higher amount under the same.
  
- ❖ In *Nirej Vadakkedathu Paul v. Sunstar Hotels and Estates Private Ltd.*<sup>2</sup> the National Company Law Appellate Tribunal, Chennai Bench, has ruled that the shareholders of the Corporate Debtor do not have any Locus to challenge the admission of Corporate Debtor into Corporate Insolvency Resolution Process.
  
- ❖ In *ICICI Bank Limited v. Mr. Pratim Bayal (Resolution Professional) & Anr. in matter of Trimurti Associates Private Limited Vs BKM Industries Limited*<sup>3</sup> the National Company Law Tribunal, Kolkata Bench, observed that just because a creditor enjoys security interest, it cannot be treated higher than other creditors who have financed the Corporate Debtor.

## **ARBITRATION:**

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- ❖ In *Divisional Manager, H.P. State Forest Development Corporation Ltd. v. Prem Lal*<sup>4</sup> the Hon'ble High Court of Himachal Pradesh has held that any person who becomes ineligible to act as an Arbitrator in terms of the Arbitration and Conciliation Act, 1996 cannot appoint/nominate another arbitrator for determining the dispute.

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<sup>1</sup> CP (IB) No. 586 of 2019.

<sup>2</sup> Company Appeal (AT) (CH) (Ins.) No. 142 of 2022.

<sup>3</sup> IA. (IB) No. 471/KB/2022.

<sup>4</sup> CMPMO NO. 58, 59 & 60 of 2023.

- ❖ In *M/s. Transtonnelstroy – Afcons (JV) v. M/s.Chennai Metro Rail Ltd.*<sup>5</sup> the Hon'ble High Court of Madras noted that while an arbitral tribunal, which consists of experts in the field, is at liberty to apply its own knowledge and understanding to arrive at a conclusion, it should always allow the parties involved to present their case.
- ❖ In *Pahal Engineers v. Gujarat Water Supply and Sewerage Board*<sup>6</sup> the Hon'ble High Court of Gujarat observed that failure to abide by the procedural laws would not be fatal to the arbitral proceedings and a claim petition/statement of claims cannot be dismissed solely on the ground that it was not verified as contemplated under the Code of Civil Procedure, 1908.

#### **DIRECT TAXATION:**

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- ❖ In *Inteva Products Netherlands BV v. ACIT*<sup>7</sup> the Income Tax Appellate Tribunal, Delhi Bench, has held that payments received from foreign companies on account of business support services are held to be taxable as fees for technical services (FTS).
- ❖ In *ACIT v. ABW Infrastructure Ltd.*<sup>8</sup> the Income Tax Appellate Tribunal, Delhi Bench, has observed that the Insolvency and Bankruptcy Code, 2016 has an overriding effect on all Acts, including the Income Tax Act, 1961.
- ❖ The Income Tax Department has launched a Mobile app for Taxpayers to view Annual Information Statements ("AIS"). AIS Application is a free mobile application that is meant to provide a comprehensive view of the Annual Information Statement. AIS is a collection of various information regarding the taxpayer such as TDS transactions, foreign remittances, purchase and sale transactions of securities or immovable properties and interest on deposits. Taxpayers can even provide feedback on the information displayed in AIS.

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<sup>5</sup> O.SA.CAD).No.147 of 2021.

<sup>6</sup> C/LPA/1011/2022.

<sup>7</sup> ITA No.7963/Del./2019.

<sup>8</sup> I.T.A. No. 2861/DEL/2018.

## **MERGERS AND ACQUISITIONS:**

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- ❖ “Internovo Ventures”, a company that owns and operates a number of cutting-edge fintech platforms that offer customers retail credit, bookkeeping, and investment solutions has acquired “Mera Cashier”, a technology platform offering 'khata' solutions to small merchants across India.
- ❖ “MediBuddy”, a digital healthcare platform, announced the acquisition of Indian operations of “vHealth by Aetna” in an all-cash deal. vHealth is a subscription-based primary health-care provider. Pursuant to the acquisition, vHealth by Aetna’s business will be rebranded into ‘MediBuddy vHealth’.
- ❖ Tech-enabled micro-savings platform “Siply” has acquired digital chit-fund entity “myPaisaa” for \$7.5 million. The acquisition is expected to help Siply enhance its existing offerings through myPaisaa’s chit-fund distribution platform, enhance its customer base and build on the digital, sachet financial services proposition.
- ❖ Workforce management software provider “BetterPlace” has acquired Indonesia-based blue-collar workforce fulfillment platform “MyRobin”, in its first expansion abroad.

## **THE COMPETITION COMMISSION OF INDIA (“CCI”):**

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- ❖ The CCI vide press release no. 68/2022-23 approved the proposed combination relating to acquisition of clinker, cement and power plants belonging to Jaiprakash Associates Limited and its associate (Sellers) (Target Assets), by the Dalmia Cement (Bharat) Limited (Acquirer) (Proposed Combination).
- ❖ The CCI vide press release no. 58/2022-23 approved the acquisition of Textile Effects business of Huntsman International LLC (Target Business) by Archroma Operations S.à.r.l (Archroma). The Target Business is said to be a global solutions provider in the

wet processing of textiles across pre-treatment, coloration, printing and finishing, and offers a range of textile chemicals, dyes and digital inks.

- ❖ The CCI vide press release no. 63/2022-23 approved acquisition of 100% equity and preference shares of Lanco Anpara Power Limited (LAPL) by Megha Engineering and Infrastructures Limited (MEIL). MEIL is a public limited company and is primarily involved in undertaking engineering, procurement and construction, Build, Own, Operate, Transfer / Build, Own, Operate projects in various sectors such as power, irrigation, drinking water, transportation, general infrastructure and hydrocarbons. LAPL is engaged in thermal power generation by utilising coal as its source of energy.

#### **EMPLOYMENT AND LABOUR:**

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- ❖ In *Bichitrananda Barik v. State of Odisha & Ors.*<sup>9</sup> the Hon'ble High Court of Orissa held that even in case of a contractual employee, the rules of natural justice are required to be followed.
- ❖ In *All India Service Engineers Association v. Union of India and Ors.*<sup>10</sup> the Hon'ble High Court of Bombay has held that eviction of employees due to privatisation cannot be termed an Industrial dispute.

#### **THE SECURITIES AND EXCHANGE BOARD OF INDIA (“SEBI”)**

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- ❖ The SEBI has issued Circular dated 15.03.2023 regarding maintenance of a website by stock brokers (“SB”) and depository participants (“DP”). Considering the advancement in technology and need to provide better services to the investors, all SBs and DPs are mandated to maintain a designated website. Such website shall mandatorily display information such as basic details of the SB/DP, names and contact details of all key

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<sup>9</sup> W.P.(C) No. 10146 of 2018.

<sup>10</sup> Writ Petition (L) No. 34307 of 2022.

managerial personnel, step by step procedures for opening an account, filing a complaint on a designated email id, and finding out the status of the complaint, etc., and details of authorized persons.