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RBI & FEMA

- The rates of interest on Public Provident Fund Scheme, 1968 (PPF, 1968) and Senior Citizens Savings Scheme, 2004 (SCSS, 2004) for the financial year 2013-14, effective from April 01, 2013 revised to 8.7% p.a. and 9.2% p.a. respectively. - *Circular No. RBI/2012-13/458, Dated Mar 28, 2013.*
- Bank Rate adjusted by 25 basis points from 8.75% to 8.50% w.e.f March 19, 2013. - *Circular No. RBI/2012-13/452, Dated Mar 19, 2013.*
- W.e.f Apr 02, 2013 the margin requirements under the Liquidity Adjustment Facility (LAF) and Marginal Standing Facility (MSF) in respect of Central Government dated securities/Treasury Bills and State Development Loans (SDLs) revised to 4% and 6% resp. from 5% and 10% resp. - *Circular No. RBI/2012-2013/448, Dated Mar 19, 2013.*
- Discontinuation of Centralised Funds Management System (CFMS) - The facility of CFMS Helpdesk services and access to CFMS information and data will not be available with effect from April 1, 2013. - *Circular No. RBI / 2012-13 /442, Dated Mar 15, 2013.*
- Subject to certain conditions, in case of Public-Private Partnership (PPP) projects, the debts due to the lenders may be considered as secured to the extent assured by the project authority in terms of the Concession Agreement. - *Circular No. RBI/2012-13/445, Dated Mar 18, 2013*
- All entities authorised for issuance of pre-paid payment instruments in India are advised to submit the data related to customer grievances received and resolved, on a quarterly basis, in the prescribed excel formats. - *Circular No. RBI/2012-13/441, Dated Mar 14, 2013.*
- Foreign Institutional Investors (FIIs) will be eligible to offer government securities/corporate bonds (acquired by FIIs in accordance with provisions of Schedule 5 to Notification No. FEMA 20 dated May 3, 2000), cash and foreign sovereign securities with AAA ratings in both cash and F & O segments. - *Circular No. RBI/2012-13/439, Dated Mar 14, 2013.*
- Exporters, including status holders, have been allowed to self write-off unrealised export bills, subject to limits in terms of specified percentage of the proceeds realized during previous calendar year. While status holder exporters have been allowed to write-off up to 10% of the total export proceeds realized during the previous calendar year, other exporters can self write-off 5% of such export proceeds. Write off by authorized dealer banks, subject to conditions, though remains at 10% of such export proceeds. - *RBI A.P. (DIR Series) Circular No. 88, Dated Mar 12, 2013.*

- All Urban Co-operative Banks (UCBs) are advised to implement Core Banking Solutions (CBS), in all their branches before December 31, 2013. Noncompliance could result in denial of various facilities (expansion of branches or area of operation etc.) to UCBs. - *Circular No. RBI/2012-13/437, Dated Mar 13, 2013.*
- RBI clarifies that banks which have included contingent liabilities/off-balance sheet items as part of priority sector target achievement, are now need to declassify these with retrospective effect. - *Circular No. RBI/2012-13/455, Dated Mar 22, 2013.*
- Certain modifications have been effected in the information called for in Annex-3(E). The revised Annex-3(E) is enclosed in the circular. For Branch Authorization, banks are required to furnish certain information to RBI along with Annual Branch Expansion Plan (ABEP) as stipulated in Annex-3(E). - *RBI/2012-13/427 DBOD.No.BAPD.BC.82/22.01.001/2012-13, Dated Mar 4, 2013.*
- It has been decided to permit all entities to avail of External Commercial borrowings (ECBs) under the automatic route as per the current norms, notwithstanding the pending investigations / adjudications / appeals by the law enforcing agencies, without prejudice to the outcome of such investigations / adjudications / appeals. - *RBI/2012-13/429 A.P. (DIR Series) Circular No. 87, Dated Mar 5, 2013.*
- Pursuant to observations made by CAG regarding the Agriculture Debt Waiver and Debt Relief Scheme, 2008, monthly reporting on this issue (forwarded to RBI regional office latest by 25th every month) was asked from all Urban Cooperative Banks, Scheduled Commercial Banks & Local Area Banks. The format for the same enclosed in the circular. - *RBI/2012-13/430 RPCD.CO.FSD. No. BC. 67/05.04.02/2012-13, Dated March 6, 2013; RBI/2012-13/432 UBD.BPD (PCB) Cir. No.40/13.05.000/2012-13, Dated March 7, 2013.*
- The Reserve Bank started a comprehensive scrutiny of head offices and branches of ICICI Bank, HDFC Bank and Axis Bank, which are accused of money laundering and violating regulations like FEMA and KYC. The three private sector banks were accused of money laundering in a sting operation by online portal, Cobrapost. - *The Economic Times, Dated Mar 18, 2013.*

FOREIGN TRADE

- DGFT amends Handbook of Procedures, Vol. 1 and Set Top Box is added in Appendix 37D at Sl. No. 756 of Table 1. - *Public Notice No.51/(RE 2012)/2009-2014, Dated March 5, 2013.*
- The three categories of supplies where supply of goods, under deemed exports, are ab-initio exempted from payment of excise duties was mentioned. It was clarified that in respect of such supplies, no refund of TED shall be provided by the RAs of DGFT/ office of Development Commissioners, because such supplies are ab-initio exempted from payment of excise duty. The relevant taxes should not have been collected to begin with. If there has been an error the agency collecting them would refund it. - *Policy Circular No. 16(RE-2012)/2009-2014, Dated March 15, 2013.*

- Five new Pre-Shipment Inspection Agencies (PSIA) have been notified, and area of operation of four existing PSIA's has been widened. - *Notification No. 52/(RE 2012)/2009-2014, Dated March 28, 2013.*
- The government does not plan to liberalise foreign direct investment (FDI) norms in the retail sector in the near future. - *The Economic Times, Dated March 14, 2013.*
- The RBI allowed FIIs to offer their investments in g-secs and corporate bonds as collateral to stock exchanges for derivatives transactions. However, in the cash segment, FIIs can use their investments in corporate bonds as collateral other than already permitted collaterals. - *The Economic Times, Dated Mar 15, 2013.*

CORPORATE

- No DDR is required for debentures issued by AIFs, for both public and privately placed debentures. For NBFCs and manufacturing and infrastructure companies, the adequacy of DRR will be 25% of the value of debentures issued through public issue. While no DRR is required in the former case of privately placed debentures, there is a requirement of 25% DRR in the case of privately placed debentures for the latter. For unlisted companies issuing debentures on private placement basis, the DRR will be 25% of the value of debentures. Every company before 30th April each year, required to maintain DRR shall deposit or invest a sum which shall not be less than 15% of the amount of its debentures maturing during the year ending on the 31st March (in the method mentioned in the circular). The amount deposited or invested shall not fall below 15% and not be utilized for any other purpose. - *Circular No. 4/2013No. 11/02/2012-CL-V (A).*
- Amendments and clarifications were issued on specified entries in Finance Act, 1994. "Public limited company" shall have the same meaning as is assigned to "public company" in Section 3(1)(iv) of Companies Act, 1956, and shall also include a private company that becomes a public company by virtue of Section 43A of the Act. "Resident" shall have the meaning as is assigned to Section 2(42) of Income-tax Act, 1961. - *Dated March 1, 2013.*
- In cases where the effective yield (effective rate of return) on tax free bonds is greater than the yield on prevailing bank rate, there is no violation of Section 372A(3) of Companies Act, 1956. This clarification was required as the Budget 2013-14 authorizes Union Govt to raise Rs. 50,000 crores (Tax Free Bonds), which carry a lower rate of interest, and section 372(3) inter-alia provides, "No loan to anybody corporate shall be made at a rate of interest lower than the prevailing bank rate". - *General Circular No. 06/2013, Dated March 14, 2013.*
- MCA amended the Companies Directors Identification Number (Amendment) Rules, 2013 which shall come into force on their publication in the Official Gazette. By the present notification rule 8 is inserted which deals with 'cancellation or deactivation of DIN'. - *Dated March 16, 2013.*
- Substitution made rule 2(b) sub clause (x) and rule 11A of Companies (Acceptance of Deposits) Rules, 1975. - *Dated March 21, 2013.*
- The suit was filed for the enforcement of the Non-Disclosure agreement which restricts the respondent from quoting directly to the appellant's customers, after the termination of the agreement. The two bench judge

upheld the order of the single bench judge, stating that negative covenants in agreement could be enforced only during the pendency of the contract and not beyond the expiry of the agreement period and that there cannot be any post-contract restriction. - *M/s FL Smidth Pvt. Ltd v. M/s Secan Invescast(India) Pvt. Ltd., Madras High Court.*

- The High Court of Calcutta has held that an order sanctioning a scheme of amalgamation or demerger under Section 394 of the Companies Act, constitutes an “instrument” and “conveyance” within the meaning of the Stamp Act applicable in the state of West Bengal and is, accordingly, eligible to stamp duty. - *Gemini v. State of Maharashtra.*

SECURITIES

- SEBI vide circular No. CIR/CFD/DIL/10/2012 dated August 28, 2012, has provided for partial fungibility of Indian Depository Receipts (i.e. redemption/conversion of IDRs into equity shares) in a FY to the extent of 25% of IDRs originally issued. A detailed roadmap of guidelines has been spelled out in the present notification, for fungibility of IDRs issuance. - *CIR/CFD/DIL/6/2013, Dated, March 1, 2013.*
- Companies listed in Annexure ‘A’ have established connectivity with both the depositories, NSDL and CDSL. The stock exchanges may consider shifting the trading in these securities from Trade for trade Settlement (TFTS) to Normal Rolling Settlement, subject to the conditions as mentioned in the circular. - *CIR/MRD/DP/07/2013, Dated March 5, 2013.*
- Acting on inputs received from investors regarding the functioning of arbitration mechanism at stock exchanges, SEBI is out with certain changes, which include a common pool of arbitrators and introduction of automatic process. The automatic process will entail a randomized, computer generated selection of arbitrator, wherein neither the parties nor the stock exchanges will be directly involved. - *CIR/MRD/ICC/8/2013, Dated March 18, 2013.*
- In light of the announcement in the Union Budget 2013-2014 and RBI Circular No. 90 dated 14-04-2013, FII’s are permitted to offer following collaterals-government securities, corporate bonds, cash and foreign securities with AAA ratings, for their transactions in both cash and F&O segments. In this regard the stipulations specified by SEBI and RBI with regard to acceptance of various collaterals shall be adhered to. - *CIR/MRD/DRMNP/9/2013, Dated March 20, 2013.*
- For making cash payments to the investors, companies whose securities are listed on stock exchange shall use, either directly or through their RTI & STA, any RBI approved electronic mode of payment. For this purpose the companies shall maintain requisite bank details of their investors. For investors holding securities in demat mode, bank details be obtained from depositories. For investors that hold physical securities, companies shall take efforts to maintain updated bank details. In case details for making electronic payment are not available, companies(or their RTI &STA) may use physical payment instruments for making cash payments. - *CIR/MRD/DP/10/2013, Dated March 21, 2013.*

- The requirement of framing a Code of Conduct for prevention of insider trading by the companies is a mandate of law and nobody can be allowed to violate the same. Similarly, the requirement of communicating the decisions of the Board of the company to the Stock Exchange promptly is an important check on the unscrupulous persons who may utilise the information for their personal gains in an improper and illegal manner and thereby jeopardizing the interest of bonafide investors. - *Sunday Exports Ltd v. Adjudicating Officer, Securities and Exchange Board of India, Securities Appellate Tribunal.*

COMPETITION

- CCI has found that Coal India, the state owned coal monopoly, abuses its dominance, after state owned power generators of Maharashtra and Gujarat complained of erratic and poor quality supplies. CCI investigation found that the terms and conditions of CIL's fuel supply agreement (FSA) have been drafted unilaterally and there is no consultation process with other parties at any stage. A committee formed has decided that CIL should adhere to the grade it promises from April 1, or else pay penalty on the power it buys from utilities and power companies. - *The Economic Times, Dated March 12, 2013.*
- There was no prima facie case and Gilead Sciences was not a dominant player in the relevant market in India. The market for production of Antiretroviral (ARV) drug was fragmented, with many players engaged in the production/manufacture of ARV drugs in India. - *Manoj Hirasingh Pardeshi v. Gilead Sciences Inc., USA.*
- The Commission can neither go into the issue of MRP i.e. what should be the MRP for any product or service and fix the MRP, nor can the Commission give direction to the Government of India that it should fix MRP of a service being provided by private entrepreneur. That will be contrary to the spirit of competition law. The forces of demand and supply govern the air fares. - *Manjit Singh Sachdeva v. Director General, Director General Civil Aviation & Ors.*
- Irrespective of the fact that certain activities are regulated by sectoral regulators, any competition issue arising out of the activities of such entities would come under the purview of the Act u/s 62. Though the Act is not retrospective, it would cover all agreements covered by the Act though entered into prior to the commencement of the Act but sought to be acted upon now i.e. if the effect of the agreement continues even after 20.5.2009. Relevant market has to be defined in terms of product-substitutability from demand perspective, and has two dimensions - product and geography. - *Shri Sonam Sharma v. Apple Inc. USA.*

INDIRECT TAXES

– CUSTOMS

- Notification No. 12/2012-Customs, dated March 17, 2012 amended, exemption from customs duty on Import of Pulses extended up to 31-3-2014. - *Notification No. 18/2013 - Customs, New Delhi, Dated Mar 26, 2013.*
- Subject to certain conditions goods supplied to Project ASTRA (Air Standards, Training, Readiness & Automation) of Government of India in Ministry of Defence are exempted from Customs Duty. - *Notification No.16/2013 - Customs, New Delhi, Dated Mar 25, 2013.*

- In furtherance to Indo-Japan bilateral trade, import duty further reduced on goods imported into India from Japan. - *Notification No.17/2013 - Customs, New Delhi, Dated Mar 26, 2013.*
 - Notification No. 30/98-Customs (N.T.), dated June 2, 1998 amended, the value limit of Jewellery allowed duty free to an Indian passenger who has been residing abroad for more than one year raised to up to fifty thousand rupees by a gentleman passenger or one lakh rupees by a lady passenger. - *Notification No.25/2013 - Customs (N.T.), New Delhi, Dated Mar 01, 2013.*
 - Anti -dumping duty levied on import of Flat Base Steel products and on Meta Phenylene Diamine originating in, or exported from, People's Republic of China. - *Notification No.02 & 03/2013 - Customs (ADD), New Delhi, Dated Mar 26, 2013.*
 - Customs department is not empowered to put onerous conditions for provisional release of seized goods. (Conditions like - furnishing 25% bank guarantee and undertaking to the effect that the description of the goods/their quality/age/or other technical specifications/characteristics/ identity, etc., in the present case). - *Om Udyog v. Joint Commissioner Of Customs, Punjab & Haryana High Court.*
 - Since the Special PP was responsible for not filing the appeal in time and the department is taking action by debaring him from appearing on behalf of UOI in any Court, COD application allowed. - *Union of India v. Vinod Kumar Samson Michael And Anr, Bombay High Court.*
 - Tribunal held that benefit of Notification 21/2002 cannot be claimed while importing "aircraft engine" for repairs (notification allows duty free import of goods for manufacture or servicing of aeroplane, helicopter etc. and not for repairs) and since confiscation of the goods has been ordered u/s 111(o) of Customs Act, payment of Customs duty at the time of redemption cannot be faulted. - *Air India Ltd v. CC, CESTAT Mumbai.*
 - Bar of unjust enrichment - a certificate from Chartered Accountant confirming that the duty liability of SAD has not been passed on to the buyers by the appellants is held to be sufficient to discharge the liability of bar of unjust enrichment. Accordingly, the appellants are entitled for refund claim. - *MIRC Electronics Ltd. v. Commissioner Of Customs, CESTAT Ahmedabad.*
- **CENTRAL EXCISE**
- Subject to two conditions goods supplied to Project ASTRA (Air Standards, Training, Readiness & Automation) of Government of India in Ministry of Defence are exempted from Central Excise Duty. - *Notification No.13/2013 - Central Excise, New Delhi, Dated Mar 25, 2013.*
 - Notification No. 20/2011- CE, dated March 24, 2011 rescinded, relating to 1% excise duty on Mobile handsets including Cellular phones. - *Notification No. 06/2013, New Delhi, Dated Mar 01, 2013.*
 - Notification No. 17/2007- CE, dated March 01, 2007 amended, so as to increase the compound levy rate of duty for Stainless pattis/pattas from Rupees Thirty Thousand to Rupees Forty Thousand per cold rolling machine, per month. - *Notification No. 05/2013, New Delhi, Dated Mar 01, 2013.*

- Notification No. 7/2012- CE, dated March 17, 2012 amended, so as to prescribe 6% rate of excise duty to branded readymade garments and made ups of cotton, not containing any other textile materials. - *Notification No. 08/2013, New Delhi, Dated Mar 01, 2013.*
 - Notification No.30/2004-CE, dated July 09, 2004 amended, so as to provide 'zero excise duty route' to branded ready- made garments and made-ups. - *Notification No. 11/2013, New Delhi, Dated Mar 01, 2013.*
 - Assessee was allowed the benefit of utilization of credit of basic excise duty for payment of education cess. - *M/s. Madura Industrial Textiles v. CCE, Vapi, CESTAT Ahmedabad.*
 - Condonation of delay application dismissed earlier cannot be restored as Tribunal cannot review its own order. - *Hotel Sai Siddhi Pvt Ltd v. CCE, CESTAT Mumbai.*
 - EOU and DTA located in same premises. Therefore, procedural requirement of issuing invoices for transferring the goods to DTA is not required for availing credit in DTA Unit and once the duty on capital goods and inputs were paid, for debonding of EOU, it can be said that the same stood transferred to the DTA unit. - *CCE v. Fag Bearing India Ltd, CESTAT Ahmedabad.*
 - Once Development Commissioner gives permission to a 100% EOU to sell goods in DTA upto a specified value, revenue cannot dispute it by holding that for fixing the limit only physical exports and not deemed exports should be taken into account. - *CCE v. M/s Anita Synthetics Pvt Ltd, CESTAT Ahmedabad.*
 - If a party pleads undue hardship or financial constraint, it is in the discretion of the appellate authority/Tribunal to decide as to what is the undue hardship, financial burden, etc., of a party and also the appellate authority/Tribunal will have to take note of the prima-facie case and the balance of convenience of the party and also keep in mind the interest of the Revenue and the capacity of the party to pay the amount while ordering pre-deposit/waiver of pre-deposit before entertaining the appeal. - *Sri Sivasakthi Auto Ancillaries Pvt. Ltd. v. The Additional CCE and CCE, Madras High Court.*
 - For claiming the refund of excess duty paid, the assessee has to prove that the incidence of duty whose refund has been claimed has been borne by him and had not been passed on to any other person. In view of the non-obstante clause of sub-section (3) of Section 11B, all the refund claims made during the period w.e.f. 20-9-1991 would be subject to the principle of unjust enrichment. - *CCE, Meerut v. Kisan Sahkari Chini Mills Ltd, CESTAT New Delhi.*
 - Any service availed by a manufacturer of excisable goods in the course of business is entitled for input service (Input service credit availed on CHA services, Port services, GTA services, Courier services and Business Auxiliary Services in the present case) and in the case of export of goods, the place of removal is the port from where the goods are exported. - *CCE, Madurai v. Tata Coffee Ltd, CESTAT Chennai.*
- **SERVICE TAX**
- Date extended for submission of the form ST-3 for period July, 2012 to Sept, 2012 from 25th March, 2013 to 15th April, 2013. - *Order No.01/2013 - Service Tax, New Delhi, Dated Mar 06, 2013.*

- Service Tax Return (ST 3) for the period 1st July-30th September, 2012 is now available in a modified format for e-filing in ACES. - *Service Tax, New Delhi, Dated Mar 26, 2013.*
- Modification of Exemption scheme with respect to -
 - a. Charitable activities - The definition of “charitable activities” is being changed - the benefit to charities providing services for advancement of “any other object of general public utility” up to Rs. 25 Lakh will not be available. However the threshold exemption will continue to be available up to Rs. 10 lakh. - *Notification No. 03/2013 - Service Tax, Dated Mar 01, 2013.*
 - b. Vehicle parking to general public - Exemption in respect of services by way of vehicle parking to general public withdrawn. - *Notification No. 03/2013 - Service Tax, Dated Mar 01, 2013.*
 - c. Restaurants - Exemption under S. No 19 will now be available only to non air-conditioned (non-centrally air-heated) restaurants. The dual requirement earlier that it should also have a license to serve alcohol is being done away with. Therefore, with effect from 1st April, 2013, service tax will be leviable on taxable service provided in restaurants with air-conditioning or central air heating in any part of the establishment at any time during the year. - *Notification No. 03/2013 - Service Tax, Dated Mar 01, 2013.*
 - d. Copyright - Temporary transfer or permitting the use or enjoyment of a copyright relating to cinematographic films was fully exempt so far; now, this exemption will be restricted to exhibition of cinematograph films in a cinema hall or a cinema theatre. - *Notification No. 03/2013 - Service Tax, Dated Mar 01, 2013.*
- Services provided by an educational institution by way of renting of immovable property and auxiliary educational services has been withdrawn. - *Notification No. 03/2013 - Service Tax, Dated Mar 01, 2013.*
- Tribunal allowed input service credit on services of real estate agent for preparing office premises from where the appellants were to provide output service. - *Group Media India Pvt Ltd. v. Commissioner of Service Tax, CESTAT Mumbai.*
- Held that CESTAT was not justified in upholding the service tax demand with interest and penalty solely on the basis of admission of liability by an employee of the assessee in a statement without considering the specific plea of the assessee that service tax is not leviable based on certain documents produced before the CESTAT. - *Godavari Khore Cane Transport Co. v. CCE, Bombay High Court.*
- Activities like designing, managing and operating a showroom, receiving goods on stock on transfer basis, undertaking sales promotion activities and collecting the sale proceeds on behalf of the principal do not come within the purview of activities of “Commission agent” as defined in the notification no. 13/2003-ST hence benefit of exemption cannot be availed. - *Provincial Life Style Retail Services v. CCE, CESTAT Mumbai.*
- CENVAT Credit on Invoices received prior to registration of Service Receiver. Held that credit on invoices cannot be denied on the ground that the assessee (Service Receiver) was not registered during the relevant time. - *M/s Reliance Ports & Terminals Ltd v. CCE, CESTAT Ahmedabad.*

- Tribunal held the after issue of show cause notice, once the amount (Service Tax) due was paid with interest immediately, there is no need of further proceedings and penalty u/s 77 set aside. - *M/s VSE Stock Services Ltd v. CCE, CESTAT Ahmedabad*.
- Once appeal is filed by the aggrieved person against the original order, it is mandatory requirement under Section 35-F of the Act to pay the entire amount ordered by the original authority, as a condition precedent for taking up the appeal. - *Aluminium & Glazing v. CCE, Madras High Court*.
- Appellant took over the running business of a service provider. As per the understating between the parties, appellant has to collect the outstanding payments in case where service had already been provided by the predecessor. In such situation, genuine doubt as to who should pay service tax in respect of the past liability was held to be a reasonable cause and benefit u/s 80 provided. (which confers discretion on the service tax authorities not to impose penalty if there is reasonable cause in a given case). - *Trio Elevators Co (I) Ltd v. CST, CESTAT Ahmedabad*.

INTELLECTUAL PROPERTY RIGHTS

– PATENTS

- Held that plaintiffs were entitled to continuance of the interim injunction only against the infringement of the patent and once the patent was revoked, interim stay could not be continued, of it being just, fair and equitable to await the final decision on the revocation of the patent. When the basis on which ex parte interim relief was granted (i.e. strength of the plaintiff's patent) had disappeared, HC saw no justification for continuing to restrain defendants. - *Sugen Inc. and others v. A. Rao and another, Delhi High Court*.

– TRADEMARKS

- In an interim injunction order the defendant, its directors, employees, servants, agents etc. are restrained from marketing, selling or using in any manner whatsoever the expression 'TURNING POINT' along with their mark NIIT, as it is deceptively similar to plaintiff's registered trademark "M/S TURNING POINT". - *Keshav Kumar Aggarwal v. M/S NIIT Ltd, Delhi High Court*.
- A decree of permanent injunction was passed and the defendant was restrained from launching, using, advertising the trademark "FREEDOM" with respect to measuring tapes/ components thereof, as it is deceptively similar to that of the plaintiff's trademark "FREEMANS" which has been in the market for over five decades and is now known globally. - *FMI Limited v. Mr. Ashok Jain & Ors, Delhi High Court*.
- A decree of permanent injunction was passed and the defendant, its servants, agents and all others acting on behalf of the defendant are restrained from conducting any business or dealing in any manner using domain name "www.tatainfotech.in" or the word "TATA" or any name comprising of the same or deceptively/confusingly similar to it regarding any goods, services or domain. - *Tata Sons Ltd. & Anr v. Arno Palmen & Anr, Delhi High Court*.

– COPYRIGHTS

- Decree of permanent injunction was passed and held that there was infringement of copyrights as defendants used unlicensed pirated software programmes developed and marketed by Plaintiffs (one of the world's leading software development companies). The 'software programmes' as developed and marketed by the plaintiffs were 'computer programme' within the meaning of s. 2(ffc) of the Copyright Act, 1957 and also included in the definition of literary work as per s. 2(o) of Act. The plaintiffs' work are also protected in India under Section 40 of the Copyright Act, 1957 read with the International Copyright Order 1999. - *Adobe Systems Inc. & Ors v. Mr. Sachin Naik & Ors, Delhi High Court.*
- Respondents were alleged of violating exclusive media rights of Star India by sending instant live score updates through text messages. After applying the principle of unjust enrichment court held that respondents were enriching themselves at the cost of Star India. And in order to strike fair balance between the provisions of Article 19 of the Constitution and the rights of Star India, the Court banned the respondents from giving out live score updates. However, respondents were allowed to give the score updates after a time lag of 15 minutes. - *Star India Pvt. Ltd v. Piyush Agarwal & Ors, Delhi High Court.*

– OTHERS

- All Patentees and Licensees (whether exclusive or otherwise) are required to furnish information in Form-27 in respect of each calendar year, within three months of the end of each year. E-filing service available on the official website may be used for this purpose. - *CGPDTM Public Notice, Dated Mar 25, 2013.*
- The court distinguished previously registered designs outside India as, for example in the UK, designs that are kept 'secret post registration' and those that are 'not kept secret post registration', and considered those that are 'not kept secret post registration' as designs "published in any other country" within the meaning of Section 19(1)(b) of the Designs Act and came to the conclusion that existence of a design registered abroad in a convention country is not a ground under Section 19(1)(a) for cancellation of a design registered in India. - *Reckitt Benckiser (India) Ltd. v. Wyeth Limited, Delhi High Court.*
- Since the Protection of Plant Varieties Act does not provide for a sanction in case of non-compliance with the specified period of 3 months for filing an application for registration (section 21(2)). The Registrar can extend the time-limit. - *Maharashtra Hybrid Seeds Company Limited v. Union of India and others, Delhi High Court.*

CONSUMER

- Exchange of letters between the parties does not extend limitation under the Consumer Protection Act, 1986. Complaint has to be filed within two years from the date of accrual of cause of action (Section 24A). - *Ashok Kumar Sainia v. DDA, NCDRC.*
- The inordinate delay of 156 Days was not explained convincingly. Delay in getting documents translated, and counsel not acting promptly are not grounds for late filing of revision petition. - *K.M Joshi v. M/s H & R Johnson (India), NCDRC.*

- If civic amenities were not available, complainant should not have taken possession of plot and once the complainant had taken possession of the land, he must have filed complaint within a period of two years from taking possession. - *The Shiv-Shakti Co-operative Group Housing Society v. HUDA, NCDRC.*
- The Surveyor's report has significant evidentiary value and cannot be displaced unless it is contradicted by credible evidence to the contrary. - *M/s Krishna Enterprises v. M/s Bajaj Alliance General Insurance Co. Ltd, NCDRC.*
- If the transferee fails to inform the insurance company about the transfer of registration of vehicle in his name and the policy is not transferred in the name of the transferee, then the insurance company is not liable to pay the claim to the transferee in case of theft of the vehicle. - *New India Insurance Co. Ltd. v. Ashok Kumar, NCDRC.*
- High Court ought not to have entertained the writ petition, since petitioner had an effective alternate remedy available under the Consumer Protection Act, 1986. Act of petitioner in approaching a wrong forum, will not entitle him to have the delay condoned. - *M/s Megacity (Banglore) v. Rita Adyanthaya, NCDRC.*
- According to Sections 7, 8 and 9 of the Carriers Act, 1865, the liability of the carrier is that of a bailee and the carrier would be liable to pay the value of the consignment, once it is established that the consignee has failed to deliver the consignment. Since in this case, the goods were not delivered to the consignee, therefore, it is liable to make good the value of the consignment. - *New India Assurance Co. Ltd. v. M/S Nanaksar Road Carriers, NCDRC.*
- Insurance Company issued only the cover note to the Respondent and not the insurance policy specifying the detailed terms and conditions. It was held that it is a deficiency in service on the part of the Appellant-Insurance Company and the respondent is not bound to provisions of the policy of which he was not made aware. - *New India Assurance Co. v. M/s Avadh Wood Products, NCDRC.*
- The scope of revisional jurisdiction of NCDRC in exercise of power under Section 21 (b) is extremely limited. It can intervene only in cases where it is found that the State Commission has exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested, or has acted in the exercise of its jurisdiction illegally or with material irregularity. - *Dr. Devi Dayal Gupta v. B.R.S. Institute of Medical Sciences, NCDRC.*
- Acquittal in criminal proceedings can by itself give no relief in proceedings before the consumer forum. - *Dr. Asha v. Md Quasim, NCDRC.*

ENVIRONMENT

- Every appeal has to be filed within 30 days from the date of communication of the order. However, the Tribunal has been vested with the jurisdiction to entertain the appeal which is filed after 30 days from the date of communication of an order. This power to condone the delay has a clear inbuilt limitation as it ceases to exist if the appeal is filed in excess of 60 days, beyond the prescribed period of limitation of 30 days from the date of

communication of such order. - *Nikunj Developers & Others v. State of Maharashtra & Anr., National Green Tribunal.*

- Section 16 of the NGT Act, 2010 provides appellate jurisdiction to the Tribunal. The expression “person aggrieved by” u/s 16 of the Act imply some or other reason which might have aggravated the person to undertake the legal remedy. Such a person must demonstrate that he is directly or indirectly concerned with the adverse environmental impact which is likely to be caused due to granting of EC by the competent authority. - *Rana Sen Gupta v. UOI & Ors., National Green Tribunal.*

OTHERS

- Taxpayers with annual income of over Rs 5 lakh will now have to file their returns in electronic form. - *The Economic Times, Dated Mar 06, 2013.*
- The government will begin allocating 17 coal blocks to public sector firms by the end of April. - *The Economic Times, Dated Mar 07, 2013.*
- Finance Minister gave an assurance that I-T department would take a benign view and waive the penalty of assessee volunteering to file returns and clear their dues and interest. - *The Economic Times, Dated Mar 15, 2013.*
