

1. **RBI & FEMA**
2. **Foreign Trade**
3. **Corporate**
4. **Securities**
5. **Competition**
6. **Indirect Taxes**
 - a. **Customs**
 - b. **GST**
7. **Intellectual Property Rights**
8. **Consumer**
9. **Environment**

RBI/FEMA

1) MASTER CIRCULARS

Updated Master Circulars has been issued by RBI which can be accessed from their website. -
[RBI, 2nd, 4th & 5th July, 2018]

2) NAME OF THE PURCHASER TO BE INCORPORATED ON THE FACE OF THE DEMAND DRAFT

In order to address the concerns arising out of the anonymity provided by payments through demand drafts and its possible misuse for money laundering, RBI has decided that, on or after September 15, 2018, the name of the purchaser be incorporated on the face of the demand draft, pay order, banker's cheque, etc., by the issuing bank. -
[DBR.AML.BC.No.210/14.01.001/2018-19, dated 12th July, 2018]

3) INTEREST RATES FOR SMALL SAVINGS SCHEMES

RBI has stated that the interest rates on Small Savings Schemes for the second quarter of Financial Year 2018-19 starting 1st July, 2018 and ending September 30, 2018, shall remain unchanged from those notified for the first quarter of FY 2018-19. -
[DGBA.GBD.123/15.02.005/2018-19, dated 19th July, 2018]

4) NOTIFICATION OF REPURCHASE TRANSACTIONS (REPO) (RESERVE BANK) DIRECTIONS, 2018

The RBI has issued the Repurchase Transactions (Repo) (Reserve Bank) Directions, 2018. These Directions are issued to streamline and simplify the Comprehensive Repo Directions with a view to harmonize regulations across different types of collateral and also to encourage wider participation, especially for repos in corporate bonds and debentures. -
[FMRD.DIRD.01/14.03.038/2018-19, dated 24th July, 2018]

5) NOTIFICATION OF THE WHEN ISSUED TRANSACTIONS (RESERVE BANK) DIRECTIONS, 2018

The RBI has issued the When Issued Transactions (Reserve Bank) Directions, 2018. These directions are issued to liberalise the eligible participant base and relax the entity-wise limits for transactions in the "When Issued" (WI) market in Central Government Securities. -
[FMRD.DIRD.03/14.03.007/2018-19, dated 24th July, 2018]

JULY 2018

6) NOTIFICATION OF THE SHORT SALE (RESERVE BANK) DIRECTIONS, 2018

The RBI has issued the Short Sale (Reserve Bank) Directions, 2018. These directions are issued to liberalise the eligible short sale participant base and increase the entity-wise and security category-wise (liquid/other securities) limits for short selling in Government Securities. – *[FMRD.DIRD.05/14.03.007/2018-19, dated 25th July, 2018]*

FOREIGN TRADE

1) CLARIFICATION ON ACCEPTANCE OF ANY COPY OF SHIPPING BILL IN LIEU OF EP COPY OF SHIPPING BILL FOR GRANT OF EODC OF ADVANCE AUTHORISATION.

Representations have been received from Trade and Industry to allow acceptance of Exchange Control Copy of Shipping Bill in lieu of EP copy of Shipping Bill. Exporter Copy of Shipping Bill which is prescribed under ANF-4F published *vide* Public Notice No. 9/2015-2020 dated 14th May, 2018.

A viewing facility has been made available for RAs to view shipping bill details available on DGFT servers. However, many shipping bills are associated with an Advanced Authorisation and it is difficult at present for RAs to verify from the details available online. The facility is being improved to make it more user-friendly so that physical copy may not be required in future.

However, in the interim, in order to reduce transaction cost and for ease of doing business, it has been decided that exporter shall have option to furnish self-certified copy of shipping bill i.e., Exporter copy/EP Copy/CHA copy/ Exchange Control Copy of shipping bill along with application for EODC in ANF-4F where exports were made on or after 23.11.2016. –*[Policy Circular No: 09, dated 9th July, 2018, (Director General of Foreign Trade)]*

2) ADDITION OF VISHAKHAPATNAM PORT FOR IMPORT OF NEW VEHICLES.

Vishakhapatnam port is added to the existing list of 15 ports/ICDs through which import of new vehicles is permitted under Policy Condition 2(11)(d) of Chapter 87 of ITC (HS) 2017, Schedule 1 (Import Policy). –*[Notification No. 18 /2015-2020, dated 12th July, 2018, (Director General of Foreign Trade)]*

3) EXPORTS THROUGH COURIER / SERVICE POST- AMENDMENT IN PARA 2.47 AND PARA 3.05 OF THE CHAPTER-3 OF FTP 2015-2020

Exports through a registered courier service is permitted as per Notification issued by DoR. However, exportability of such items shall be regulated in accordance with FTP / ITC (HS), 2017. The value limit for such exports through Courier Service and Post shall be Rs. 5,00,000/- per consignment. –*[Notification No. 22 / 2015-2020, dated 26th July, 2018, (Director General of Foreign Trade)]*

JULY 2018

CORPORATE

1) **IBBI (INSOLVENCY RESOLUTION PROCESS FOR CORPORATE PERSONS) (THIRD AMENDMENT) REGULATIONS, 2018**

IBBI has amended the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 providing as follows:

Adds definition of “class of creditors” to mean a class with at least ten financial creditors under S. 21(6A)(b) and the expression, “creditors in a class” shall be construed accordingly.

The eligibility criteria for resolution professional has been amended whereby the resolution professional shall be considered independent of the corporate debtor if he is not an employee / proprietor / partner of a legal or a consulting firm, that has or had any transaction with the corporate debtor amounting to **five per cent (earlier 10%)** or more of the gross turnover of such firm, in the last three financial years.

Further, the amendments provide that if the committee of creditors (CoC) decides to appoint the interim resolution professional as resolution professional or replace the interim resolution professional under Section 22 or replace the resolution professional under Section 27, it shall obtain the written consent of the proposed resolution professional.

Wherever the corporate debtor has classes of creditors having at least ten creditors in the class, the interim resolution professional shall offer a choice of three insolvency professionals in the public announcement to act as the authorised representative of creditors in each class. A

creditor in a class may indicate its choice of insolvency professional, from amongst the three choices provided by the interim resolution professional, to act as its authorised representative. The insolvency professional, who is the choice of the highest number of creditors in the class, shall be appointed as the authorised representative of the creditors of the respective class.

A person claiming to be a creditor in a class shall submit claim with proof to the interim resolution professional in electronic form by submitting the records available with an information utility or other relevant documents, including agreement for sale; letter of allotment; receipt of payment made; or such other document, evidencing existence of debt. Further, a creditor, who fails to submit claim with proof within the time stipulated in the public announcement, may submit the claim with proof to the interim resolution professional or the resolution professional on or before the ninetieth day of the insolvency commencement date.

The voting share of a creditor in a class shall be in proportion to the financial debt which includes an interest at the rate of eight per cent per annum unless a different rate has been agreed to between the parties.

The authorised representative of creditors in a class shall be entitled to receive fee for every meeting of the committee attended by him in the prescribed manner.

Where the corporate debtor has only creditors in a class and no other financial creditor eligible to join the committee, the committee shall consist of only the authorised representative(s)

Where the appointment of resolution professional is delayed, the interim resolution professional shall perform the functions of the resolution professional from the fortieth day of the insolvency commencement date till a resolution professional is appointed.

A meeting of the CoC shall be called by giving not less than five days' notice in writing to every participant. The CoC may, however, reduce the notice period from five days to such other period of not less than 48 hours where there is any authorised representative and to 24 hours in all other cases. The authorised representative shall circulate the agenda to creditors in a class and announce the voting window at least 24 hours before the window opens for voting instructions and keep the voting window open for at least 12 hours.

The resolution professional shall circulate the minutes of the meeting by electronic means to all members of the committee within 48 hours of the conclusion of the meeting; and seek a vote of the members who did not vote at the meeting on the matters listed for voting, by electronic voting system in accordance with Regulation 26 where the voting shall be kept open for 24 hours from the circulation of the minutes.

A sale of assets under this Reg. 29(2) shall require approval of the committee by a vote of 66% of voting share of the members.

An application for withdrawal of an application admitted under Sections 7, 9 or 10 of the Code (for closure of corporate insolvency resolution process) may be submitted to the interim resolution professional or the resolution professional, as the case may be, before the issuance of invitation for expression of interest,

along with a bank guarantee towards estimated cost incurred for certain purposes under the process. The CoC shall consider the application within seven days of its constitution or seven days of receipt of the application, whichever is later. If the application is approved by the CoC with 90% voting share, the resolution professional shall submit the application to the Adjudicating Authority on behalf of the applicant, within three days of such approval.

The resolution professional shall form an opinion whether the corporate debtor has been subjected to certain transactions (preferential transactions, undervalued transactions, extortionate transactions or fraudulent transactions) by 75th day and make a determination of the same by 115th day of the insolvency commencement date. Where the resolution professional makes such a determination, he shall apply to the Adjudicating Authority for appropriate relief before 135th day of the insolvency commencement date.

The resolution professional shall publish an invitation for expression of interest (EoI) by the 75th day from the insolvency commencement date. The invitation shall specify the criteria, ineligibility, the last date for submission of EoI and other details and shall not require payment of non-refundable deposit. Any EoI received after the specified time shall be rejected. The resolution professional shall conduct due diligence based on material on record and issue a provisional list of prospective resolution applicants within 10 days of the last date of submission of EoI. On considering objections to the provisional list, the resolution professional shall issue the final list of prospective resolution applicants, within 10 days of the last date for receipt of objections.

The resolution professional shall issue the information memorandum, evaluation matrix and a request for resolution plans, within five days of the date of issue of the provisional list under Reg. 36A(10) to every prospective resolution applicant in the provisional list; and every prospective resolution applicant who has contested the decision of the resolution professional against its non-inclusion in the provisional list. The request for resolution plans shall allow prospective resolution applicants a minimum of thirty days to submit the resolution plans.

The request for resolution plans shall detail each step in the process, and the manner and purposes of interaction between the resolution professional and the prospective resolution applicant, along with corresponding timelines. The resolution plan needs to demonstrate that it addresses the cause of default; it is feasible and viable; it has provisions for its effective implementation; it has provisions for approvals required and the timeline for the same; and the resolution applicant has the capability to implement the resolution plan.

The CoC shall evaluate the resolution plan strictly as per the evaluation matrix to identify the best resolution plan and may approve it with the required majority. If approved by the CoC, the resolution professional shall endeavour to submit the resolution plan approved by the CoC to the Adjudicating Authority at least 15 days before the maximum period for completion of corporate insolvency resolution process, along with a compliance certificate in the specified Form.

The amended Regulations present in a tabular format the model timeline of corporate insolvency resolution process on the assumption

that the interim resolution professional is appointed on the date of commencement of the process and the time available is 180 days. – *[Ministry of Corporate Affairs, 3rd July, 2018]*

2) CABINET APPROVES ACCESSION TO WIPO COPYRIGHT TREATY, 1996 AND WIPO PERFORMANCE AND PHONOGRAMS TREATY, 1996

The Cabinet has approved the proposal submitted by DIPP pertaining to accession to the WIPO Copyright Treaty and WIPO Performers and Phonograms Treaty which extends coverage of copyright to the internet and digital environment. The objective is to get value for IPRs through commercialization by providing guidance and support to extended producer responsibility (EPR) owners about commercial opportunities of e-commerce through Internet and mobile platforms. Both the treaties provide framework for creators and right owners to use technical tools to protect their works and safeguard information about their use i.e., protection of Technological Protection Measures (TPMs) and Rights Management Information (RMI).

The benefits under these treaties are as follows:

Enable creative right-holders enjoy the fruit of their labour, through international copyright system that can be used to secure a return on the investment made in producing and distributing creative works;

Facilitate international protection of domestic rights holder by providing them level-playing field in other countries as India already extends protection to foreign works through the

JULY 2018

International Copyright order and these treaties will enable Indian right holders to get reciprocal protection abroad;

Instil confidence and distribute creative works in digital environment with return on investment; and

Spur business growth and contribute to the development of a vibrant creative economy and cultural landscape. –[*Cabinet Press Release dated, 4th July, 2018*]

3) CABINET APPROVES EXTENSION OF SCHEME OF RECAPITALIZATION OF REGIONAL RURAL BANKS UPTO 2019-20

The Cabinet has approved the extension of the scheme of recapitalization of Regional Rural Banks (RRBs) for the next 3 years i.e., up to 2019-20 to enable the RRBs to maintain the minimum prescribed Capital to Risk Weighted Assets Ratio (CRAR) of 9%. A strong capital structure and minimum required level of CRAR shall ensure financial stability of RRBs and shall enable them to play a greater role in financial inclusion and meeting the credit requirements of rural areas. The identification of RRBs requiring recapitalization and the amount of capital to be provided, shall be decided in consultation with NABARD. This approval is in addition to the announcement made in the Union Budget 2018-19 to allow financially strong RRBs to raise capital from sources other than Government, State Government and Sponsor Banks. – [Cabinet Press Release dated, 4th July, 2018]

4) COMPANIES (REGISTRATION OF CHARGES) AMENDMENT RULES, 2018

MCA has amended the Companies (Registration of Charges) Rules 2014 as follows:

Rule 8(1) regarding satisfaction of charges has been amended to provide that a company or charge holder shall within 300 days (earlier 30 days) from the date of the payment or satisfaction in full of any charge registered under Chapter VI, give intimation of the same to the Registrar in Form No.CHG-4 along with the fee.

Rule 12 (1) has been amended to provide that where the instrument creating or modifying a charge is not filed within a period of three hundred days from the date of its creation (including acquisition of a property subject to a charge) or modification and where the satisfaction of the charge is not filed within 300 days (earlier 30 days) from the date on which such payment of satisfaction, the Registrar shall not register the same unless the delay is condoned by the Central Government. – [Ministry of Corporate Affairs, dated 5th July, 2018]

5) IBBI CLARIFICATION REGARDING APPOINTMENT OF AUTHORISED REPRESENTATIVE FOR CLASS OF CREDITORS

The IBBI (Insolvency Resolution Process for Corporate Persons) (Third Amendment) Regulations, 2018 added a new definition pertaining to “class of creditors” and provisions relating to authorised representatives. Section 21(6A)(b) of the Insolvency and Bankruptcy Code, 2016 read with Reg.16A(1) of the IBBI (Insolvency Resolution Process for Corporate

JULY 2018

Persons) Regulations, 2016, provides for a simplified mechanism of representation of financial creditors through authorised representatives. This simplified mechanism should necessarily be used during an ongoing corporate insolvency resolution process, where creditors belonging to a class are otherwise not represented in the committee of creditors, irrespective of the stage of the process. The resolution professional, who exercises the powers and performs the duties as vested or conferred on the interim resolution professional under Section 23(2) of the Code, shall facilitate representation through authorised representative(s).

Accordingly, IBBI has clarified that wherever the approval of resolution plan under Reg.39 (3) of the Regulations is at least 15 days away, the resolution professional shall expeditiously obtain, by electronic means, the choice of the insolvency professional from creditors in a class to act as the authorised representative of the class and proceed further in the manner as specified in Reg.16A. – *[No. IBBI/CIRP/015/2018, dated 13th July, 2018]*

*** **

SECURITIES

1) SEBI INCREASES OVERSEAS INVESTMENT LIMIT OF AIFS, VCFS TO \$750 MILLION

SEBI in consultation with RBI has enhanced the overseas investment limit of alternative investment funds (AIFs) and venture capital funds (VCFs) to \$750 million from the current \$500 million. In order to monitor the utilization

of overseas investment limits, AIFs/ VCFs shall mandatorily:

Report the utilization of the overseas limits within 5 working days of such utilization on SEBI intermediary portal.

In case an AIF/VCF has not utilised the overseas limit or has utilized a part of the overseas limit granted to them within 6 months from SEBI's approval, the same will have to be reported within 2 working days after expiry of the validity period.

Further, in case an AIF/ VCF wishes to surrender the overseas limit at any point of time within the validity period, the same shall be reported within 2 working days from the date of decision to surrender the limit.

All other requirements, terms and conditions, as specified SEBI circulars dated August 9, 2007 and dated October 01, 2015, shall remain unchanged.

[SEBI/HO/IMD/DF1/CIR/P/2018/103/2018, dated 3, July, 2018 (SEBI)]

2) SEBI MASTER CIRCULAR ON AML AND CFT GUIDELINES

Pursuant to amendments made to the PMLA and Rules thereunder, SEBI has released updated guidelines in the context of recommendations made by Financial Action Task force (FATF) on anti-money laundering standards. These guidelines have been divided into two parts; the first part is an overview on the background and essential principles that concern combating Money Laundering (ML) and Terrorist Financing (TF). The second part provides a detailed account of the procedures and obligations to be followed

JULY 2018

by all registered intermediaries to ensure compliance with AML/ CFT directives. These guidelines shall also apply to their branches and subsidiaries located abroad, especially, in countries which do not or insufficiently apply the FATF Recommendations, to the extent local laws and regulations permit.

The key circulars/directives issued with regard to KYC, CDD, AML and CFT have been mentioned in Schedule I. This Master Circular shall supersede the earlier Master Circular on AML/ CFT dated December 31, 2010. – **[SEBI/HO/MIRSD/DOS3/CIR/P/2018/104, dated July 4, 2018]**

3) SEBI RELEASES CIRCULAR ON ADJUSTMENT OF CORPORATE ACTIONS FOR STOCK OPTIONS.

SEBI by its Circular dated June 21, 2001, prescribed a framework for adjustment of corporate actions for stock option contracts. Further, SEBI Circular dated December 18, 2002, set out principles for adjustment in derivative contracts at the time of corporate actions. Pursuant to representations from various stakeholders and recommendations of the Secondary Market Advisory Committee (SMAC), SEBI has decided that the adjustment in strike price shall be carried out in the following cases of declaration of dividends:

Dividends declared at and above 5% of the market value of the underlying stock; or

All cases of dividends, where the listed entity has sought exemption from the timeline prescribed under the provisions of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.

All other conditions stated in aforementioned circulars shall remain unchanged. – **[CIR/MRD/DoP-1/P/00108/2018, dated 5th July, 2018 (SEBI)]**

4) SEBI MASTER CIRCULAR ON MUTUAL FUNDS

SEBI has issued a Master Circular on Mutual Funds which is a compilation of all the circulars issued by SEBI on the subject, which are operational as on date of this circular (i.e., July 10, 2018). This Master Circular includes circulars issued up to June 05, 2018. In case of any inconsistency between the master circular and the applicable circulars, the contents of the relevant circular shall prevail. Efforts have also been made to incorporate certain applicable provisions of existing circulars (as on date) issued by other Departments/Divisions of SEBI relevant to Mutual Funds. This Master Circular shall supersede the previous Master Circular dated September 14, 2016. – **[SEBI/HO/IMD/DF5/CIR/P/2018/109, dated 10 July, 2018]**

5) SEBI AMENDS SECURITIES CONTRACTS (REGULATION) RULES, 1957

SEBI has amended Rule 19A of the Securities Contracts (Regulation) Rules, 1957. A new sub-rule (5) has been added providing that where the public shareholding in a listed company falls below 25%, as a result of implementation of the resolution plan approved under Section 31 of the Insolvency and Bankruptcy Code, 2016, such company shall bring the public shareholding to 25% within a maximum period of three years from the date of such fall, in the manner

JULY 2018

specified by SEBI. Further, if the public shareholding falls below 10%, the same shall be increased to at least 10%, within a maximum period of eighteen months from the date of such fall, in the manner specified by SEBI. *–[Ministry of Finance, dated 25th July, 2018]*

COMPETITION

1) CCI LAUNCHES AN ONLINE GUIDANCE SYSTEM FOR DETERMINING NOTIFIABILITY OF MERGER & ACQUISITIONS

Supplementing the Government of India's vision for e-Governance and Digital India Programme, the CCI today launched an Online Guidance System for determining notifiability of merger & acquisitions (combinations) in terms of the Competition Act, 2002. This application envisages a staged process to guide the stakeholders in determining whether a merger/acquisition is notifiable to CCI. DIY toolkit is accessible at <https://efilingcci.gov.in/DIY>. *–[Competition Commission of India Press Release, dated 4th July, 2018]*

2) COMPETITION COMMISSION OF INDIA GRANTS 100% REDUCTION OF PENALTY FOR THE FIRST TIME IN A CARTEL CASE

The Competition Commission of India (CCI), in its order dated 11 July 2018, has awarded a 100 per cent reduction in penalty under Section 46 of the Competition Act, 2002 (Act) and the Competition Commission of India (Lesser

Penalty) Regulations, 2009 (Leniency Regulations) to leniency applicants Globecast India Private Limited and Globecast Asia Private Limited along with their respective responsible office-bearers. It has also awarded a 30 per cent reduction to Essel Shyam Communication Limited (now Planetcast Media Services Limited) (ESCL) along with their responsible officer bearers, in a cartel case in the broadcasting services industry.

The case emanates from a leniency application filed by Globecast providing information of its bid-rigging arrangement with ESCL. The CCI formed its prima facie order based on this application and accorded the first priority status to Globecast. ESCL, on the other hand, was accorded second priority status having filed its leniency application only after the issuance of the prima facie order and after receiving a notice from the office of the Director General (DG). The CCI and the DG held them to be guilty of violating Section 3 of the Act.

Issue at hand was whether there was an exchange of commercially sensitive information between ESCL and Globecast; and whether the arguments presented by the leniency applicants explained their alleged violations of the Act and the key persons of ESCL and Globecast involved in the alleged bid-rigging.

Considering the evidence and the information furnished by the leniency applicants, the CCI granted a 100 per cent reduction in penalty to Globecast and its responsible office bearers because it had made vital disclosures by submitting evidence of the alleged cartel, enabling the CCI to form a prima facie opinion regarding

JULY 2018

existence of the cartel and strengthening further investigation. The evidence submitted by Globecast was found crucial in revealing the modus operandi of the cartel.

In contrast, ESCL was granted a 30 per cent reduction in penalty because it furnished additional facts such as proposed investment talks between the parties and related evidence such as a copy of the non-disclosure agreement and correspondence exchanged in this regard. Although the ESCL evidence was not vital to establishing bid-rigging, it disclosed one of the factors behind the information exchange and added value to the ongoing investigation. – *[Sports Broadcasters v. Essel Shyam Communication Limited & others (CCI) dated 11th July 2018]*

3) CCI ORDERS PENALTY TO PHARMA ASSOCIATIONS FOR VIOLATING SECTION 3 OF THE COMPETITION ACT, 2002

Certain pharmaceutical companies allegedly denied supply of drugs/products to the Informants solely because they were not able to obtain a NOC from the concerned chemists and druggists associations. The Director General was of a *prima facie* opinion that the Opposite Parties have indulged in anti-competitive conduct and have thus, contravened the provisions of Section 3(3)(b) read with Section 3(1) of the Competition Act, 2002 ('Act'). The DG observed that sub-clause (a) of Clause 28 of the Drugs (Price Control) Order, 2013 creates an obligation on a pharmaceutical company/ distributor to sell drugs/ medicines *unless* there is a 'good and sufficient reason' to refuse sale. Issue was *whether the allegation of the Informants against the Federation and/or its constituent associations, regarding the practice of mandating NOC prior to the appointment of stockists/*

distributors in the State of Gujarat is substantiated by facts and evidences, and if so, are the provisions of the Act contravened? Commission concludes that these associations have contravened the provisions of Section 3(3)(b) read with Section 3(1) of the Act based on the relevant evidence produced. – *[In Re M/s Alias Medical Agency and Federation of Gujarat State Chemists & Druggists Associations & others dated 12th July, 2018]*

INDIRECT TAXES

a. CUSTOMS

1) EXPORT DUTY REDUCED ON EXPORT OF IRON ORE

Notification No. 27/2011-Customs dated 1st March, 2011 amended so as to reduce the export duty on export of Iron Ore by MMTC Limited (only NMDC origin) to Japan and South Korea under the Long Term Agreement (LTA), from 30% to 10%, upto and inclusive of 31.03.2021. – *[Notification No. 51/2018 -Customs, dated 9th July, 2018]*

2) ITEMS ADDED TO THE LIST OF EXEMPTED HANDICRAFT ITEMS

Notification No. 50/2017-Customs dated 30.06.2017 amended so as to expand list of exempt items for Handicraft Sector. – *[Notification No. 52/2018-Customs, dated 14th July, 2018]*

JULY 2018

3) BCD RATES ON CERTAIN TEXTILE GOODS AMENDED

Notification No. 82/2017, dated the 27th of October, 2017 amended so as to amend BCD rates on certain textile goods. – *[Notification No.53/2018-Customs, dated 16th July, 2018]*

4) AMENDMENT IN EXPORT MANIFEST

The CBIC has notified the Levy of Fees (Customs Documents) Amendment Regulations, 2018 to further amend the Levy of Fees (Customs Documents) Regulations, 1970. *Vide* the present amendment the Board waives off levy of fees in respect of export manifest when same is amended or supplemented with entries relating to shipping bills filed from July 1, 2017 to June 30, 2018 in Inland Container Depots. – *[Notification No. 64 /2018 - Customs (N.T.), dated 27th July, 2018]*

5) NOTIFICATION OF SEA CARGO MANIFEST AND TRANSHIPMENT REGULATIONS 2018 DEFERRED

The CBIC has deferred the date of coming into force of the Sea Cargo Manifest and Transshipment Regulations 2018 to 1st November, 2018. – *[Notification No. 65 /2018 - Customs (N.T.), dated 30th July, 2018]*

6) SAFEGUARD DUTY ON IMPORTS OF 'SOLAR CELLS'

Safeguard duty imposed on imports of 'Solar Cells, whether or not assembled in modules or panels' falling under Heading 8541 of the Customs Tariff Act, 1975, for a period of two years at the following rate, namely:-

(a) twenty five per cent ad valorem minus anti-dumping duty payable, if any, when imported during the period from 30th July, 2018 to 29th July, 2019 (both days inclusive);

(b) twenty per cent ad valorem minus anti-dumping duty payable, if any, when imported during the period from 30th July, 2019 to 29th January, 2020 (both days inclusive); and

(c) fifteen per cent ad valorem minus anti-dumping duty payable, if any, when imported during the period from 30th January, 2020 to 29th July, 2020 (both days inclusive). –

[Notification No. 01/2018-Customs (SG), dated 30th July, 2018]

7) ADD ON IMPORTS OF "HIGH TENACITY POLYESTER YARN(HTPY)"

Definitive anti-dumping duty imposed on imports of "High Tenacity Polyester Yarn (HTPY)" from China PR for a period of five years. – *[Notification No.35/2018-Customs (ADD), dated 9th July, 2018]*

8) ADD ON IMPORTS OF "GRINDING MEDIA BALLS"

Anti-dumping duty imposed on the imports of "Grinding Media Balls" (excluding Forged Grinding Media Balls) originating in or exported from China PR and Thailand for a period of five years. – *[Notification No. 36/2018-Customs (ADD), dated 13th July, 2018]*

JULY 2018

b. GST

1) 'DIRECTORATE GENERAL OF SAFEGUARDS' RE-NAMED AS 'DIRECTORATE GENERAL OF ANTI-PROFITEERING' UNDER GST RULES

The CBIC has notified the CGST (Seventh Amendment) Rules, 2018 *vide* which the word 'Directorate General of Safeguards' has been substituted by the word 'Directorate General of Anti-profiteering' under the CGST Rules, 2018. – *[Notification No. 29/2018 – Central Tax, dated 6th July, 2018]*

2) EXTENSION OF DUE DATE FOR FILING OF FORM GSTR-6

The CBIC has extended the due date for filing of FORM GSTR-6 for the months of July, 2017 to August, 2018 till the 30th day of September, 2018. – *[Notification No. 30/2018 – Central Tax, dated 30th July, 2018]*

3) AMENDMENTS AFTER 28TH GOODS AND SERVICES TAX COUNCIL HELD ON 21.07.2018

Notification No. 11/2017- Central Tax (Rate) amended so as to notify CGST rates of various services as recommended by Goods and Service Tax Council in its 28th meeting held on 21.07.2018. – *[Notification No. 13/2018-Central Tax (Rate), dated 26th July, 2018]*

- Notification No. 12/2017- Central Tax (Rate) amended so as to exempt certain services as recommended by Goods and Services Tax Council in its 28th meeting held on 21.07.2018. – *[Notification No. 14/2018-Central Tax (Rate), dated 26th July, 2018]*

- Notification No. 13/2017- Central Tax (Rate) amended so as to specify services supplied by individual Direct Selling Agents (DSAs) to banks/ non-banking financial company (NBFCs) to be taxed under Reverse Charge Mechanism (RCM). – *[Notification No. 15/2018-Central Tax (Rate), dated 26th July, 2018]*
- Notification No. 14/2017- Central Tax (Rate) amended so as to notify that services by way of any activity in relation to a function entrusted to a municipality under Article 243W shall be treated neither as a supply of good nor a service. – *[Notification No. 16/2018-Central Tax (Rate), dated 26th July, 2018]*
- Concessional CGST rate prescribed on specified handicraft items. – *[Notification No. 21/2018-Central Tax (Rate), dated 26th July, 2018]*
- Notification No. 01/2017-Central Tax (Rate), Notification No. 02/2017-Central Tax (Rate), Notification No 05/2017-Central Tax (Rate) all dt. 28-06-2017 amended to give effect to the recommendations of the GST Council in its 28th meeting. – *[Notification No. 18/2018-Central Tax (Rate), dated 26th July, 2018; Notification No. 19/2018-Central Tax (Rate), dated 26th July, 2018; & Notification No. 20/2018-Central Tax (Rate), dated 26th July, 2018]*

Similar notifications have been issued under the IGST Act and UTGST Act as well.

4) CIRCULAR CLARIFYING GST RATE ON CATERING SERVICES WITHDRAWN AS SEPARATE NOTIFICATIONS ISSUED

The Circular No. 28/02/2018-GST, dated 08.01.2018 as amended *vide* Corrigendum dated

JULY 2018

18.01.2018 was issued to clarify GST rate applicable on catering services, i.e., supply of food or drinks in a mess or canteen in an educational institute. Also, Order No. 02/2018-Central Tax dated 31.03.2018, was issued to clarify GST rate on supply of food and/or drinks by the Indian Railways or Indian Railways Catering and Tourism Corporation Ltd. or their licensees, in trains or at platforms (static units).

Consequent to the decisions of 28th GST Council Meeting held on 21.07.2018, the contents of the Circular No. 28/02/2018-GST dated 08.01.2018 as amended *vide* Corrigendum dated 18.01.2018 have been incorporated in Sl. No. 7 (i) of the Notification No. 13/2018-Central Tax (Rate), dated 26.07.2018 amending the Notification No. 11/2017- Central Tax (Rate) dated 28th June 2017. Also, the contents of the Order No. 02/2018-Central Tax dated 31.03.2018 have been incorporated in Sl. No. 7(ia) of the Notification No. 13/2018-Central Tax(Rate), dated 26.07.2018 amending the Notification No. 11/2017-Central Tax (Rate) dated 28th June 2017. Therefore, the CBIC has withdrawn Circular No. 28/02/2018-GST, dated 08.01.2018 as amended *vide* Corrigendum dated 18.01.2018 and Order No. 02/2018-Central Tax dated 31.03.2018 w.e.f 27.07.2018. – **[Circular No. 50/24/2018-GST, dated 31st July, 2018]**

5) CBIC EXEMPTS GST ON AMBULANCE SERVICES PROVIDED TO GOVT BY PRIVATE SERVICE PROVIDERS UNDER NATIONAL HEALTH MISSION

CBIC has exempted GST on Ambulance Services provided to Government by Private Service Providers (PSP) under the National Health Mission (NHM). The present Circular has clarified that, the service tax exemption at Sl. No.2 of Notification No. 25/2012 dated

20.06.2012 has been carried forward under GST in the identical form *vide* Sl. No. 74 of notification No. 12/2017- CT (R) dated 28.06.2017. The service tax exemption at serial No. 25(a) of Notification No. 25/2012 dated 20.06.2012 has also been substantially, although not in the same form, continued under GST *vide* Sl. No. 3 and 3A of the Notification No. 12/2017- CT (R) dated 28.06.2017. The Circular also stated that the clarification contained in the Circular No. 210/2/2018 – Service Tax dated 30th May 2018, with regard to the services provided by Government and PSPs by way of transportation of patients in an ambulance is applicable for the purpose of GST also, as the said services are specifically exempt under Notification No. 12/2017 – Central Tax (Rate) dated 28.06.2017 *vide* Sl. No. 74.

As regards the service provided by PSPs to the State Governments by way of transportation of patients on behalf of the State Governments against consideration in the form of fee or otherwise charged from the State Government, it is clarified that the same would be exempt under-

- a. Sl. No. 3 of Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 if it is a pure service and not a composite supply involving supply of any goods, and
- b. Sl. No. 3A of Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 if it is a composite supply of goods and services in which the value of supply of goods constitutes not more than 25 per cent of the value of the said composite supply. – **[Circular No. 51/25/2018-GST, dated 31st July, 2018]**

*** **

JULY 2018

INTELLECTUAL PROPERTY RIGHTS

1) DELHI HC REITERATES THE FIRST AND THE FOREMOST TEST IN A SUIT FOR INFRINGEMENT AND PASSING OFF

The Delhi HC while deciding a case involving issues regarding both infringement and passing off, observed that in a suit for infringement, the first and the foremost test is as to whether the Trademark of the Plaintiff is validly registered and in passing off, the first and the foremost issue that deserves adjudication is the question of prior user and thereafter, reputation and goodwill. – *[Rakesh Kumar Aggarwal v. Lock & Locking Devices, dated 4th July, 2018 (Delhi HC)]*

2) MERE REGISTRATION UNDER THE COPYRIGHT ACT, 1957 DOES NOT AUTHORIZE THE DEFENDANT TO USE THE TRADEMARK OF THE PLAINTIFF

The present case was filed by the Plaintiff against the Defendants for using an identical trade mark, i.e., 'PETER ENGLAND', as the primary and dominant part of its trade mark and the use of the suffix of VIP SHOES below the said trade mark 'PETER ENGLAND' in a much smaller font. One of the issues that came up for consideration before the court was regarding the effect of a copyright registration by the defendant of its brand PETER ENGLAND VIP SHOES.

The Court referring to an earlier judgment in the case of Societe Des Produits Nestle vs. Continental Coffee Ltd. (2011) 185 DLT 752 held that, registration of an artistic work under the Copyright Act, 1957 in favour of the defendants, does not confer any right in the

defendants to use the plaintiff's trademark 'PETER ENGLAND' and/or the same does not afford a defense to the defendants in a suit for infringement. – *[Aditya Birla Nuvo Limited v. M/S R.S Sales Corporation & Anr, dated 10th July, 2018 (Delhi HC)]*

3) STAY OF THE PROCEEDINGS IN THE SUIT WOULD NOT PRECLUDE THE COURT FROM MAKING ANY INTERLOCUTORY ORDER: DELHI HC

The Delhi HC in the present case observed that it is apparent from the plain language of Section 124(5) of the Act that notwithstanding the proceedings in the suit stayed under Section 124 of the Act, Court would not be precluded from considering an application for an interlocutory order. Thus, the stay of the proceedings in the suit would not preclude the Court from making any interlocutory order. – *[Lt Foods Limited v. Heritage Foods (India) Limited, dated 2nd July, 2018 (Delhi HC)]*

CONSUMER

1) SUPREME COURT PUTS A STAY ON ORDER BY NCDRC DIRECTING ISSUE OF PUBLIC NOTICE IN CLASS ACTION SUIT

Mahajan Imaging Private Ltd., had moved a class action suit against Tata Communications seeking compensation for having lost their data. The complainant had entered into a contract with Tata to preserve clinical records of their customers in 2012 but lost access to the data in

JULY 2018

2016. The complaint was resisted on the ground that Mahajan Imaging is not a 'consumer'.

The National Commission was to decide whether a public notice could be issued in the present class action suit. The Bench hearing the case held that there was no bar under the Civil Procedure Code which prohibited such public notice from being issued.

However, the Supreme Court of India has stayed this order of the Apex consumer commission. – *[Mahajan Imaging Private Limited v. TATA Communications Limited, 3rd July, 2018 (NCDRC)]*

2) LACK OF MEDICAL FACILITIES IN RAILWAYS: SOMETHING 'TERRIBLY WRONG', SAYS SC

The Supreme Court said that the Railways have failed to provide adequate medical facility in trains and stations resulting in deaths of passengers in some cases. These remarks by the apex court came while hearing a matter related to the death of a man at the platform of Vijayawada railway station after de-boarding a train. The Court asked the counsel appearing for the Railway Board to file an affidavit within two weeks giving details of the medical facilities at railway stations.

The appeal was being heard by the apex court filed by the Railway Board against the February 20 judgment of the NCDRC, which had upheld the Rs. 10 lakh compensation awarded by a State Consumer Commission to the widow of the deceased who claimed that that no medical aid was provided to her husband which led to his death.

The commission had noted that he had died at one of the platforms of Vijayawada railway

station and his body was noticed after around four hours. In its order, the NCDRC had observed that it was possible that the life of the person could have been saved had immediate medical aid was provided to him. – *[The India Today dated 31st July 2018]*

ENVIRONMENT

1) NGT: IF CIGARETTE PACKS CAN HAVE WARNING, WHY NOT FOR GANGA WATER

The NGT said the water of the Ganga, between Haridwar and Unnao in UP, was unfit for drinking and bathing, and expressed anguish over the situation. The Bench observed - *"Do people of this country know that Ganga water is unfit for drinking and bathing? They perform achamana (purification ritual) thinking that they will go to heaven. Can you imagine which heaven will they go to if they drink this polluted water."* The NGT directed National Mission for Clean Ganga (NMCG) to install display boards at a gap of 100 kilometres, indicating whether the water was fit for bathing or drinking. The tribunal, however, said that where there was more habitation, display boards may be put at a shorter distance. – *[The Times of India, dated 28th July, 2018]*

2) JUSTICE ADARSH KUMAR GOEL APPOINTED AS NGT CHAIRPERSON

Justice Adarsh Kumar Goel, who retired from the Supreme Court, has been appointed the chairperson of the NGT for five years, according

JULY 2018

to an order issued by the personnel ministry. –
[The Times of India, dated 6th July, 2018]

3) GOA APPROACHES NGT FOR NOD TO CUT OVER 21,000 TREES

The State Government has approached the NGT for permission to cut 21,703 trees at the site of the Greenfield airport at Mopa. This comes in the wake of the Order dated 13th June of the High Court of Bombay at Goa directing the state to do so. On November 7, 2017, the NGT had directed that there would be no tree felling in the area. –
[The Times of India, dated 8th July, 2018]

Disclaimer: The information contained in this Newsletter is for general purposes only and LEXport is not, by means of this newsletter, rendering accounting, business, financial investment, legal, tax, or other professional advice or services. This material is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your business. Further, before making any decision or taking any action that may affect your business, you should consult a qualified professional advisor. LEXport shall not be responsible for any loss sustained by any person who relies on this newsletter.

As used in this document, “LEXport” means LEXport - Advocates and Legal Consultants.

Please see www.lexport.in/about-firm.aspx for a detailed description about the LEXport and services being offered by it.