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## RBI/FEMA

### 1) RBI ISSUES PRUDENTIAL NORMS FOR CLASSIFICATION, VALUATION AND OPERATION OF INVESTMENT PORTFOLIO BY BANKS AND SPREADING OF MTM LOSSES AND CREATION OF INVESTMENT FLUCTUATION RESERVE (IFR)

With a view to addressing the systemic impact of sharp increase in the yields on Government Securities, RBI has decided to grant banks the option to spread provisioning for mark to market (MTM) losses on investments held in AFS and HFT for the quarters ended December 31, 2017 and March 31, 2018. The provisioning for each of these quarters may be spread equally over up to four quarters, commencing from the quarter in which the loss is incurred. Banks that utilise the above option shall make suitable disclosures in their notes to accounts / quarterly results providing details of:

- a. the provisions for depreciation of the investment portfolio for the quarters ended December 2017 and March 2018 made during the quarter / year and

- b. the balance required to be made in the remaining quarters.

Further, with a view to building up of adequate reserves to protect against increase in yields in future, banks are advised to create an IFR with effect from the year 2018-19 in terms prescribed in the Circular. –

**[DBR.No.BP.BC.102/21.04.048/2017-18, dated 2nd April, 2018]**

### 2) RBI REVISED FPI LIMITS IN GOVERNMENT SECURITIES

In order to facilitate the process of investment and hedging by FPIs, the FPI limits are revised as below:

**Table 1 - Revised Limits for FPI Investment in Debt - 2018-19 (Rupees crore)**

	G-Sec-General	G-Sec-Long Term	SDL - General 1	SDL-Long Term	Corporate Bonds	Total Debt
Current Limit	191,300	65,100	31,500	13,600	244,323	545,823
Revised Limit for the HY Apr-Sep, 2018	207,300*	78,700	34,800	7,100	266,700	594,600
Revised Limit for the HY Oct 2018-March, 2019	223,300*	92,300	38,100	7,100	289,100	649,900

\* Includes ₹ 4,760 crore one-time addition to limit to provide for inclusion of coupon investment amount in utilization.

**-[A.P.(DIR Series) Circular No. 22, dated 6<sup>th</sup> April, 2018]**

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### 3) RBI AMENDS ITS COMPREHENSIVE GUIDELINES ON DERIVATIVES

RBI modified its comprehensive guidelines on derivatives, with respect to the stand-alone plain vanilla forex options. It has been decided that stand-alone plain vanilla forex options (without attached structures) purchased by clients will be exempt from the user suitability and appropriateness norms, and the regulatory requirements will be at par with the forex forward contracts. –

**[DBR.No.BP.BC.103/21.04.157/2017-18, dated 6th April, 2018]**

### 4) MINIMUM STANDARDS AS RECOMMENDED BY RBI WILL BE PRESCRIBED FOR THE SERVICE PROVIDER / SUB-CONTRACTORS WHO ARE ENGAGED BY THE BANKS FOR CASH MANAGEMENT LOGISTICS

In view of the increasing reliance of the banks on outsourced service providers and their sub-contractors in cash management logistics, RBI has decided that the banks shall put in place certain minimum standards in their arrangements with the service providers for cash management related activities. The details of the same are annexed with the Circular. Further, as the cash held with the service providers and their sub-contractors continue to remain the property of the banks and the banks are liable for all associated risks, the banks shall put in place appropriate Business Continuity Plan approved by their boards to deal with any related contingencies.–

**[DCM (Plg) No.3563/10.25.07/2017-18, dated 6th April, 2018]**

### 5) RBI GUIDELINES ON STORAGE OF PAYMENT SYSTEM DATA

In the backdrop of considerable growth in the payment ecosystem in the country, RBI observed that not all system providers store the payments data in India. In order to ensure better monitoring, it is important to have unfettered supervisory access to data stored with these system providers as also with their service providers / intermediaries/ third party vendors and other entities in the payment ecosystem. It has, therefore, been decided by the RBI that:

- i. All system providers shall ensure that the entire data relating to payment systems operated by them are stored in a system only in India. This data should include the full end-to-end transaction details / information collected / carried / processed as part of the message / payment instruction. For the foreign leg of the transaction, if any, the data can also be stored in the foreign country, if required;
- ii. System providers shall ensure compliance of (i) above within a period of six months and report compliance of the same to the Reserve Bank latest by October 15, 2018;
- iii. System providers shall submit the System Audit Report (SAR) on completion of the requirement at (i) above. The audit should be conducted by CERT-IN empaneled auditors certifying completion of activity at (i) above. The SAR duly approved by the Board of the system providers should be submitted to the Reserve Bank not later than December 31, 2018. –

**[DPSS.CO.OD No.2785/06.08.005/2017-2018, dated 6th April, 2018]**

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## 6) PROHIBITION ON DEALING IN VIRTUAL CURRENCIES (VCs)

In view of the associated risks in dealing with virtual currencies, including Bitcoins, RBI has decided that, with immediate effect, entities regulated by the Reserve Bank shall not deal in VCs or provide services for facilitating any person or entity in dealing with or settling VCs. Such services include maintaining accounts, registering, trading, settling, clearing, giving loans against virtual tokens, accepting them as collateral, opening accounts of exchanges dealing with them and transfer / receipt of money in accounts relating to purchase / sale of VCs. – *[DBR.No.BP.BC.104 /08.13.102/2017-18, dated 6th April, 2018]*

## 7) DAILY REPORTING OF TRANSACTIONS IN LIBERALISED REMITTANCE SCHEME (LRS) FOR RESIDENT INDIVIDUALS

In order to improve monitoring and also to ensure compliance with the LRS limits, RBI has decided to put in place a daily reporting system by AD banks of transactions undertaken by individuals under LRS, which will be accessible to all the other ADs. Accordingly, all AD Category-I banks are required to upload daily transaction-wise information undertaken by them under LRS at the close of business of the next working day. In case no data is to be furnished, AD banks shall upload a 'Nil' report. AD banks can upload the LRS data as CSV file (comma delimited), by accessing XBRL site. – *[A.P. (DIR Series) Circular No. 23, dated 12th April, 2018]*

## 8) NOTIFICATION OF CHANGES TO OPERATIONAL ASPECTS OF FPI INVESTMENT IN DEBT

In terms of AP (DIR Series) Circular No. 22 dated April 6, 2018, the revised framework for Foreign Portfolio Investors (FPI) in debt was announced. It was further stated that a separate notification would be issued announcing other changes affecting operational aspects of FPI investments in debt, in consultation with SEBI. Accordingly, the changes to operational aspects of FPI investment are notified by the RBI in the present Circular. – *[A.P. (DIR Series) Circular No. 24, dated 27th April, 2018]*

## 9) RATIONALISATION AND LIBERALISATION OF EXTERNAL COMMERCIAL BORROWINGS (ECB) POLICY

Corporates and other entities planning to avail ECB to meet their capital needs have been approaching RBI for relaxations in the existing ECB framework. In light of the requests received and experience gained in administering the ECB regime, RBI has decided, in consultation with the Government of India, to further rationalise and liberalize the ECB guidelines and notified revised framework in the present Circular. – *[A.P. (DIR Series) Circular No.25, dated 27th April 27, 2018]*

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## FOREIGN TRADE

### 1) EXPORT POLICY FOR EDIBLE OILS

All varieties of edible oils except the mustard oil under Chapter 15 of Schedule I (Import Policy) of ITC(HS) Classification of Export and Import Items 2017 has been moved to the 'free' category. – *[Notification No. 01 / 2015-2020 dated 6<sup>th</sup> April, 2018 (DGFT)]*

### 2) AMENDMENT IN IMPORT POLICY OF PEA UNDER CHAPTER 7 OF ITC (HS) 2017, SCHEDULE-I (IMPORT POLICY)

The import policy of peas under EXIM Code 0713 1000 has been revised from 'free' to 'restricted' for a period of three months only (1<sup>st</sup> April, 2018 to 30<sup>th</sup> June, 2018) subject to the prescribed policy condition. *[ Notification No. 04 / 2015-2020 dated 25th April, 2018 (DGFT)]*.

### 3) AMENDMENT IN IMPORT POLICY OF KABULI CHANA, BENGAL GRAM AND OTHERS

The import policy of Kabuli Chana, Bengal Gram and Others under Exim Code 0713 of the Chapter 07 of ITC (HS) , 2017, Schedule-I (Import Policy), has been revised from 'restricted' to 'free' category. – *[ Notification No. 02 / 2015-2020 dated 16<sup>th</sup> April, 2018 (DGFT)]*.

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## CORPORATE

### 1) AMENDMENT IN SCHEDULE-I OF THE COMPANIES ACT, 2013

The Ministry of Corporate Affairs ("MCA") has amended the Schedule I of Companies Act, 2013. According to the Amendments, every certificate as may be issued by the Company, shall specify the shares to which it relates and the amount paid-up thereon and shall be signed by two directors or by a director and the company secretary, wherever the company has appointed a company secretary instead of two directors. It is also clarified that in case of a One Person Company, it shall be sufficient if the certificate is signed by a director and the company secretary, wherever the company has appointed a company secretary, or any other person authorised by the Board for the purpose. Further, an explanation has been inserted in the provisions dealing with the Common Seal, clarifying that on and from the commencement of the Companies (Amendment) Act, 2015, i.e., with effect from the 29th May, 2015, company may not be required to have the seal by virtue of registration under the Act and if a company does not have the seal, the provisions of this sub-paragraph shall not be applicable. – *[Notification No. G.S.R. 362(E) dated 10<sup>th</sup> April, 2018 – The Ministry of Corporate Affairs]*

### 2) EXTENSION OF THE CONDONATION OF THE DELAY SCHEME, 2018

The Condonation of Delay Scheme ("Scheme"), 2018 has been extended by the MCA from 30th April, 2018 to 1st May, 2018. This extension has been provided because the closing date of scheme i.e., 30th April, 2018 is falling on the gazetted holiday (i.e., Budh Purnima).



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The Scheme was introduced to permit the defaulting company who has not filed its financial statements or annual returns for a continuous period of three years to file its overdue documents which were due for filing in accordance with the provisions of this Scheme. - *[General Circular No.: 03/2018 dated 27.04.2018- The Ministry of Corporate Affairs]*

### 3) THE BINANI CEMENT LOAN DEFAULT CASE: NCLAT WANTS RESOLUTION UNDER ONLY IBC PROVISIONS

The National Company Law Appellate Tribunal (NCLAT) has directed the Kolkata Bench of the National Company Law Tribunal (NCLT) to consider the Binani Cement case only under the provisions of the Insolvency and Bankruptcy Code (IBC).

The NCLAT passed such order based on a petition filed by Dalmia Bharat Cement.

Mahindra Singhi, Group CEO, Dalmia Bharat Cement, stated that the said order seals any attempt by Binani Cement to reach an out-of-court settlement with UltraTech Cement. When pointed to the NCLAT order on April 3, which had suggested that creditors consider Binani's out-of-court plea, Singhi said Dalmia could not make its representation adequately on April 3 as it was not aware that Binani — which had moved the appellate body for some other case — would raise the out-of-court settlement issue. It was further added that the Appellate Tribunal's ruling had directed NCLT not to get influenced by either its April 3 order or NCLT's own order on March 23 that directed creditors to consider an out-of-court settlement.

However, Binani Cement is confident of executing the out-of-court deal with UltraTech. It plans to file a revised offer with the creditors. The insolvency case against Binani Cement was filed on July 26, 2017, and the calculation of interest on loan stopped then. Now, if the out-of-court deal is to be accepted, the creditors want to charge interest on the loan from July 26.

As per Binani's math, the interest would work out to ₹250 crore for the entire 270 days valid period of NCLT proceedings. Binani hopes to close the deal with creditors for ₹7,500 crore. — *[The Hindu- dated 20<sup>th</sup> April, 2018]*

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## SECURITIES

### 1) MONITORING OF FOREIGN INVESTMENT LIMITS IN LISTED INDIAN COMPANIES

The Securities and Exchange Board of India vide this Circular in order to facilitate Monitoring of Foreign Investment limits in listed Indian companies has decided to put a new system for monitoring the foreign investment limits.

The new system for monitoring foreign investment limits in listed Indian companies shall be made operational on May 01, 2018. The existing mechanism for monitoring the foreign investment limits shall be done away with once the new system is operationalized.

As per the Circular:

1. FEMA prescribes the various foreign investment limits in listed Indian companies. These include the aggregate FPI limit, the aggregate NRI limit and the sectoral cap. The RBI provides a compilation of the instructions

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issued on Foreign Investment in India and its related aspects under FEMA.

2. Under FEMA, the onus of compliance with the various foreign investment limits rests on the Indian company. In order to facilitate the listed Indian companies to ensure compliance with the various foreign investment limits, SEBI in consultation with RBI has decided to put in place a new system for monitoring the foreign investment limits.

3. The depositories (NSDL and CDSL) shall put in place the necessary infrastructure and IT systems for operationalizing the monitoring mechanism. The Stock Exchanges (BSE, NSE and MSEI) shall also put in place the necessary infrastructure and IT systems for disseminating information on the available investment headroom in respect of listed Indian companies.

4. The depositories shall issue the necessary circulars and guidelines for collecting data on foreign investment from listed companies. The system for collecting this data from the companies shall go live on the date of the issuance of this Circular. The companies shall provide the necessary data to the depositories latest by April 30, 2018.

5. The new system for monitoring foreign investment limits in listed Indian companies shall be made operational on May 01, 2018. The existing mechanism for monitoring the foreign investment limits shall be done away with once the new system is operationalized. RBI shall issue the necessary guidelines in this regard.- **[SEBI vide Circular No.: IMD/FPIC/CIR/P/2018/61 dated 5<sup>th</sup> April, 2018]**

## 2) INTRODUCTION OF NEW ELIGIBILITY CRITERIA FOR STP CENTRALISED HUB AND STP SERVICE PROVIDERS

The Securities and Exchange Board of India has introduced the new eligibility criteria for STP centralised Hub and STP Service Providers, the new guideline states the following, namely,- “Whether the applicant is a fit and proper person based on the criteria specified in Schedule II of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008.” This new eligibility criteria for STP Centralised HUB AND STP service providers has been done to protect the interests of investors in securities and to promote the development of and to regulate the securities market. – **[SEBI vide Circular No.: SEBI/ HO/ MIRSD/ DOSR1/ CIR/ P/ 2018/ 0000000072 dated 17<sup>th</sup> April, 2018]**

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## COMPETITION

### 1) MATTER DISPOSED OF ON THE GROUNDS OF BEING SIMILAR TO ANOTHER MATTER

The Competition Commission of India disposed of the information filed by Indian Motion Picture Producers' Association against Federation of Western India Cine Employees (OP-1) and its affiliates (OP-2 to OP-21) on the ground that this matter was similar to the matter of Shri Vipul A. Shah V. All India Film Employee Federation. Hence, the order passed in that had already settled the position of the Commission on the issues raised in this information. The members of the Informant who were engaged in the business of production of films and daily programmes for the television channels had alleged that the OPs were forcing the members of the Informant to accept the services of craftsmen who were

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members/ persons associated with OP-1 or its affiliates. The informants also alleged the anti-competitive behaviour of the OPs with regard to issuance of non-cooperative directives and imposition of compulsory holidays on certain occasions through directives. The CCI held that the order passed in Case No. 19 of 2014 titled as *Shri Vipul A. Shah v. All India Film Employee* was pertinent and enough to settle the position. Hence, though the information was dismissed on this basis, it was made clear that if the alleged conduct of the OPs still continues in defiance of the order dated 31.10.2017 passed in Case No. 19 of 2014, the Informant is at liberty to approach the Commission under the appropriate provisions of the Act. – *[Indian Motion Picture Producers' Association v. Federation of Western India Cine Employees & Ors. dated 18<sup>th</sup> April, 2018]*.

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## INDIRECT TAXES

### a. CUSTOMS

#### 1) BCD INCREASED ON POPULATED, LOADED OR STUFFED PRINTED CIRCUIT BOARDS

The CBEC has increased the tariff rate of BCD on populated, loaded or stuffed printed circuit boards, falling under tariff item 8517 70 10, of the First Schedule to the Customs Tariff Act, 1975 from Nil to 10%. – *[Notification No. 36/2018 – Customs, dated 2nd April, 2018]*

#### 2) WITHDRAWAL OF EXEMPTION FROM BCD ON PRINTED CIRCUIT BOARD

#### ASSEMBLY (PCBA), CAMERA MODULE AND CONNECTORS, PCBA OF CELLULAR MOBILE PHONES, CAMERA MODULE AND CONNECTORS OF CELLULAR MOBILE PHONES

Related notifications amended so as to withdraw exemption from BCD on Printed Circuit Board Assembly (PCBA), Camera Module and Connectors of cellular mobile phones, PCBA of cellular mobile phones, Camera Module and Connectors of cellular mobile phones and impose 10% BCD on them. – *[Notification No. 37/2018 – Customs, dated 2nd April, 2018; Notification No. 38/2018 – Customs, dated 2nd April, 2018; Notification No. 39/2018 – Customs, dated 2nd April, 2018; Notification No. 40/2018 – Customs, dated 2nd April, 2018]*

#### 3) PRE-NOTICE CONSULTATION REGULATIONS, 2018 NOTIFIED

The CBEC has notified the Pre-notice Consultation Regulations, 2018. The Regulations give provisions for manner of conducting pre-notice consultation and gives power to decide whether any notice is required to be issued or not. "Consultation" means communication of the grounds known to the proper officer for issuance of notice to the person chargeable with duty or interest in order to elicit the response of the person and consideration of the representation of the said person. – *[Notification No. 29/2018 - Customs (N.T.), dated 2nd April, 2018]*

#### 4) ADD ON " PHOSPHORUS PENTOXIDE "

Definitive anti-dumping duty imposed on the imports of "Phosphorus Pentoxide" originating in or exported from China PR for a period of five



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years (unless revoked, superseded or amended earlier). – *[Notification No. 19/2018-Customs (ADD), dated 6th April, 2018]*

## 5) ADD ON FISHNET OR FISHING NETS

Definitive anti-dumping duty on imports fishnet or fishing nets originating from China or Bangladesh for a period of five years (unless revoked, superseded or amended earlier). – *[Notification No. 20/2018-Customs (ADD), dated 10th April, 2018]*

## 6) EXTENSION OF LEVY OF ADD ON SODA ASH

The CBEC has extended the levy of anti-dumping duty, imposed on imports of Soda Ash originating in or exported from Russia and Turkey under Notification No. 8/2013-Customs (ADD), dated the 18.04.2013 for a further period of one year (i.e. 16.04.2019) or till the conclusion of the sunset review investigations initiated by the Designated Authority vide initiation notification No.7/4/2018-DGAD dated the 16th April, 2018, whichever is earlier. – *[Notification No. 21/2018-Customs (ADD), dated 17th April, 2018]*

## 7) ADD ON GLASSWARE

Definitive anti-dumping duty levied on imports of Glassware, originating in, or exported from People's Republic of China and Indonesia for a period of five years (unless revoked, superseded or amended earlier). – *[Notification No. 22/2018-Customs (ADD), dated 18th April, 2018]*

## 8) ADD ON METHYL ETHYL KETONE OR MEK

Definitive anti-dumping duty on imports of Methyl Ethyl Ketone or MEK originating in, or exported from China PR, Japan, South Africa and Taiwan for a period of three years (unless revoked, superseded or amended earlier). – *[Notification No. 23/2018-Customs (ADD), dated 24th April, 2018]*

## 9) CLARIFICATION REGARDING IMPORT OF EOUS/EHTP/STP /BTP WITHOUT PAYMENT OF DUTY FOLLOWING RULE 5 OF CUSTOMS (IMPORT OF GOODS AT CONCESSIONAL RATE OF DUTY) 2018

The CBEC has clarified that the imported EOU need not get prior approval of the information submitted under sub-rule(1)(a) of Rule 5 of Customs (import of Goods at Concessional Rate of Duty) Rules, 2017 from Jurisdictional DC/AC of Customs for duty free import at the Custom Station of importation. Information submitted to the DC/AC of Customs at the Custom Station of importation by EOU is sufficient for importing goods without payment of duty under exemption notification No. 52/2003-Customs dated 31-3-2003. – *[Circular no.10/ 2018 – Customs, dated 24th April, 2018]*

### b. GST

## 1) CGST (4TH AMENDMENT) RULES, 2018 NOTIFIED

The CBEC has notified the CGST (Fourth Amendment) Rules, 2018, mainly to amend/revise,- i) CGST Rule 89 (Maximum Refund Amount); ii) CGST Rule 97 (Consumer welfare fund); and iii) Form GST DRC-07. Besides,



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Form GSTR-10 relating to Final Return for Cancelled Registrations, has been inserted. – **[Notification No. 21/2018 – Central Tax, dated 18th April, 2018]**

## 2) SETTING UP OF AN IT GRIEVANCE REDRESSAL MECHANISM

The CBEC decided to put in place an IT-Grievance Redressal Mechanism to address the difficulties faced by a section of taxpayers owing to technical glitches on the GST portal and the relief that needs to be given to them. The relief could be in the nature of allowing filing of any Form or Return prescribed in law or amending any Form or Return already filed. – **[Circular No. 39/13/2018-GST, dated 3rd April, 2018]**

## 3) CLARIFICATION ON ISSUES RELATED TO FURNISHING OF BOND/LETTER OF UNDERTAKING FOR EXPORTS

CBEC has clarified about procedural issues for online Furnishing of Bond/ Letter of Undertaking (LUT) in Form GST RFD-11 for Exports. The LUT will be deemed to be accepted as soon as ARN is generated. Consequently, no document is required to be physically submitted to the jurisdictional office henceforth in this regard. – **[Circular No. 40/14/2018-GST, dated 6th April, 2018]**

## 4) CLARIFICATION REGARDING RECOVERY OF ARREARS UNDER THE CENTRAL EXCISE AND SERVICE TAX LAW AND REVERSAL OF INADMISSIBLE INPUT TAX CREDIT

The CBEC has clarified the procedure for recovery of arrears under Central Excise Act and

Service Tax Act and reversal of inadmissible input tax credit. Clarifications were mainly with respect to Recovery of arrears of wrongly availed CENVAT Credit; Recovery of CENVAT Credit carried forward wrongly; Recovery of arrears due to revision of return under the existing law; Recovery of central excise duty, service tax or wrongly availed CENVAT credit thereof under the existing law and inadmissible transitional credit; Recovery of interest, penalty and late fee payable, etc. – **[Circular No. 42/16/2018-GST, dated 13th April, 2018]**

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## INTELLECTUAL PROPERTY RIGHTS

### 1) DELHI HC REITERATES THE DIFFERENCE BETWEEN THE LAW WITH RESPECT TO PASSING OFF AND THE LAW WITH RESPECT TO INFRINGEMENT

The Delhi HC observed that if the suit was based on the cause of action of infringement of the trademark of the plaintiff by the defendant then the Court had to essentially see the two trademarks only and not the packaging, whereas in the suit for passing off, the Court can examine, besides the respective trademarks, the other aspects of get up of the packaging of the products of the two parties. The Court held that the Plaintiff in the opinion of this Court in the facts of this case is thus disentitled to the relief on the cause of action of passing off on the ground that the get up and packaging of both the parties are completely different, and which second aspect is to be taken with the first aspect that plaintiff is using its wholly different main trademark of SUPERON with the trademark VAC-PAC as compared to the defendant's main

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trademark of GMM/arc with the word VAC-PAC. – *[Superon Schweisstechnik India Limited V/s Modi Hitech India Ltd., dated 2nd April, 2018 (Delhi HC)]*

## **2) IF THE DEFENDANT'S MARK IS CLOSELY, VISUALLY AND PHONETICALLY SIMILAR, THEN NO FURTHER PROOF IS NECESSARY**

In the present case, the Delhi HC noted the well settled law in infringement cases, if the defendant's mark is closely, visually and phonetically similar, then no further proof is necessary as held by the Hon'ble Supreme Court in the case of Kaviraj Pandit Durga Dutt Sharma vs Navarattana Pharmaceutical Lab. AIR 1965 SC 980. – *[Ferrero Spa & Anr. v. M/s Ruchi International & Anr., dated 2nd April, 2018]*

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## **CONSUMER**

### **1) MERE DEFAULT IN SOME INSTALLMENTS OF A LOAN, WOULD NOT AMOUNT TO SEIZING THE PROPERTY WITHOUT PROPER NOTICE**

State Consumer Disputes Redressal Commission's circuit bench in a matter imposed Rs. 5,000/- fine on TATA Motors finance wing at Civil Lines, for "deficiency in service" by seizing a vehicle of customer over defaulting on installments. The bench dismissed the case on the ground that the Appellant 'Tata Motors Finance Limited (TMFL)' had violated the terms of agreement by lifting the vehicle without serving a prior notice to Respondent, Munnilal Chouhan, for

payment of dues. The Nagpur District Consumer Forum's decision was challenged by the appellant to return the truck to Chandrapur resident, who had filed an appeal after the vehicle was seized.

The forum observed that the Appellant was bound by the said agreement to issue notice to respondent declaring amount due from him and after its service, to seize the vehicle and sell it. However, no prior notice was served; neither any explanation was given for not doing so. Further, the Appellant's reply was also not clear on whether prior notice was duly served to the respondent as per the agreement.

The Respondent took a loan of Rs.10.90 lakhs from the Appellant for the purchase of the truck on installments. However, there was default on payments by the Respondent which led to seizure of the vehicle by the Appellant on July 31, 2008. Consequently, a complaint was lodged with the forum by the Respondent contending there was no notice issued by the officials of the Appellant before seizure of the vehicle. The Respondent claimed that he and his family members were solely dependent on the income earned by using the truck and due to its seizure; they were facing physical and mental harassment.

The Commission held that even though some installments were defaulted by the respondent, but that did not exempt the Appellant from serving notice to the respondent so that the Respondent could have done the needful. There was no evidence to show that Respondent purchased vehicle purely for earning profit. He was using it for maintaining livelihood of his family by way of self-employment. Hence, it was concluded that the Respondent came within the purview of the definition of 'consumer' as per the Consumer

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Protection Act, 1986. – *[The Times of India, dated 2<sup>nd</sup> April, 2018]*

## 2) **COMPENSATION TO BE PAID FOR MISTAKE COMMITTED BY ONLINE TRAVEL FACILITATOR**

District Consumer Disputes Redressal Forum of Chennai directed the online travel services facilitator- MakeMyTrip ('MMT'), to compensate Rs. 63,000/- to a customer whose ticket was inadvertently cancelled by them. The petitioner was a resident of Coimbatore and had moved to the forum seeking compensation from MMT for deficiency in services. The petitioner had booked two flight tickets on July 29, 2015 through the Chennai office of MMT, to travel from Chennai to New Delhi on August 28, 2015 and was charged Rs. 12,098/- for the same.

However, there were some change of plans and the petitioner had to cancel one ticket through MMT's website. MMT cancelled the ticket of the other passenger instead amongst the two booked tickets and refunded a sum of Rs. 3,799/- after collecting a penalty. The petitioner stated that he learned of the cancellation of his ticket only on the day of travel through the airlines' customer care. Following this, he had to book a ticket again on August 28, 2015 spending Rs. 8,994/-.

On July 14, 2016, the petitioner moved to the consumer forum seeking compensation from the travel company for the inconvenience. In its counter petition MMT said that for proper adjudication of the matter, it is imperative that the concerned airlines in their defence tried to show their version of the incident. While accepting the petitioner's claim that his ticket was erroneously cancelled instead of his friend's, the company stated that the wrong

cancellation was done by the airlines and that they had processed a full refund and the same was confirmed by airlines via an e-mail on October 2, 2016.

The consumer forum was of the opinion that the fact that the opposite parties themselves are admitting to their wrongful cancellation of the complainant's ticket instead of his friend's, proves that they have committed deficiency. Therefore, the forum directed MMT to pay a sum of Rs. 50,000/- as compensation, apart from refunding the last minute ticket amount of Rs. 8,299/- and a sum of Rs. 5,000/- towards litigation expenses. – *[The Times of India dated 23<sup>rd</sup> April, 2018]*

## 3) **PROPER INTIMATION OF THE CONDITION AND TREATMENT MUST BE MADE TO THE PATIENT BY THE DOCTOR**

The Delhi State Consumer Commission, in a judgment has stated that it is essential for a hospital to disclose to the patients or their attendants, the line of treatment and the potential risks involved in it. This aspect came into light after the death of a 23-year-old student, who died during a treatment at Apollo Hospital in 2004. The commission's judicial member, partly allowed the plea of the deceased's father, who blamed the hospital for the death of his daughter and sought Rs. 50 lakh compensation.

While the panel found no negligence on the part of the hospital, it observed that there were no records to show whether the patient or her attendants were disclosed information relating to the diagnosis of the disease, nature of the proposed treatment, potential risks involved and consequences of the patient refusing the suggested line of treatment. All these things are

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fundamental requirements of law. In every field of medicine, an informed consent is mandatory, though emergency medical circumstances are an exception. The commission then directed the hospital and the treating doctor, to pay Rs. 5 lakh to the family.

In July 2004, the girl was suffering from diarrhoea and had sought treatment from a private doctor. But when her condition worsened, she was taken to the Indraprastha Apollo Hospital. Four days later, she was diagnosed with Systemic Lupus Erythematosus (SLE) and hemolytic anaemia. It was claimed that she was fit on July 28 and was about to get discharged the next day. However, the petitioner was later informed that her haemoglobin level was 7.1, and that she needed blood, following which blood transfusion was carried out, even when the patient had 102 fever. The steroids attacked the brain leading to her death, the petitioner alleged. The hospital had submitted before the panel that patient's condition warranted life saving measures and steroids had to be given. They were also informed that after admission, routine investigations as well as evaluation for cause of anaemia were done.

A consumer forum, which heard the matter before the commission, received opinions from medical experts who were of the view that the allegations of medical negligence were not proved. However, they added that there was some degree of communication gap between the patient's family and the doctor. The forum had granted Rs. 25,000 compensation, but the petitioner sought an enhancement.

The commission noted that the hospital's communication could have prepared the family for the treatment. It was further added that SLE disease had several risks, including death. It should have been explained to the patient or

her attendants. – *[The Times of India dated 17<sup>th</sup> April, 2018]*

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## ENVIRONMENT

### 1) SC QUASHES NGT ORDER ON 'SILENCE ZONE' AT AMARNATH

The Hon'ble Supreme Court quashed the order of the NGT declaring Amarnath cave shrine a silence zone and prohibiting religious offerings beyond the entry point. SC had taken up the Amarnath issue while dealing with a plea relating to stopping the use of horses and ponies in Vaishno Devi shrine premises in Jammu. Challenging the order, Amarnath Shrine Board approached the SC raising question on how could NGT interfere in the age-old tradition. – *[The Times of India, dated 17th April, 2018]*

### 2) NGT DIRECTS DELHI GOVT TO SEAL ILLEGAL BOREWELLS IN TWO WEEKS

The NGT has directed the Delhi government to act against unauthorised water extraction in the national capital and directed it to seal the illegal borewells within two weeks. The Bench directed the Delhi Jal Board (DJB) to submit the list of all illegal borewells running without permission. The order came after Delhi government told the tribunal that the concerned Deputy Commissioners of Revenue department could not seal the illegal borewells as they did not receive complete information about them from the DJB, as was directed by the tribunal. – *[The Times of India, dated 3rd April, 2018]*

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