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RBI/FEMA

1. **RBI ANNOUNCES STRATEGIC DEBT RESTRUCTURING SCHEME EMPOWERING LENDER BANKS TO TAKE CONTROL OF DEBT-STRESSED FIRMS**

The Reserve Bank of India (**RBI**) had introduced various measures for controlling Non-Performing Assets (**NPA**s) in the Bank including Asset Reconstruction Companies, SARFAESI Act, Debt Recovery Act, and Framework for Revitalising Distressed Assets in the Economy – Guidelines on Joint Lenders' Forum (**JLF**) and Corrective Action Plan (**CAP**).

In its guidelines on JLF and CAP, RBI had suggested change of management as a part of restructuring of stressed assets. However, the NPA figure in banks continue to remain high.

Moving ahead, RBI has issued another circular on 8th June 2015 with a view to ensure more stake of promoters in reviving stressed accounts and provide banks with enhanced capabilities to initiate change of ownership in accounts which fail to achieve the projected viability milestones.

Now banks, at their discretion, are allowed to undertake a "Strategic Debt Restructuring (**SDR**)" by converting loan dues to equity shares. Further, while framing SDR Scheme, Banks should adhere the norms announced by the RBI in this circular. - *[RBI/2014-15/627 DBR. BP. BC. No. 101/21.04.132/2014-15, dated 8th June, 2015]*

2. **MASTER CIRCULAR ON "SYSTEMICALLY" AND "NON-SYSTEMICALLY" IMPORTANT NON-BANKING FINANCIAL (NON-DEPOSIT ACCEPTING OR HOLDING) COMPANIES PRUDENTIAL NORMS (RESERVE BANK) DIRECTIONS, 2015**

For the purpose of enabling the Bank to regulate the credit system to the advantage of the country, RBI through two different master circulars, issued the updated directions relating to the prudential norms under the names "Systemically Important Non-Banking Financial (Non-Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2015" and "Non-Systemically Important Non-Banking Financial (Non-Deposit Accepting or Holding) Companies Prudential Norms (Reserve Bank) Directions, 2015". - *[RBI/2014-15/629 DNBR (PD) CC No. 037/03.01.001/2014-15, dated 11th June, 2015 & RBI/2014-15/630 DNBR (PD) CC No.038/03.01.001/2014-15, dated 3rd June, 2015]*

3. **INSTRUCTIONS ON AMENDMENT TO PREVENTION OF MONEY LAUNDERING (PML) RULES 2005**

The government has since amended the Prevention of Money Laundering (Maintenance of Records) Rules, 2005 providing additional relaxations for the purpose of proof of address in addition to the relaxations in proof of identity under 'simplified measures' as contained in paragraph 2(d) of PML Rules.

RBI issued an instructions to Banks to revise their KYC Policy. For this limited purpose of proof of

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address, the following additional documents are deemed to be Officially Valid Documents (OVDs) under 'simplified measures'-

- (a) Utility bill which is not more than two months old of any service provider (electricity, telephone, postpaid mobile phone, piped gas, water bill);
- (b) Property or Municipal Tax receipt;
- (c) Bank account or Post Office savings bank account statement;
- (d) Pension or family pension payment orders (PPOs) issued to retired employees by Government Departments or Public Sector Undertakings, if they contain the address;
- (e) Letter of allotment of accommodation from employer issued by State or Central Government departments, statutory or regulatory bodies, public sector undertakings, scheduled commercial banks, financial institutions and listed companies. Similarly, leave and license agreements with such employers allotting official accommodation; and
- (f) Documents issued by Government departments of foreign jurisdictions and letter issued by Foreign Embassy or Mission in India.

- [DBR. AML.BC. No.104/ 14.01.001/ 2014-15, dated 11th June, 2015]

4. RBI PERMITS NRIs TO INVEST IN CHIT FUNDS WITHOUT LIMIT ON NON-REPATRIATION BASIS

Earlier, no person resident outside India was allowed to make investment in India, in any form, in a company or partnership firm, etc. which is engaged or proposes to engage "in the business of chit fund".

However, on review of guidelines for subscription to the chit funds RBI has permitted Non-Resident Indians (NRIs) to subscribe to the chit funds, without limit, on non-repatriation basis subject to the following conditions:

- i. The Registrar of Chits or an officer authorised by the State Government in accordance with the provisions of the Chit Fund Act in consultation with the State Government concerned, may permit any chit fund to accept subscription from Non-Resident Indians on non-repatriation basis;
- ii. The subscription to the chit funds shall be brought in through normal banking channel, including through an account maintained with a bank in India.

- [RBI/2014-15/636 A. P. (DIR Series) Circular No. 107, dated 11th June, 2015]

5. EXTENSION OF SCHEME FOR RAISING ECBs UNDER APPROVAL ROUTE FOR LOW COST AFFORDABLE HOUSING PROJECTS

RBI has extended the scheme of raising ECBs for low cost affordable housing projects for the financial year 2015-16 with the same terms and conditions as mentioned in the A.P. (DIR Series) Circular No. 61 dated 17th December, 2012 and A.P. (DIR Series) Circular No. 113 dated 24th June, 2013. - [RBI/2014-15/637 A. P. (DIR Series) Circular No. 108, dated 11th June, 2015]

6. EXTENSION OF SCHEME FOR RAISING ECBs FOR CIVIL AVIATION SECTOR

RBI has extended the scheme of raising ECB for working capital for Civil Aviation Sector till 31st March, 2016 with the same terms and conditions as mentioned in the A.P. (DIR Series) Circular No. 113 dated 24th April, 2012. - [RBI/2014-15/638 A. P.

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(DIR Series) Circular No. 109, dated 11th June, 2015]

7. SUBMISSION OF BEF STATEMENT UNDER XBRL MODE INSTEAD OF MANUAL FILING

RBI has instructed Authorised Dealer Banks (**AD banks**) that with effect from the half year ending June 2015, submission of BEF statement (*i.e.* statement showing details of remittances effected towards import in respect of which documentary evidence has not been received) would be online through XBRL mode instead of the present system of branch-wise submission, to the respective Regional Offices of the RBI.

Earlier, banks used to submit BEF data in part I & II on incremental basis. However, in the proposed module, AD banks have to submit data in a single format giving details of all remittances for import exceeding USD 100,000/- as at the end of June and December of every year, in respect of which importers have defaulted in submission of appropriate document evidencing import within 6 months from the date of remittance. All other instructions remain unchanged. - *[RBI/2014-15/643 A.P. (DIR Series) Circular No. 110, dated 18th June, 2015]*

8. NBFCs TO ACT AS SUB-AGENTS UNDER MTSS WITHOUT RBI'S PRIOR APPROVAL

RBI has allowed all non-deposit taking NBFCs with asset size of Rs.100 crore and above to act as sub-agents under Money Transfer Service Schemes (**MTSS**) without seeking its prior approval. However, deposit accepting NBFCs are not permitted to undertake such activity. - *[RBI/2014-15/648 DNBR. CC. PD. No. 041/03.10.01/2014-15, dated 25th June, 2015]*

9. AD BANKS ARE ALLOWED TO BORROW FROM INTERNATIONAL INSTITUTIONS WITHOUT RBI APPROVAL

With a view to provide greater flexibility in seeking access to overseas funds, RBI has permitted banks to borrow from International/ Multilateral Financial Institutions without approaching it for a case by case approval.

These shall include International/ Multilateral Financial Institutions of which Government of India is a shareholding member or which have been established by more than one government or have shareholding by more than one government and other international organizations. - *[RBI/2014-15/649 A.P. (DIR Series) Circular No. 112, dated 25th June, 2015]*

FOREIGN TRADE

1. TRADE IN BORDER HAATS ACROSS THE BORDER OF TRIPURA BETWEEN INDIA AND BANGLADESH

The Director General of Foreign Trade (**DGFT**) issued a public notice to operationalise the provisions of Memorandum of Understanding dated 23.10.2010 between India and Bangladesh by facilitating border trade between the two through two new border Haats at Kamalasagar, Tripura on the Indian side and Tarapur Kasba on Bangladesh side. - *[Public Notice No. 15/2015-2020, 3rd June, 2015, (DGFT)]*

2. AMENDMENTS TO FOREIGN TRADE POLICY 2015-20

In the Foreign Trade Policy, 2015-2020 released on 1.4.2015, some amendments have been made which, *inter alia*, include mandatory documents for import/export of goods from/into India, terms and conditions of an authorization, nature of rewards, ineligible categories under MEIS, SEIS, Duties Exempted and Admissibility of Cenvat and

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Drawback and revising the definition of "service provider". These amendments would be deemed to have come into force with effect from 1st April, 2015. - *[Notification No 08/ 2015-2020, 4th June, 2015, (DGFT)]*

3. AMENDMENTS TO PARA 3.24 (J) OF CHAPTER 3 OF FTP 2015-20

Entitlement of Status Holders to export freely exportable items on free of cost basis has been limited with immediate effect. Status holders shall be entitled to export freely exportable items on free of cost basis for export promotion subject to an annual limit of Rs. 10 lakh or 2% of average annual export realisation during preceding three licensing years, whichever is lower. - *[Notification No 09/ 2015-2020, 4th June, 2015, (DGFT)]*

4. AMENDMENTS TO HANDBOOK OF PROCEDURES OF FTP 2015-20

Amendments to the Handbook of Procedures (HBP) of FTP 2015-2020, have been notified, in order to facilitate transitional arrangements in respect of filing of applications and validity of Status Holder Certificate. These amendments shall be deemed to have come into effect from 1st April, 2015. - *[Public Notice No. 17/2015-2020, 4th June, 2015, (DGFT)]*

5. AMENDMENTS TO PARA 2.84 OF CHAPTER 2 OF HBP 2015-20

Status holders shall be entitled to export freely exportable items on free of cost basis for export promotion subject to an annual limit of Rs. 10 lakh or 2% of average annual export realisation during preceding three licensing years, whichever is lower. - *[Public Notice No. 18/2015-2020, 4th June, 2015, (DGFT)]*

6. EXTENSION OF TIME FOR SUBMISSION OF APPLICATIONS FOR ENTITLEMENT AS PSIA

The last date for submitting the applications for entitlement as PSIA has been extended. Applicants can, for the time being, submit applications initially without bank guarantee. However, they shall be required to submit bank guarantee or an equivalent financial instrument before they are notified as PSIA. - *[Public Notice No. 19/2015-2020, 5th June, 2015, (DGFT)]*

7. PREFERENTIAL TREATMENT TO STATUS HOLDERS

DGFT has issued a Trade Notice advising the Regional Authorities to ensure that for 5 Star and 4 Star Status Holders timeline for processing of application for (a) Advance Authorisation (where input norms are notified) (b) Revalidation of Advance Authorisation; (c) Invalidation of Advance Authorisation shall be one day and in case of 3 Star, 2 Star and 1 Star Status Holders it shall be two days. - *[Trade Notice No.04/2015, 8th June, 2015, (DGFT)]*

8. REVISION OF MIP FOR ARECA NUT

The minimum price for import (MIP) of Areca Nuts is enhanced from existing Rs.110/- to Rs.162/- per Kilogram. - *[Notification No 10/ 2015-2020, 8th June, 2015, (DGFT)]*

9. AMENDMENT TO PARAGRAPHS 4.38 (VIII) (B) & (C) AND PARAGRAPH 4.42(C) OF HANDBOOK OF PROCEDURE

In case of second extension of authorisation, the composition fee shall be charged @0.5% per month of FOB value of exports made. Accordingly, corrections have been made in Paragraphs 4.38 (viii)(b)&(c) to align the same with paragraph 4.38(viii)(a). Typographical error in paragraph 4.42(c)

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has been corrected. - *[Public Notice No. 20/2015-2020, 9th June, 2015, (DGFT)]*

10. CLARIFICATION REGARDING CLEARANCE OF GOODS AFTER EXPIRY OF NOMINATED AGENCY CERTIFICATE

If any importer has a valid Nominated Agency Certificate on the date of import *i.e.* date of shipment/dispatch of goods from supplying country, as evidenced by Bills of lading, then such shipments shall be eligible for clearance, regardless of actual date of arrival of the consignment in India. - *[Policy Circular No 02 / 2015-20, 12th June, 2015, (DGFT)]*

11. INSERTION OF NEW PARA 4.49 A ON SPECIAL NOTIFIED ZONE IN FTP 2015-20

Provision for Import, auction/sale and re-export of rough diamonds in Special Notified Zone (SNZ) is notified. - *[Notification No 11/ 2015-2020, 15th June, 2015, (DGFT)]*

12. MERCHANDISE EXPORT FROM INDIA SCHEME (MEIS): RELEASE OF BETA VERSION OF ONLINE ANF 3A WITH FACILITY TO UPLOAD SUPPORTING DOCUMENTS

A Beta version of online ANF 3A has now been released and it is now possible to not only apply online for claiming rewards under MEIS but also to upload the required supporting documents using digital signatures of the applicant. As a result, henceforth, in case the applicant submits the supporting documents online, along with the application, submission of physical copies of documents (other than 'Proof of Landing' and shipping Bills in case of exports made from Non EDI ports) would no longer be required. In case of documents submitted online, the concerned RA shall not insist on physical copies of such uploaded

documents. - *[Trade Notice No.05/2015, 16th June, 2015, (DGFT)]*

13. FORMAT OF BANK GUARANTEE TO BE EXECUTED WITH DGFT FOR RECOGNITION AS PSIA

For recognition of PSIA, Bank Guarantee is to be executed with DGFT. Bank Guarantee Format for the same is notified through the notification. - *[Public Notice No. 21/2015-2020, 23rd June, 2015, (DGFT)]*

14. SION FOR NEW PRODUCT "GOLF GLOVES" MADE OF KNITTED/CROCHETED/WOVEN/NON-WOVEN FABRICS UNDER TEXTILES PRODUCT GROUP

DGFT has notified a SION, bearing number J-376 in respect of the export product 'Golf Gloves made of Knitted/Crocheted/Woven/Non-woven fabrics' under Textiles Product Group. Before this there was no SION for this export product. - *[Public Notice No. 22/2015-2020, 23rd June, 2015, (DGFT)]*

15. PROHIBITION ON IMPORT OF MILK AND MILK PRODUCTS FROM CHINA

Prohibition on import of milk and milk products (including chocolates and chocolate products and candies/ confectionary/ food preparations with milk or milk solids as an ingredient) from China is extended for one more year *i.e.* till 23.6.2016 or until further orders, whichever is earlier. - *[Notification No 12/ 2015-2020, 24th June, 2015, (DGFT)]*

16. MINIMUM EXPORT PRICE FOR ONION INCREASED

Export of all varieties of onions item description at Serial Number 51 & 52 of Chapter 7 of Schedule 2 of ITC (HS) Classification of Export & Import Items will be subject to a Minimum Export Price

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(MEP) of US\$ 425 F.O.B. per MT. - *[Notification No 13/ 2015-2020, 26th June, 2015, (DGFT)]*

17. PROHIBITION OF TRADE WITH ISLAMIC STATE IN IRAQ AND LEVANT (ISIL) AND OTHER GROUPS ASSOCIATED WITH AL QAIDA

Trade with ISIL and related terrorist organisations in oil and oil products (hydrocarbons) and items of cultural, scientific and religious importance has been prohibited. *[Notification No 14/ 2015-2020, 30th June, 2015, (DGFT)]*

18. PROHIBITION RELATING TO IMPORT OF CERTAIN CATEGORIES OF PROCESSED METALLIC SCRAP, AT DESIGNATED PORTS HAVING SCANNERS/RADIOLOGICAL DETECTION EQUIPMENTS (RDES) FACILITIES

Provision relating to import of certain categories of processed metallic scrap, at designated ports having Scanner/Radiological Detection Equipments (RDEs) has been notified. Three new Appendices 2G-1, 2-H-1 and 2N-2 are inserted in the Appendices and Aayat Niryat Forms of FTP, 2015-20. - *[Public Notice No. 23/2015-2020, 30th June, 2015, (DGFT)]*

CORPORATE

1. CLARIFICATION ISSUED ON REPAYMENT OF DEPOSITS ACCEPTED BY THE COMPANIES BEFORE THE COMMENCEMENT OF COMPANIES ACT 2013 (i.e. 1st APRIL, 2014) UNDER SECTION 74

The Ministry of Corporate Affairs (MCA) has issued a general Circular clarifying that Company Law

Board (CLB) has been empowered to exercise the powers of National Company Law Tribunal (NCLT) under sub-section (4) of section 73 and sub-section (2) of section 74 of the said Act, till the latter's constitution. Thus, a depositor is free to file an application under section 73(4) of the Companies Act, 2013 with the CLB if the company fails to make repayment of deposits accepted by it. Further, the company may also file application under section 74(2) of the said Act with the CLB seeking extension of time in making the repayment of deposits accepted by it before the commencement of the provisions of the said Act.

Explanation to Rule 19 of the Companies (Acceptance of Deposits) Rules, 2014 which clarifies the conditions subject to which a company would be deemed to have complied with the requirements laid down in Section 74(1) (b) of the Companies Act, 2013. Companies can repay deposits accepted prior to 1st April, 2014 in accordance with terms and conditions for which the deposits had been accepted.

Also there is no bar on the Registrar of Companies for filing of prosecution against a company if such company fails to make repayment of deposits accepted by it under the provisions of the Companies Act, 1956 or Companies Act, 2013. - *[General Circular No. 9/2015, 18th June, 2015, (MCA)]*

2. EXTENSION OF TIME FOR FILING NOTICE OF APPOINTMENT OF THE COST AUDITOR FOR THE F.Y. 2015-16 IN FORM CRA-2 AND FILING OF COST AUDIT REPORT TO THE CENTRAL GOVERNMENT FOR THE F.Y. 2014-15 IN FORM CRA-4

In view of the delay in availability of revised Form CRA-2 on the MCA-21 portal, the additional fee on account of any delay beyond the prescribed period of 30 days from the date of Board Meeting in which

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the appointment of the Cost Auditor was made for filing of CRA-2 for the financial year starting on or after 1st April, 2015 is waived for all such filings till 30th June, 2015.

The revised e-form CRA-4 has also been notified and will be made available on MCA-21 portal shortly. On similar lines additional fees on delayed filing of form CRA-4 beyond the prescribed period of 30 days from the date of receipt of a copy of Cost Audit Report from the Cost Auditor for the Financial Year starting on or after 1st April, 2014 is also waived for all such filings till 31st August, 2015.

- *[General Circular No. 8, 12th June, 2015, (MCA)]*

3. EXEMPTIONS UNDER COMPANIES ACT, 2013 TO PRIVATE COMPANIES

MCA has issued exemption notification exempting private limited companies from complying certain provisions of the Companies Act, 2013.

Sub-clause (viii) of Clause (76) of section 2 which includes “any company which is—(A) a holding, subsidiary or an associate company of such company; or (B) a subsidiary of a holding company to which it is also a subsidiary,” under the definition of “related party” shall now not be applicable to a Private company with respect to Section 188 and “related party transaction”.

Private companies are exempt from the provisions of **Section 43** (relating to types of share capital that can be issued) and **Section 47** (restriction on voting rights) of the Companies Act, 2013. Thus, start-ups incorporated as private companies will have full flexibility in structuring their share capital and freedom to issue any type of instruments, whether it is common shares, preference shares, multi-class shares with special rights and even provide for differential voting and dividend rights to their shareholders.

Changes have been made in Section 62 which deals with “further issue of share capital”. Section 62 specifies that where a company having share capital proposes to increase its subscribed capital by issue of further shares, it can offer such shares to the holders of equity shares of the company in proportion to paid up share capital of those shares by sending letter of offer. Section 62 clause (a) sub clause (i) further reads that the offer letter shall contain the number of shares offered and time limit for accepting the offer which shall not be less 15 days and not more than 30 days. The present circular empowers the members of the private company to change the time threshold and prescribe a lesser time for accepting the offer where 90% members agree and give consent in writing or electronic mode.

Issue of Employees’ Stock Option now requires an ordinary resolution, as against a special resolution (requiring approval from at least 75% of shareholders).

Section 67, which places restrictions on companies for advancing loans for purchase of its own shares, no longer applies to private companies which meet certain criteria *i.e.* they do not have a corporate shareholder; do not have borrowings from banks, financial institutions or corporates of not more than twice of their paid-up share capital or Rs. 50 crore, whichever is lower, and are not in default in repayment of borrowings at the time the loan is being granted.

The notification removes prohibition on acceptance of deposits under Section 73. Private company can now obtain deposits from its members to the extent of 100% of its paid-up capital and free reserves. There is no requirement for such a company to issue an offer circular or create a deposit repayment reserve.

The requirements of the 2013 Act in section 101 to 107 and 109 relating to holding of shareholder meetings, including those on notice of meeting,

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statement to be annexed to the notice, quorum for meetings, chairman of meetings, proxies, restrictions on voting rights, voting by show of hands and demand for poll will not apply to a private company if the articles of association provide otherwise.

The resolutions passed by the Board as per Section 179 (3) are not required to be filed with Registrar by a private company in MGT-14, thereby exempting private companies from having to file resolutions relating to sensitive and confidential decisions.

Relaxation has been given under section 141 which deals with “eligibility qualifications and disqualification of auditors”. For appointment of auditors by private companies, when determining the eligibility of the auditor and the applicable limit of 20 companies, only companies other than one person companies, dormant companies, small companies, and private companies having paid-up share capital less than one hundred crore rupees need to be considered.

There have been relaxations on the process for persons other than retiring directors to stand for directorship and on voting on directorships individually. Further, the restrictions under section 180 on the powers of the board, which were exercisable only with the consent of the company by special resolution have also been removed for private companies.

Further, while seeking Board approval on transactions in which a director is interested, the concerned director can also participate in the discussion, after disclosure of his interest.

Lastly a private company is exempt from the provisions of Section 185, relating to loans to directors, provided (i) it does not have any shareholders who are body corporate; (ii) its borrowings from banks or financial institutions or any body-corporate is less than twice of its paid up share capital or fifty crore rupees, whichever is lower; and (iii) it has no default in repayment of such

borrowing subsisting at the time of entering into loan transaction covered by this section. Certain provisions applicable to transactions with related parties have been simplified. Every related party, including an interested party, can now vote at a shareholder meeting on resolutions to approve related party transactions.

Further, for the purpose of complying with the requirements of Section 188, the definition of related parties has been pruned down to exclude holding company, subsidiary, associates, joint ventures and fellow subsidiaries. - *[Ministry of Corporate Affairs, Exemption Notification dated 5th June, 2015]*

4. EXEMPTIONS UNDER VARIOUS PROVISIONS OF COMPANIES ACT, 2013 TO GOVERNMENT COMPANIES

MCA has issued exemption notification exempting government companies from complying certain provisions of the Companies Act, 2013.

Government Companies have been exempted from the limits pertaining to managerial remuneration; restriction on maximum number of directorships and disqualification of directors in certain cases. The provisions in respect of Nominations and Remuneration Committee have also been relaxed in respect of their applicability to directors/managerial persons.

The provisions relating to loans to directors; loans and investments by companies and related party transactions have been modified to provide flexibility to government companies in complying with such provisions.

The exemption for government companies to retain the suffix “limited” even if incorporated as private limited company has been continued as per exemption available under companies Act 1956.

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Modification in the provisions relating to place of holding general meetings have also been made. Provisions in respect of rotation of directors and right of persons to stand for directorship are exempted for wholly owned Government Companies.

The Provisions in respect of forming about integrity, expertise/experience of independent directors have been modified to provide flexibility to concerned Ministry/Department.

For the Government companies engaged in producing defence equipment, the provisions of section 186 (loans and investments by companies) and Accounting Standards- 17 (Segment Reporting) shall not be applicable. - *[Ministry of Corporate Affairs, Exemption Notification dated 5th June, 2015]*

5. EXEMPTIONS UNDER VARIOUS PROVISIONS OF COMPANIES ACT, 2013 TO NIDHIS

MCA has issued exemption notification exempting Nidhi companies from complying certain provisions of the Companies Act, 2013.

In case of Nidhis provisions relating to serving of documents to members and payment of dividend have been modified to provide more flexibility to such companies. Provisions relating to private placement have been partially relaxed for such companies.

These companies have also been exempted from requirements of Section 62 which relates to further issue of share capital. The notice amount of Rs. 1 Lakh provided under section 160 has been reduced to Rs.10,000 for these companies. Provisions of section 185 in respect of loans to directors have been relaxed for these companies with the condition that loan is given to a director or his relative in his capacity as member and disclosure is made in the

accounts. *[Ministry of Corporate Affairs, Exemption Notification dated 5th June, 2015]*

6. EXEMPTIONS UNDER VARIOUS PROVISIONS OF COMPANIES ACT, 2013 TO NON PROFIT MAKING COMPANIES

MCA has issued exemption notification exempting non gaining companies registered under section 8 from complying certain provisions of the Companies Act, 2013.

In case of charitable companies the provisions in respect of notice for general meeting have been notified to enable such companies to save time and resources in sending notices.

The notice for general meeting and financial statements may be circulated at notice period of 14 days instead of 21 days.

The provisions in respect of appointment of Independent Directors (IDs) and Nomination and Remuneration Committee will not be applicable to such companies. The audit committees of such companies need not have Independent Directors.

The restriction on number of directorships have also been extended for these companies. These companies are allowed to hold board meetings once in six months instead of four meetings in a year, as prescribed for other companies.

These companies have been exempted from provisions requiring notice to be given for standing for directorship if their articles provide for election of directors by ballot. Flexibility from the provisions on passing of board resolutions in a board meeting only and on disclosure and participation in board meetings by an interested director have also been provided. *[Ministry of Corporate Affairs, Exemption Notification dated 5th June, 2015]*

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SECURITIES

1. DATABASE FOR DISTINCTIVE NUMBER OF SHARES TO BE MAINTAINED BY DEPOSITORIES

Securities and Exchange Board of India (SEBI) has issued a circular, in order to ensure centralised record of all securities, including both physical and dematerialised shares, issued by the company and reconciliation thereof.

It is pertinent to mention here that share capital reconciliation of the entire issued capital of a company, by the issuer or its agent is a mandatory requirement under **Regulation 55** of the SEBI (Depositories & Participants) Regulations, 1996.

In this regard, the Depository System Review Committee (DSRC) constituted by SEBI recommended that the depositories may maintain complete reconciled record of total issued and listed capital, including both physical and dematerialized shares.

SEBI has directed Depositories to create and maintain a database of distinctive numbers (DN) of equity shares of listed companies with details of DN in respect of all physical shares and overall DN range for dematerialised shares. There are other detailed guidelines which are issued which form part of the circular. - *[CIR/MRD/DP/ 10 /2015, 5th June, 2015, (SEBI)]*

2. CLARIFICATION ON GRANT OF REGISTRATION AS A FOREIGN PORTFOLIO INVESTOR TO THE REGISTERED FOREIGN VENTURE CAPITAL INVESTORS ISSUED

SEBI received a query seeking clarification with regard to any restrictions/conditions on applicants, holding registration as a Foreign Venture Capital

Investors (FVCI), from obtaining registration as a Foreign Portfolio Investors (FPI).

Accordingly, it has been clarified that a Designated Depository Participant (DPP) may consider an applicant, holding FVCI registration, for grant of registration as an FPI subject to the fulfilment of certain conditions. - *[CIR/IMD/FIIC/05/2015, DATED 12th June, 2015, (SEBI)]*

3. EXCHANGE TRADED CASH SETTLED INTEREST RATE FUTURES ALLOWED ON CERTAIN GOVT. SECURITIES

SEBI has permitted stock exchanges to introduce cash settled Interest Rate Futures (IRF) on 6-Year and 13 year GOI Securities subject to the product specifications, position limits and risk management framework requirements for both IRF products.

Further, Before the launch of the product(s), the Stock Exchange/Clearing Corporation shall submit proposal to SEBI for approval giving the details of contract specifications, risk management framework, the safeguards and the risk protection mechanisms, the surveillance systems etc.

SEBI's circular CIR/MRD/DRMNP/35/2013 dated December 05, 2013 stipulates norms, *inter alia*, prescribed underlying bonds' maturity criteria, position limits and maximum tenure for cash settled 10-year IRF. Through the present circular residual maturity of the underlying bonds is modified between 8 years and 11 years. - *[CIR/MRD/DRMNP/11/2015, dated 12th June, 2015, (SEBI)]*

4. REVIEW OF OFFER FOR SALE OF SHARES THROUGH STOCK EXCHANGE MECHANISM

In order to enhance more retail participation in the Offer For Sale (OFS) process and to simplify the

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bidding process for retail investors, SEBI has directed Stock Exchanges that:

- (a) OFS notice shall continue to be given latest by 5 pm on T-2 days. However, T-2 days shall be reckoned from banking day instead of trading day.
 - (b) It would be mandatory for sellers to provide the option to retail investors to place their bids at cut off price in addition to placing price bids.
- [CIR/MRD/DP/12/2015, 26th June, 2015, (SEBI)]

5. SAT UPHOLDS ORDER OF NSCCL DECLARING PRIME BROKING COMPANY A DEFAULTER

In the instant case, the committee of National Securities Clearing Corporation Ltd (NSCCL) in October 2013 had declared Prime Broking as defaulter for its failure to fulfil settlement obligation, and consequently the brokerage firm was also declared a defaulter in the capital market segment. Subsequently, the company file an appeal before the Securities Appellate Tribunal (SAT). SAT observed that as the appellant failed to discharge that liability by not paying Rs. 91.5 crore to third parties from its own profits and the accumulated reserves and settle the trades of the Appellant. Admittedly, the Appellant has failed to reimburse that amount to NSCCL till date. Thus, held that no fault can be found with the decision of the committee in declaring the appellant to be a defaulter under the Bye Laws framed by NSCCL in the F&O segment. - [Prime Broking Company Limited. v. National Securities Clearing Corporation Limited & Ors., 30th June, 2015, (SAT)]

6. PENALTY FOR NOT MAKING ADEQUATE DISCLOSURES UNDER SEBI SUBSTANTIAL ACQUISITION OF SHARES

AND TAKEOVERS, REGULATION 2011 JUSTIFIED: SAT

In this case, there was a challenge to the order made by SEBI whereby Appellants were penalized for not making adequate disclosure under SEBI (Substantial Acquisition of Shares and Takeovers) Regulations 2011 when collective shareholding of Persons Acting in Concert (PAC) crossed 5% with acquisition of shares of target company by one Kartikbai J. Patel HUF.

If the directors of a company take a decision to acquire shares of a target company on behalf of the company in which they are directors and also decide to acquire shares of the target company in their individual name, then it would be reasonable to hold that there was a common intention in acquiring the shares of the target company and in such a case, they would constitute 'persons acting in concert' as defined under the SAST Regulations, 2011.

In the given facts, SAT held that since acquisition of shares of the target company by the Appellants was in excess of the limits prescribed under Regulation 29(1) and 29(2) read with Regulation 29(3) of SAST Regulations, 2011, they were liable to make disclosures within the time stipulated therein. Since the Appellants have failed to make disclosures, SEBI is justified in penalizing the Appellants for such failure. [Khyati Realities Ltd. v. SEBI, 15th June 2015, (SAT)]

COMETITION

1. CCI IMPOSES MONETARY PENALTIES ON 13 MANUFACTURERS FOR CARTELIZATION IN SUPPLYING CN CONTAINERS TO ORDNANCE FACTORIES

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The Competition Commission of India (CCI) in its suo-motu cognizance found thirteen suppliers/manufacturers (opposite parties) of containers with disc required for 81 mm bomb have engaged in the practices of determination of purchase price of “CN Container” (the Product) and collusive bidding in contravention of the provisions of sections 3(3)(a) and 3(3)(d) read with section 3(1) of the Competition Act, 2002.

CCI observed that the price bids submitted by the Opposite Parties to the tenders issued by the ordnance factories were either identical or similar with minor variations in a very narrow price band. Though Opposite Parties tried to justify their near same prices under the guise of production costs, taxes etc. However, analysis of the cost structures shows that there were significant differences in the cost structures of the Opposite Parties, attributable to variations in the input procurement costs and labour costs.

Thus, price parallelism coupled with peculiar market conditions like few enterprises with same owners, stringently standardized product, predictable demand, etc., unequivocally establishes that the conduct of the Opposite Parties of quoting identical/ similar price bids was only due to collusive tactics adopted by them in violation of section 3(1) read with sections 3(3)(a) and section 3(3)(d) of the Act.

The Commission held that, in the absence of any anti-competitive agreement, the bidders would have not only competed against each other (on price) but may have also undercut each other to secure the contract which would have resulted in lower prices for the consumers. Therefore, the consumers, i.e., the three ordnance factories, have also been deprived of the benefits that could have accrued to them on account of the competitive bidding process.

The Commission in its order directed the opposite parties to cease and desist from the anti-competitive

practices and imposed a penalty at the rate of 3% of the average turnover of the relevant financial years. - *[In Re: M/s Sheth & Co. & Ors. dated 10th June, 2015, (CCI)]*

2. THE ACTIVITIES OF ANY ASSOCIATION(S) SHOULD NOT BE INTENDED TO RESTRAIN COMPETITION OR TO HARM CONSUMERS: CCI

In the series of its orders against trade unions/associations for anti-competitive agreements, the CCI found the arrangement relating to distribution of films for releasing between the Opposite Parties (OPs) namely, Kerala Film Exhibitors Federation (OP1), Kerala Film Distributors Association (OP2), and Kerala Film Producers Association (OP3) is in violation of section 3(3)(b) of the Competition Act, 2002.

The Commission held that OP-1, OP-2 and OP-3 have transgressed their legal contours and indulged in collective decision making to limit and control the exhibition of films in the theatres other than the ones owned by the members of OP-1. The Commission did not see any rational justification for prescribing such criteria which is exclusionary in nature.

It declared that the Competition Act condemns such decisions taken by the associations which limits/ restricts the supply of goods/ services and affects competition in the market. The Commission viewed that the collusion between the OPs without any logical basis was nothing but the manifestation of their anti-competitive conduct to benefit the members of OP-1 at the expense of other theatre owners and movie goers i.e., consumers.

It is found that the OP1 was the main culprit behind the cartel conduct and the members of OP2 succumbed to the restriction imposed by the OP1.

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The Commission cleared that OP-2 is guilty of not distributing movies to the theatres of the members of the Informant and thus violating section 3(3)(b) read with section 3(1) of the act. However, OP3 was not found guilty because of its non-compliance with the arrangement between the OPs for limiting and restricting distribution, and boycotting release of films.

The Commission ruled that the office bearers of the OP1 and OP2 are liable to penalty under section 48. During the period of contravention, they were actively involved in the affairs of their respective associations and as such they are responsible for the anti-competitive decision making by their respective associations. - **[Kerala Cine Exhibitors Association v. Kerala Film Exhibitors Federation & Ors., dated 23rd June, 2015, (CCI)]**

INDIRECT TAXES

a. CUSTOMS

1. KAMALASAGAR (TRIPURA) NOTIFIED AS A LAND CUSTOMS STATION

Notification No. 60/2011 – Customs, dated 14th July 2011 amended, so as to include Kamalasagar (Tripura) on the India-Bangladesh Border, in order to extend exemption from the whole of the duty of Customs leviable thereon under the First Schedule to the Customs Tariff Act, 1975 to specified goods traded in the Kamalasagar (Tripura) Border Haat, with effect from the 6th June, 2015. - **[Notification No. 36/2015-Customs, dated 4th June, 2015]**

2. EXEMPTION GRANTED TO GOODS REQUIRED FOR THE NATIONAL AIDS CONTROL PROGRAMME FUNDED BY GFATM

The department has granted exemptions in relation to BCD and additional customs duty on specified equipments and retroviral drugs required for use against AIDS, TB and malaria. - **[Notification No. 37/2015-Customs, dated 10th June, 2015]**

3. CUSTOM DUTY ON CERTAIN IRON AND STEEL PRODUCTS INCREASED

Mega exemption notification 12/2012-Customs amended so as to exclude specified long and flat steel products from the scope of its entries 330 and 334, thereby increasing BCD on these products by 2.5%. - **[Notification No. 39/2015-Customs, dated 16th June, 2015]**

4. COURIER IMPORTS AND EXPORTS (CLEARANCE) REGULATIONS, 1998 AMENDED

The Courier Imports and Exports (Clearance) Regulations 1998 have been amended to, *inter alia*, enable exports by courier under the new Merchandise Exports from India Scheme (MEIS). The ceiling value for exports of commercial samples and prototypes has also been increased from Rs. 25,000/- in a financial year to Rs. 50,000/- per consignment. - **[Notification No. 62/2015-Customs (N.T.), dated 17th June, 2015]**

5. LEVY OF ANTI-DUMPING DUTY ON IMPORT OF POLY VINYL CHLORIDE PASTE RESIN EXTENDED

The levy of anti-dumping duty (ADD) on imports of Poly Vinyl Chloride Paste Resin, falling under chapter 39 of CTA, originating in or exported from Korea RP, Taiwan, People's Republic of China, Malaysia, Thailand, Russia and European Union, has been extended for a further period of one year *i.e.* up to 25th July, 2016. - **[Notification No. 25/2015 & Notification No.**

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26/2015 -Customs (ADD), dated 1st June, 2015]

6. LEVY OF ADD ON IMPORT OF ACRYLIC FIBRE EXTENDED

Levy of ADD on imports of Acrylic Fibre, falling under chapter 55 of CTA, originating in or exported from Korea RP and Thailand has been extended for a period of five years with effect from 1st June, 2015. - *[Notification No. 27/2015 -Customs (ADD), dated 1st June, 2015]*

7. LEVY OF ADD ON IMPORT OF HOT ROLLED FLAT PRODUCTS OF STAINLESS STEEL EXTENDED

Levy of ADD on imports of Hot Rolled Flat Products of Stainless Steel of ASTM Grade 304 with all its variants originating in, or exported from People's Republic of China, the Republic of Korea and Malaysia for a period of five years. - *[Notification No. 28/2015 -Customs (ADD), dated 5th June, 2015]*

8. LEVY OF ADD ON IMPORT OF VITAMIN E EXTENDED

Levy of ADD on imports of Vitamin E, originating in or exported from the People's Republic of China for a period of five years. - *[Notification No. 29/2015 -Customs (ADD), dated 10th June, 2015]*

9. LEVY OF ADD ON IMPORT OF NYLON TYRE CORD FABRIC EXTENDED

Levy of ADD on imports of Nylon Tyre Cord Fabric, originating in or exported from the People's Republic of China for a period of five years. - *[Notification No. 30/2015 -Customs (ADD), dated 12th June, 2015]*

10. EXPORT TURNOVER THRESHOLD FOR PROCEDURAL RELAXATIONS LOWERED TO Rs. 10 CRORES

The export turnover threshold for eligibility to the procedural concessions has been lowered to Rs. 10 crores in line with para 6.40(c) of the Handbook of Procedures to the new Foreign Trade Policy 2015-20.

- *[Circular No. 19/2015 - Customs, dated 9th June, 2015]*

11. SHOW CAUSE NOTICE ISSUED BEYOND THE STATUTORY PERIOD NOT SUSTAINABLE UNDER CUSTOMS BROKER LICENCING REGULATIONS 2013: MADRAS HC

In this case the Hon'ble Court on a perusal of Regulation 22 of the Customs Broker Licensing Regulations 2013, observed that it is explicit that the show cause notice under Regulation 20(1) is required to be issued within 90 days from the date of receipt of the offence report as prescribed under Regulation 22.

In the present case, the offence report was received on 29.08.2012 and the show cause notice was issued on 05.03.2015, by which, it is clearly revealed that it was issued beyond the period stipulated in Regulation 22(1). Therefore, it was held by the Hon'ble Madras High Court that, when the impugned show cause notice has been issued beyond the statutory period, the same cannot be sustained for want of jurisdiction. - *[Sanco Trans Ltd v. CC, dated 11th June, 2015 (Madras HC)]*

b. CENTRAL EXCISE

1. EXEMPTION ON EXCISE DUTY FOR ETHANOL SUPPLIED TO OIL COMPANIES

Levy of Central Excise Duty has been exempted on ethanol generated from molasses from sugar cane crushed in the sugar season 2015-16 (i.e. from October 2015 onwards) and supplied to the public sector oil marketing companies for blending with petrol. - **[Notification No. 32/2015-Central Excise, dated 4th June, 2015]**

2. EXEMPTION ON EXCISE DUTY ON GOODS REQUIRED FOR THE NATIONAL AIDS CONTROL PROGRAMME FUNDED BY GFATM

Levy of Central Excise duty has been exempted on specified equipments and retroviral drugs required for use against AIDS, TB and malaria. - **[Notification No. 33/2015-Central Excise, dated 10th June, 2015]**

3. CENTRALISED REGISTRATION ALLOWED FOR ONSITE MANUFACTURERS OF ALUMINIUM ROOFING PANELS

Now, every manufacturing unit engaged in the manufacture of aluminium roofing panels falling under tariff item 7610 90 10 has been exempted from the requirement of separate registrations for onsite facilities, subject to the conditions that such roofing panels are consumed at the site of manufacture for execution of the project and the manufacturer of such goods has a centralised billing or accounting system in respect of such goods manufactured by different manufacturing units and opts for registering only the premises or office from where such centralised billing or accounting is done. A single registration can be taken at the location of the centralised billing or accounting system. - **[Notification No. 17/ 2015 - Central Excise (N.T.), dated 8th June, 2015]**

4. THE WASTE GENERATED DURING THE COURSE OF MANUFACTURE OF

FINAL PRODUCT, CAN BE SENT WITHOUT PAYMENT OF DUTY FOR MELTING TO THE JOB WORKER AND THEREAFTER THE SAME CAN BE USED FOR MANUFACTURE OF DUTIABLE GOODS: CESTAT

In the present matter Appellant was a manufacturer of Motor Vehicle Aluminium parts. During the manufacturing process, some quantity of Aluminium dross, Aluminium Turning & Aluminium oily flash is generated which is given, for free, to one job worker for converting these waste aluminium material into Aluminium Ingots.

Job worker was given a portion of the factory premises of the Appellant for carrying out such process. The resultant product of job work is returned within the same factory premises to the Appellant which the Appellant admittedly used in the manufacture of Motor Vehicle Parts which are undisputedly cleared on payment of excise duty.

The contention of the revenue was that there was removal of said waste aluminium material by the Appellant to a different entity (job worker) which attracts excise duty.

Hon'ble Tribunal in view of Rule 4(5)(a) and Rule 16A of the Central Excise Rules, 2002 and Notification No. 214/86-CE, observed that, if the input whether as such, or partially processed or after processing by the job worker finally used in the final product which is cleared on payment of duty, all these stages of the movement of goods from the raw material stage up to the final product no duty is leviable.

Therefore, it was held that no duty can be demanded on the removal of such remnant material for job work and the adjudicating authority has wrongly confirmed the duty demand and imposed penalties. - **[Aurangabad**

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Electricals Ltd v. CCE & Ors., Aurangabad, dated 15th June, 2015 (CESTAT)

5. FRAUDULENT ACT OF AN EMPLOYEE IN AVAILING IMPROPER CENVAT CREDIT CANNOT BE ATTRIBUTED TO APPELLANT COMPANY AS A MALA-FIDE ACT: CESTAT

In the present case an employee of the Appellant Company was involved in fraudulent act of taking Cenvat credit, without receipt of inputs, for his personal gain.

Hon'ble Tribunal held that such act cannot be attributed to Appellant Company as a *mala-fide* act, as the act of fraud admittedly is not authorized and can never be authorized by the management of the Company. Equivalent penalty imposed is unwarranted, hence set aside. - *[M/s Bajaj Auto Ltd v. CCE & Anr., dated 8th June, 2015 (CESTAT)]*

c. SERVICE TAX

1. CLARIFICATION ON RATE OF SERVICE TAX ON RESTAURANT SERVICE

The Service Tax rate has been increased to 14% from 12.36% (including cesses) with effect from 1st June, 2015. It has been clarified that the valuation of service of an air-conditioned restaurant, as per rule 2C of the valuation rules, would continue to be 40% of the total value charged for the supply made, and the tax chargeable would be 14% of this 40%.

Thus, the Service Tax applicable on supply of food / beverages in an air-conditioned restaurant would be 5.6% of the total amount charged.

It was further clarified that exemption from service tax still continues to services provided in

relation to serving of food or beverages by a restaurant, eating joint or a mess, other than those having the facility of air-conditioning. - *[Circular No. 184/3/2015-ST, dated 3rd June, 2015]*

2. SHOW CAUSE NOTICE AND ADJUDICATION ORDER SHOULD SPECIFY ALLEGED SERVICE FOR WHICH TAX IS PAYABLE: CESTAT

In the present matter, neither the show cause notice nor the impugned adjudication order record any assertion/ conclusion whatsoever as to which particular or specific taxable service the appellant had provided was clear.

In the facts, Hon'ble Tribunal held that in the absence of an allegation of having provided a specific taxable service in the show cause notice and in view of the failure in the adjudication order as well, neither the show cause notice nor the consequent adjudication order could be sustained. - *[M/s Shubham Electricals v. CST & Anr., dated 16th June, 2015 (CESTAT)]*

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INTELLECTUAL PROPERTY RIGHTS

1. PLAINTIFF NOT ENTITLED FOR INTERIM INJUNCTION ON THE SOLE GROUND OF LACHES AND ACQUIESCENCE: MADRAS HC

In this case the plaintiff who has been using the mark **SIZOPIN** continuously since 1995 consisting of the active ingredient **CLOZAPIN** for treatment of depression and schizophrenia. While so, the plaintiff came to know that the defendant is using the mark **SYZOPIN**, by deliberately changing one letter 'I' with phonetically identical letter 'Y', by copying the trademark of it.

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On the other hand, the defendant did not deny the case of the plaintiff that the plaintiff's mark SYZOPIN and the defendant's mark SYZOPIN are identical. However, it was contended by the defendant that they have been using the said mark SYZOPIN for the last 12 years without any interruption and that the plaintiff has also known about the defendant's activities; atleast ought to have known about the defendant. Having allowed the defendant to use the mark SYZOPIN for the last 12 years, now the plaintiff is estopped from restraining the defendant from using the mark SYZOPIN. Hon'ble Court also found that plaintiff's trademark SYZOPIN as well as the defendant's trademark SYZOPIN are consistently featuring together since 2008.

Therefore, prima facie the Court observed that it appears that the plaintiff ought to have had the knowledge about the presence of the defendant's trademark SYZOPIN for several years. It appeared that till the defendant has filed the rectification application, the plaintiff has allowed the defendant to use the trademark SYZOPIN. Hence, only on the ground of laches and acquiescence, the plaintiff was held not entitled for the continuation of the interim injunction order. - *[Sun Pharma Laboratories Ltd. v. Psycoremedies Ltd., dated 1st June, 2015 (Madras HC)]*

2. GRANT OF PERMANENT INJUNCTION RESTRAINING DEFENDANT FROM USING PLAINTIFF'S TRADEMARK KEYENCE OR ANY OTHER DECEPTIVE AND SIMILAR MARK: DELHI HC

The instant case was filed for permanent injunction for infringement and passing off of plaintiff's trademark KEYENCE as well as unfair competition, dilution, damages, etc.

In the facts, Hon'ble Delhi High Court held that upon a perusal of the evidence on record including

the documentary evidence and the unambiguous undertaking given by the defendant in the local commissioner's report, plaintiff has proved its case. It is pertinent to mention that whatever evidence has been led by the plaintiff in the present case has gone unrebutted and unchallenged. Accordingly, use of the mark KEYENCE by the defendant in relation to water system being without any due cause is detrimental to the goodwill and reputation as well as distinctive character of the trademark of the Plaintiff KEYENCE and it also amounts to dilution of mark KEYENCE. - *[Keyence Corporation v. Vachhani Jalpa Pankaj, dated 29th June, 2015 (Delhi HC)]*

3. USE OF MARK "ZITA" BY DEFENDANTS HELD ILLEGAL: BOMBAY HC

The Hon'ble Bombay High Court, in the present case, observed that the comparison of the plaintiff's mark with that of the defendant's impugned mark shows that the defendant's mark "ZITA" is phonetically, visually and structurally similar to the plaintiff's registered Trade Mark "ZITA".

Hence, it was held that the defendant's use of the said trademark "ZITA" is illegal and constitutes an infringement of the plaintiff's rights as the registered proprietor of the trademark "ZITA". - *[Glenmark Pharmaceuticals Ltd. v. G.R.A.F. Laboratories Pvt. Ltd. & Anr., dated 30th June, 2015 (Bombay HC)]*

CONSUMER

1. ACCIDENTAL CLAIM REPUDIATED AS COMPLAINANT WAS NOT HOLDING A VALID LICENSE AT THE TIME OF ACCIDENT: NCDRC

The complainant who owned a Chevrolet Forrester Car had got the said car insured with the petitioner company. The aforesaid car, while being driven by

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the complainant during the currency of the policy, met with an accident on 10.05.2004. The complainant claims to have spent a sum of Rs.2,58,675/- on repair of the said car and lodged a claim for reimbursement.

The driving licence which the complainant held had expired more than 5 months before the car met with the accident. Section 15 of the Motor Vehicles Act, 1988 provides for renewal of a driving licence with effect from the date of its expiry provided an application for this purpose was made within 30 days from the date of expiry of the licence. It further provides that if such an application is made more than 30 days from the date of expiry of driving licence, the driving licence shall be renewed with effect from the date of its renewal.

The policy condition required that the person driving the vehicle should hold an effective driving licence at the time of accident and should not be disqualified from holding or obtaining such a licence. Since the complainant did not hold any effective licence at the time of accident, he committed breach of the aforesaid condition of the insurance besides violating the provisions of Motor Vehicles Act. In these circumstances Hon'ble NCDRC held that the Insurance Company, therefore, was under no legal obligation to reimburse the expenditure incurred by the complainant on the repair of the vehicle. - *[New India Assurance v. Dr. Venugopal, 2nd June, 2015, (NCDRC)]*

2. SERVICES RENDERED BY THE POST OFFICE ARE MERELY STATUTORY AND THERE IS NO CONTRACTUAL LIABILITY: NCDRC

The present case pertained to the question regarding the implication of the bar created by section 6 of the Indian Post Office Act, 1898 which deals with exemption from liability for loss, mis-delivery, delay or damage.

The NCDRC in this regard quoting with approval Supreme Court held that Establishing the Post Offices and running the postal service the Central Government performs a governmental function and the Government does not engage in commercial transaction with the sender of the article through post and the charges for the article transmitted by post is in the nature of charges imposed by the State for the enjoyment of the facilities provided by the Postal Department and not in consideration of any commercial contract. The Post Office cannot be equated with a common carrier. Thus, the order of Fora below were set aside and bar of Section 6 was upheld. *[Indian Postal Department v. Amitabh Srivastava, 3rd June, 2015, (NCDRC)]*

3. SERVICES OF OPPOSITE PARTY AVAILED FOR COMMERCIAL PURPOSE AND HENCE COMPLAINT DISMISSED: NCDRC

In this case, the opposite party had set up a trade mark and exposition complex in Greater Noida on the land leased out by Greater Noida Industrial Development Authority and allotted individual space in the aforesaid complex to exporters of various products such as handicrafts, handlooms, jute, carpet, silk etc.

The complainants who were associations of exporters were aggrieved from the demand of External Development Charges which the opposite party is demanding from the exporters over and above the price of the space allotted to them.

The question in the present case was whether the complainant could be termed as "consumer" as per Section 2(1) (d) of the Act. Section 2(1) (d) of the Consumer Protection Act, provides that consumer means any person who buys goods or hires or avails services for a consideration, but does not include a person who buys goods or hires or avails such services for any commercial purpose.

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The explanation attached below the aforesaid provision excluded, from the ambit of commercial purpose, use by a person of the goods bought and used and the services availed exclusively for the purpose of earning his livelihood by means of self-employment.

The members of the complainants who were exporters of different products were using the individual space allotted to them by the opposite party for the purpose of exhibiting their respective products. The products displayed by them are meant primarily for sale including exports outside India.

The purpose was that the foreign buyers may see the goods displayed there and then place order with the exporters who have been allotted the aforesaid space by the opposite party. The obvious aim behind displaying the products meant for export is to earn profit by exporting those products to the overseas buyers.

In the facts, NCDRC observed that, it would be difficult to say that the space allotted by the opposite party were not acquired or are not being used for a commercial purpose. The whole purpose of taking the space from the opposite party and displaying the products meant for exports is to make profits and therefore, the very aim of obtaining the allotment of the said space would be a commercial purpose.

As far as the explanation attached below Section 2(1)(d) is concerned, that would obviously not apply since it applies only to a case where an individual who was unemployed, purchased goods or avails services for the purpose of earning livelihood by way of self-employment. And it further found that there was no averment in the complaint that the members of the complainants were unemployed persons who had taken space from the opposite party for the purpose of carrying out export of goods from India to other countries. *-[All India Consumer Protection Welfare Council v. India Exposition Mart, 17th June, 2015, (NCDRC)]*

ENVIRONMENT

1. BUILDERS PENALIZED FOR VIOLATING CONSTRUCTION CODE

The Haryana State Pollution Control Board (**HSPCB**) has fined six developers amounts between Rs 1.5 lakh and Rs 2.5 lakh each, after they were found violating the Union ministry of environment and forest's (**MoEF**) 2010 construction guidelines such as putting up of green barriers and wind-breaker walls around construction sites, covering of construction material and waste, and use of sprinklers at sites to reduce emission of dust. - *[The Times of India, dated 22nd June, 2015]*

2. BOMBAY HC WARNS OF ACTION FOR NON-IMPLEMENTATION OF NOISE POLLUTION RULES

The Bombay High Court has rapped the State for not following its previous orders regarding implementation of Noise Pollution Rules and removing illegal 'pandals' (temporary structures) in public places and on roads and footpaths during festivals.

The Court has asked the Maharashtra government's chief secretary to identify officers responsible for not implementing Noise Pollution Rules so that contempt action could be taken against them. - *[The Times of India, dated 24th June, 2015]*

3. TREATY ON HIGH SEAS CONSERVATION

The UN General Assembly has adopted a resolution giving a green light to develop a new treaty for the conservation of marine life in the high seas. The resolution, adopted by consensus, launches the first global treaty process related to the oceans in over two decades and the first on the protection and

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sustainable use of animal and plant life in sea areas beyond the territorial jurisdiction of any country. - *[The Times of India, dated 20th June, 2015]*

4. CONSTITUTION OF EXPERT BODY FOR CARRYING OUT CUMULATIVE IMPACT ASSESSMENT AND CARRYING CAPACITY STUDY IN UPPER REACHES OF RIVER GANGA

In pursuance of the orders dated 12.5.2015 of Hon'ble Supreme Court in the Civil Appeal No.6736 of 2013 in the case of Alaknanda Hydra Power Co. Ltd. v. Anuj Joshi & Ors., the MoEF has constituted an Expert Body for carrying out cumulative impact assessment and carrying capacity study in upper reaches of river Ganga. - *[Order dated 3rd June, 2015, MoEF]*

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