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RBI/FEMA

1) **RBI ALLOWS RESTRUCTURING OF MSME LOANS UP TO RS.25 CRORE**

With a view to facilitate meaningful restructuring of MSME accounts {MSME as defined in the Micro, Small and Medium Enterprises Development (MSMED) Act, 2006} that have become stressed, RBI has decided to permit a one-time restructuring of existing loans to MSMEs classified as 'standard' without a downgrade in the asset classification, subject inter-alia to the following conditions:

- i. The aggregate exposure, including non-fund based facilities, of banks and NBFCs to the borrower does not exceed Rs.250 million as on January 1, 2019.
- ii. The borrower's account is in default but is a 'standard asset' as on January 1, 2019 and continues to be classified as a 'standard asset' till the date of implementation of the restructuring.
- iii. The borrowing entity is GST-registered on the date of implementation of the restructuring. However, this condition will not apply to

MSMEs that are exempt from GST-registration. —

[DBR.No.BP.BC.18/21.04.048/2018-19, dated 01st January, 2019]

2) **RBI REVIEWS THE CRITERIA FOR DETERMINING THE CUSTOMERS' LIABILITY IN UNAUTHORISED ELECTRONIC PAYMENT TRANSACTIONS INVOLVING PPIS LIKE PAYTM, PHONEPE, GOOGLEPAY, ETC.**

After limiting liability of customers in fraudulent bank transactions, the RBI has brought out new (similar) rules for mobile wallet and prepaid payment instruments (PPI) issued by non-banking entities like Paytm, PhonePe, GooglePay, and Amazon Pay. Under the new rules:

- i. customers will have a zero liability in case of fraud, negligence or deficiency from the PPI issuer and if the unauthorised electronic transaction is reported by the customer within three days.
- ii. The burden of proving customer liability in case of unauthorised electronic payment transactions is on the PPI issuer and not on customers, as per the RBI rules.
- iii. PPI issuers to ensure that their customers mandatorily register for SMS alerts and, wherever, available, register for e-mail alerts, for electronic payment transactions.
- iv. PPI issuers to setup a 24/7 customer care helpline to report fraud or any loss or theft or hack of the mobile wallet account of their customers.
- v. If the PPI customer suffers a loss due to fraud, negligence or deficiency on the mobile wallet provider, the entire amount would be refunded if the incident is reported within three days. For unauthorised transactions

reported between four and seven days, the liability of the customer is limited to the transaction value or Rs. 10,000 per transaction, whichever is lower. For fraud incidents reported beyond seven days, the customer liability would be as decided by the board of the PPI issuer. – *[DPSS.CO.PD.No.1417/02.14.006/2018-19, dated 4th January, 2019]*

3) **RBI ISSUES GUIDELINES FOR TOKENISATION OF CARD TRANSACTIONS**

Continuing the efforts to improve safety and security of card transactions, RBI had permitted card networks for tokenisation in card transactions for a specific use case. It has now been decided to permit authorised card payment networks to offer card tokenisation services to any token requestor (i.e., third party app provider), subject to the conditions mentioned in the Circular. This permission extends to all use cases / channels [e.g., Near Field Communication (NFC) / Magnetic Secure Transmission (MST) based contactless transactions, in-app payments, QR code-based payments, etc.] or token storage mechanisms (cloud, secure element, trusted execution environment, etc.). For the present, this facility shall be offered through mobile phones / tablets only. Its extension to other devices will be examined later based on experience gained. All extant instructions of Reserve Bank on safety and security of card transactions, including the mandate for Additional Factor of Authentication (AFA) / PIN entry shall be applicable for tokenised card transactions also. Further, all other instructions related to card transactions shall be applicable for tokenised card transactions as well. The ultimate responsibility for the card

tokenisation services rendered rests with the authorised card networks. – *[DPSS.CO.PD.No.1463/02.14.003/2018-19, dated 8th January, 2019]*

4) **AMENDMENTS TO GOLD MONETISATION SCHEME, 2015**

In 2015, the Government launched the GMS to mobilise the gold held by households and institutions in the country. The scheme allows banks' customers to deposit their idle gold holdings for a fixed period in return for interest in the range of 2.25-2.50%. The RBI *vide* present Circular made some changes in the Scheme by including charitable institutions and the Central Government, among others. This means that apart from individual and joint depositors, the Scheme could now be availed by charitable institutions, the Central Government, the State Government or any other entity owned by the Central Government or the State Government. – *[DBR.IBD.BC.19/23.67.001/2018-19, dated 9th January, 2019]*

5) **REVIEW OF TRANSITIONAL ARRANGEMENTS UNDER BASEL III CAPITAL REGULATIONS**

Referring to para 4.5 'Transitional Arrangements', para 15.2.2 of Part D 'Capital Conservation Buffer Framework' and para 2.3 of Annex 16 of the Master Circular, DBR.No.BP.BC.1/21.06.201/2015-16 dated July 1, 2015 on 'Basel III Capital Regulations', the RBI has deferred the implementation of the last tranche of 0.625% of Capital Conservation Buffer (CCB) from March 31, 2019 to March 31, 2020. Accordingly, minimum capital conservation ratios in para 15.2.2 of Part D 'Capital Conservation

Buffer Framework’ as applicable from March 31, 2018 will also apply from March 31, 2019 till the CCB attains the level of 2.5% on March 31, 2020. Further, the pre-specified trigger for loss absorption through conversion / write-down of Additional Tier 1 instruments (PNCPS and PDI) shall remain at 5.5% of RWAs and will rise to 6.125% of RWAs on March 31, 2020. – **[DBR.BP.BC.No.20/21.06.201/2018-19, dated 10th January, 2019]**

6) **MERCHANT EXPORTERS INCLUDED IN INTEREST EQUALISATION SCHEME**

The RBI has included merchant exporters also, w.e.f. January 2, 2019, under the ongoing Interest Equalisation Scheme for Pre and Post Shipment Rupee Export Credit and allow them interest equalisation at the rate of 3% on credit for export of products covered under 416 tariff lines identified under the Scheme. – **[DBR.Dir.BC.No.22/04.02.001/2018-19, dated 11th January, 2019]**

7) **RATIONALIZATION OF THE EXTANT FRAMEWORK FOR ECB AND RUPEE DENOMINATED BONDS**

The RBI has rationalised the extant framework for ECB and Rupee Denominated Bonds in light of the experience gained to improve the ease of doing business. The new framework is instrument neutral and would further strengthen the AML/CFT framework. The revised ECB guidelines are set out in the Annex to this Circular. The salient features of the new framework are as under:

- i. Merging of Tracks: Merging of Tracks I and II as “Foreign Currency denominated ECB” and merging of Track III and Rupee Denominated

Bonds framework as “Rupee Denominated ECB”.

- ii. Eligible Borrowers: This has been expanded to include all entities eligible to receive FDI. Additionally, Port Trusts, Units in SEZ, SIDBI, EXIM Bank, registered entities engaged in micro-finance activities, viz., registered not for profit companies, registered societies/trusts/cooperatives and non-government organisations can also borrow under this framework.
- iii. Recognised Lender: The lender should be resident of FATF or IOSCO compliant country. Multilateral and Regional Financial Institutions, Individuals and Foreign branches / subsidiaries of Indian banks can also be lenders as detailed in Annex.
- iv. Minimum Average Maturity Period (MAMP): MAMP will be 3 years for all ECBs. However, for ECB raised from foreign equity holder and utilised for specific purposes, as detailed in the Annex, the MAMP would be 5 years. Similarly, for ECB up to USD 50 million per financial year raised by manufacturing sector, which has been given a special dispensation, the MAMP would be 1 year as given in the Annex.
- v. Late Submission Fee (LSF) for delay in Reporting: Any borrower, who is otherwise in compliance of ECB guidelines, except for delay in reporting drawdown of ECB proceeds before obtaining LRN or Form ECB 2 returns, can regularize the delay by payment of LSF as per the laid down procedure. – **[A.P. (DIR Series) Circular No. 17, dated 16th January, 2019]**

FOREIGN TRADE

1) DIPP ISSUES CLARIFICATION REGARDING PRESS NOTE 2 (2018)

As FDI was allowed only in B2B e-commerce, DIPP *vide* its Press Note 3/2016 provided that, an e-commerce entity providing marketplace will not, directly or indirectly, influence the sale price of goods or services, which also rendered such business as an inventory based model. However, complaints were received stating that certain marketplace platforms were violating the policy by influencing the price of products and indirectly engaging in inventory based model. An e-commerce platform operating an inventory based model not only violated the FDI policy on e-commerce but also circumvented the FDI policy restrictions on multi-brand retail trading. Therefore, the latest Press Note (2/2018) only reiterated the policy provisions to ensure better implementation of the policy in letter and spirit and to ensure that the rules were not circumvented. The view taken by few suggesting that Press Note 3/2016 covertly allowed multi-brand retail trading, was completely contrary to the specific provisions of Press Note 3/2016, which unambiguously provided that FDI was not permitted in inventory based model of e-commerce which amounted to multi-brand retail.

Further, concerns were raised that Press Note 2/2018 prohibits sale of private label products through the marketplace. DIPP has clarified that the present policy did not impose any restriction on the nature of products which could be sold on the marketplace. Press Note 2/2018 is applicable only to entities which operated a marketplace for e-commerce. FDI in other sectors continued to be

governed by the specific provisions pertaining to them. For instance, there was no change in the FDI policy on food product retail trading, which permitted 100% FDI under approval route, including through e-commerce, in respect of food products manufactured and/or produced in India. *–[Department of Industrial Policy and Promotion, Press Note 2, 4th January, 2019 (Ministry of Commerce & Industry)]*

2) CLARIFICATION IN RESPECT OF “NOT PERMITTING” THE IMPORT OF THE CAPITAL GOODS REQUIRED FOR “DISTRIBUTION OF ELECTRICAL ENERGY (POWER)” UNDER THE EPCG SCHEME.

The representations have been received from the trade and industry that since in both the *Notification No. 35/2015-2020 dated 29.01.2016* and the *Serial No.12 in the Appendix 5F of the Public Notice No. 47/2015-20 dated 06.12.2017*, the word ‘distribution’ is missing, the intention of the Government was not to disallow the issuance of the EPCG authorisations for the import of the capital goods required for “distribution” of electrical energy (power) and thus a clarification may be issued allowing EPCG Authorisations for the import of the same. The matter has been examined and it is clarified that the transmission of electricity and the distribution of electricity is nothing but the same process of “supplying of the electricity” from one point to the other.

Therefore, Sr. No. 12 in the Appendix 5F of the FTP 2015-20 did not permit the import of any kind of capital goods for generation, transmission and distribution of power. This Policy Circular is issued with the approval of the DGFT. *–[Policy*

Circular No. 15/2015-20, January 4, 2019 (DGFT)

CORPORATE

1) INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (VOLUNTARY LIQUIDATION PROCESS) (AMENDMENT) REGULATIONS, 2019

Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017 have been amended as follows:

In Reg. 6 (1), in the Explanation, in clause (c), in sub-clause (i), for the words “*company secretaries*”, the words “*secretarial auditors*” shall be substituted.

In Schedule I, in Form A, for “[*insert the date falling thirty days after the liquidation commencement date*]”, the words “[*insert the date falling thirty days from the liquidation commencement date*]” shall be substituted. – [Insolvency and Bankruptcy Board of India, 15th January, 2019 (IBBI)]

2) THE COMPANIES (PROSPECTUS AND ALLOTMENT OF SECURITIES) AMENDMENT RULES, 2019.

MCA has amended the Companies (Prospectus and Allotment of Securities) Rules, 2014. Rule 9A requiring unlisted public companies to issue securities in dematerialized (demat) form has been amended to add sub-rule (11) which states that Rule 9A shall not apply to an unlisted public company which is - a Nidhi; a Government

company or a wholly owned subsidiary. – [Ministry of Corporate Affairs, 22nd January, 2019]

3) IBBI (INSOLVENCY RESOLUTION PROCESS FOR CORPORATE PERSONS) (AMENDMENT) REGULATIONS, 2019

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

(a) A new sub-reg. (4A) has been added to Reg. 36B requiring that the request for resolution plans shall require the resolution applicant, in case its resolution plan is approved by the committee of creditors, to provide a performance security within the specified time. Such performance security shall stand forfeited if the resolution applicant of such plan, after its approval by the Adjudicating Authority, fails to implement or contribute to the failure of implementation of that plan in accordance with the terms of the plan and its implementation schedule. Performance security means security of such nature, value, duration and source, as may be approved by the committee of creditors, having regard to the nature of resolution plan and business of the corporate debtor.

(b) New sub-reg. 1B to Reg 38 providing that a resolution plan shall include a statement giving details if the resolution applicant or any of its related parties has failed to implement or contributed to the failure of implementation of any other resolution plan approved by the Adjudicating Authority at any time in the past

(c) Reg. 39(4) has been amended requiring the Resolution Professional shall attach the evidence of receipt of performance security while

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submitting the resolution plan to the Adjudicating Authority for approval.

(d) New sub-reg (9) to Reg 39 enables a creditor, who is aggrieved by non-implementation of a resolution plan approved by the Adjudicating Authority, to apply to the Adjudicating Authority for appropriate directions.

(e) Certain amendments have also been made to Form H. – [Insolvency and Bankruptcy Board of India, Press Release, 24th January, 2019]

4) SWISS RIBBONS V. UNION OF INDIA

The Supreme Court of India in Swiss Ribbons has upheld the constitutionality of the provisions of the Insolvency and Bankruptcy Code, 2016 (IBC). The Court has recognised the distinction between promoters / management and the corporate debtor. The Court has further recognised that the insolvency proceedings by nature are not adversarial to the corporate debtor. The Supreme Court has concluded that the IBC is a beneficial legislation and is for the benefit of the corporate debtor and therefore the admission of a company into Corporate Insolvency Resolution Process (CIRP) cannot be seen from the traditional lens of adversarial proceedings. Furthermore the Supreme Court has imported fair and equitable treatment for operational creditors as a requirement for the approval of resolution plans. This was prompted largely by amendments to the regulations that provide that operational creditors need to be paid ahead of financial creditors.

In addition to the provision for withdrawal under Section 12A, withdrawal of a corporate debtor from CIRP has been permitted up to the time the Committee of Creditors is constituted with the

approval of the National Company Law Tribunal (NCLT). What is important, though, is that the Supreme Court applied Rule 11 of the NCLT Rules. The Supreme Court has also upheld Section 29A in its entirety whilst reading down the list of ‘related parties’ who have to be tested for the disqualification under Section 29A, to those who have a business connection with the Resolution Applicant. – [Swiss Ribbons Pvt. Ltd. v. Union of India and Ors., January, 2019 (Supreme Court of India)]

SECURITIES

1) SECURITIES AND EXCHANGE BOARD OF INDIA (CUSTODIAN OF SECURITIES) (AMENDMENT) REGULATIONS, 2018

Pursuant to SEBI Board’s decision to allow custodial services in goods underlying commodity derivative contracts in order to enable participation of institutional investors in commodity derivatives market, SEBI has amended the Securities and Exchange Board of India (Custodian of Securities) Regulations, 1996.

(a) The title “Securities and Exchange Board of India (Custodian of Securities) Regulations, 1996”, has been substituted with the title “Securities and Exchange Board of India (Custodian) Regulations, 1996; (b) The definition of ‘Goods’ has been included. “ ‘Goods’ means the goods notified by the Central Government under clause (bc) of section 2 of the Securities Contracts (Regulation) Act, 1956 and forming the underlying of any commodity derivative contract;”; (c) Further, the words “custodian of securities”

wherever they occur, shall be substituted with the word “custodian”. Most of the amendments relate to inclusion of the word “goods” in the Regulations; and (d) From the date of publication of these regulations in the Official Gazette, any reference to the Securities and Exchange Board of India (Custodian of Securities) Regulations, 1996 in any regulation, guideline, circular or direction issued by the Board shall be deemed to be referring to the Securities and Exchange Board of India (Custodian) Regulations, 1996 and any reference to the words “custodian of securities” therein shall refer to the term “custodian”. –/[*Securities and Exchange Board of India (SEBI), 1st January, 2019*]

2) SEBI HARMONIZES THE PROCEDURES FOR TRANSMISSION OF SECURITIES IN DEMATERIALIZED AND PHYSICAL MODE

The Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) (Sixth Amendment) Regulations, 2018, prescribe succession certificate or probate of will or will or letter of administration or court decree as documentary requirement for transmission of securities held in physical mode. In order to harmonize the procedures for transmission of securities in dematerialized mode with that of transmission of securities in physical mode, it has been decided that transmission of securities held in dematerialized mode shall be dealt in line with Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) (Sixth Amendment) Regulations, 2018. –

[SEBI/HO/MIRSD/DOP/CIR/P/2019/05, 4th January, 2019 (SEBI)]

3) SEBI DIRECTS BROKERS, DEPOSITORIES USING AI TOOLS TO MAKE SECURITY DISCLOSURES

Due to the increasing usage of AI (Artificial Intelligence) and ML (Machine Learning) as product offerings by market intermediaries and participants (eg: “robo advisors”) in investor and consumer facing products, SEBI has directed stock brokers and depository participants using applications based on AI to make quarterly disclosures on their compliance with cyber security framework. Accordingly:

(a)With effect from quarter ending March 2019, registered Stock Brokers / Depository Participant using AI / ML based application or system are required to fill in the prescribed form (Annexure A) and make submissions on quarterly basis within 15 calendar days of the expiry of the quarter.

(b)Stock Exchanges and Depositories have to consolidate and compile a report, on AI / ML applications and systems reported by registered Stock Brokers / Depository Participants in the prescribed format (Annexure C) on quarterly basis. The said report shall be submitted to SEBI within 30 calendar days of the expiry of the quarter, starting from quarter ending March 2019.

(c)They need to report in a prescribed format about the implementation of AI or ML system, safeguards in place to prevent abnormal behaviour of the AI or ML application and whether the system disseminates investment or trading advice or strategies and name of the application, among others. –/

SEBI/HO/MIRSD/DOS2/CIR/P/2019/10, 4th January, 2019]

4) SEBI DIRECTS STOCK EXCHANGES TO MAKE ADDITIONAL DISCLOSURES ON COMMODITY DERIVATIVES SEGMENT

SEBI has directed stock exchanges to make additional disclosures on their websites with regard to trading in the commodity derivatives segment. It has released the formats for these disclosures (**Annexures-I and II**).

(a) Annexure I contains format for disclosure of Open Interest and turnover for various categories of participants at commodity as well as market level. The stock exchanges shall categorise the participants as - Farmers/FPOs (Farmers Producers Organisations), value chain participants, proprietary traders, domestic financial institutional investors, foreign participants and those who cannot be classified in the five categories to be placed in 'others' category.

(b) The categorization of the clients/members shall be made on self-declaration basis for each commodity. However, exchanges can re-classify any participant where it deems necessary to do so based on the information available with it.

(c) Stock exchanges shall make the disclosures on a weekly basis for every Wednesday by next Wednesday (and for next trading day in case of holiday on any Wednesday) by October 01, 2019. By April 01, 2020 onwards, such disclosures shall be made on daily basis by 6:00 PM on T+1 day.

(d) Annexure II provides the format for stock exchanges to disclose commodity-wise top participants, members and market wide position limits. Stock Exchanges shall make disclosures on daily basis, latest within a month of the date of this Circular. Such disclosures for any day are to be

made before start of trading on the next day.-/[**SEBI/HO/CDMRD/DNPMP/CIR/P/2019 /08, 4th January, 2019 (SEBI)**]

5) SEBI AMENDS GUIDELINES FOR PUBLIC ISSUE OF REITS

With a view to further rationalise and ease the process of public issue of units of Real Estate Investment Trusts (REITs), SEBI has amended the Guidelines for public issue of units of REITs' ("REIT Guidelines") as follows:

(a) A proviso has been inserted to Clause 3(2) (b) of Schedule A. Clause 3(2b) provides that allocation to Anchor Investors shall be on a discretionary basis and subject to the minimum of 2 investors for allocation up to Rs. 250 crore and minimum of 5 investors for allocation of more than Rs. 250 crore. The proviso states that in case of strategic investor, the aforesaid application value shall be subject to Regulation 2(1)(ztb) of the REIT Regulations.

(b) Clause 3(2)(g) has been substituted to provide that neither the merchant bankers(s) nor any associate of the merchant bankers, other than mutual funds sponsored by entities which are associate of the merchant bankers or insurance companies promoted by entities which are associate of the merchant bankers or pension funds of entities which are associate of the merchant bankers or Alternate Investment Funds (AIFs) sponsored by the entities which are associate of the merchant bankers or FPIs other than Category III sponsored by the entities which are associate of the merchant bankers, shall apply under the Anchor Investors category.

(c) A new proviso has been added to Clause 6(3) allowing REITs to extend the bidding issue period for a minimum of three working days in case of force majeure, banking strike or similar circumstances. However, the extension should not exceed the 30-day bidding period.

(d) Clause 8 of Schedule A amended to provide that the manager on behalf of the REIT or InvIT will announce the floor price or price band at least two working days prior to the opening of the bid in case of an initial public offer. Currently, it is five days.

(e) The bidding process in Clause 9 of Schedule A has been amended to provide that: (i) The REIT shall accept bids using only Application Supported by Blocked Amount (ASBA) facility for making payment and the bidding process shall be done only through an electronic bidding platform provided by recognised stock exchanges; (ii) Investors will be required to submit a completed bid-cum-application form either to self-certified syndicate banks with whom the bank account to be blocked is maintained or to intermediaries; (iii) Intermediaries apart from acknowledging the receipt of applications, would also be responsible for uploading the bid along with other relevant details in application form on the electronic bidding system of stock exchanges; (iv) Stock exchanges have to provide transparent electronic bidding facility and need to validate the electronic bid details with the depository's records by the end of each bidding day. Stock exchanges shall allow modification of selected fields in the bid details already uploaded on a daily basis up to timeline as has been specified. The stock exchanges shall develop the systems to facilitate the investors to view the status of their public issue applications on their websites and sending the details of applications and allotments through SMS and E-

mail alerts to the investors; and (v) The blocking of funds accompanied with any revision of Bid, shall be adjusted against the amount blocked at the time of the original bid or the previously revised bid.

(f) Clause 13(7) of Schedule A has been substituted requiring the merchant bankers to submit a compliance certificate in respect of news reports appearing for the period between the date of filing the draft offer document and the date of closure of the issue. —
SEBI/HO/DDHS/CIR/P/2019/15, 15th January, 2019 (SEBI)

6) SEBI AMENDS GUIDELINES FOR PUBLIC ISSUE OF INVITS

With a view to further rationalise and ease the process of public issue of units of Infrastructure Investment Trusts (InvITs), SEBI has amended the Guidelines for public issue of units of InvITs' ("InvIT Guidelines") as follows:

(a) Clause 3(2)(h) has been substituted to provide that neither the merchant bankers nor any associate of the merchant bankers, other than mutual funds sponsored by entities which are associate of the merchant bankers or insurance companies promoted by entities which are associate of the merchant bankers or pension funds of entities which are associate of the merchant bankers or Alternate Investment Funds (AIFs) sponsored by the entities which are associate of the merchant bankers or FPIs other than Category III sponsored by the entities which are associate of the merchant bankers, shall apply under the Anchor Investors category.

(b) A new proviso has been added to Clause 6(3) allowing InvITs to extend the bidding issue period

for a minimum of three working days in case of force majeure, banking strike or similar circumstances. However, the extension should not exceed the 30-day bidding period.

(c) Clause 8 of Schedule A amended to provide that the manager on behalf of the InvIT will announce the floor price or price band at least two working days prior to the opening of the bid in case of an initial public offer. Currently, it is five days.

(d) The bidding process in Clause 9 of Schedule A has been amended to provide that: (i) The InvIT shall accept bids using only Application Supported by Blocked Amount (ASBA) facility for making payment and the bidding process shall be done only through an electronic bidding platform provided by recognised stock exchanges; (ii) Investors will be required to submit a completed bid-cum-application form either to self-certified syndicate banks with whom the bank account to be blocked is maintained or to intermediaries; (iii) Intermediaries apart from acknowledging the receipt of applications, would also be responsible for uploading the bid along with other relevant details in application form on the electronic bidding system of stock exchanges; (iv) Stock exchanges have to provide transparent electronic bidding facility and need to validate the electronic bid details with the depository's records by the end of each bidding day. Stock exchanges shall allow modification of selected fields in the bid details already uploaded on a daily basis up to timeline as has been specified. The stock exchanges shall develop the systems to facilitate the investors to view the status of their public issue applications on their websites and sending the details of applications and allotments through SMS and E-mail alerts to the investors; and (v) The blocking of funds accompanied with any revision of Bid, shall

be adjusted against the amount blocked at the time of the original bid or the previously revised bid.

(e) Clause 13(7) of Schedule A has been substituted requiring the merchant bankers to submit a compliance certificate in respect of news reports appearing for the period between the date of filing the draft offer document and the date of closure of the issue. –
[SEBI/HO/DDHS/CIR/P/2019/16, 15th January, 2019 (SEBI)]

COMPETITION

1) **COMPETITION COMMISSION OF INDIA IMPOSES PENALTY ON CHEMISTS AND DRUGGISTS ASSOCIATION OF BARODA**

The Competition Commission of India ('Commission') has found the Chemists and Druggists Association of Baroda ('CDAB') to be in contravention of the provisions of the Competition Act, 2002 ('Act'). A complaint/information was filed with the Monopolies and Restrictive Trade Practices Commission (MRTPC) in 2009 alleging that the CDAB has indulged in restrictive trade practices. The allegations were that the CDAB, through its practices, is limiting and controlling the supply of drugs and medicines in the market by mandating 'No Objection Certificate' ('NOC') prior to appointment of stockists and payment of 'Product Information Service' ('PIS') charges prior to introduction of new products in the market by pharmaceutical companies. Besides, there were allegations that CDAB was fixing the trade margins for the wholesalers/retailers. Subsequently, the case was transferred to the

Commission by MRTPC under the provisions of Section 66(6) of the Act. The Commission after forming a *prima-facie* opinion directed the office of Director General (hereinafter, the 'DG') to conduct investigation into the matter.

Investigation carried out by the DG established contravention on part of the CDAB. After detailed enquiry, the Commission passed an order dated 05.09.2012 wherein it was found that the CDAB was imposing the requirement of mandatory NOC and was also fixing margins for the wholesalers and retailers by enforcing the norms laid down by AIOCD. The same was found to be in contravention of the provisions of Section 3(3)(a) and 3(3)(b) read with Section 3(1) of the Act. Accordingly, the Commission imposed a monetary penalty, in addition to cease and desist directions, under Section 27 of the Act.

Pursuant to an appeal filed by CDAB, the erstwhile Hon'ble COMPAT, *vide* its Order dated 18.11.2016, set aside the Commission's Order dated 05.09.2012 on a procedural issue and remanded the matter back to the Commission for fresh adjudication.

Accordingly, the matter was considered afresh. After allowing CDAB with an opportunity to cross-examine various witnesses, the Commission allowed parties to file their written submissions and conducted a detailed hearing in the matter. Based on the material available on record, the Commission found that the CDAB was indulging in the anti-competitive practice of insisting NOC prior to the appointment of new stockists by pharmaceutical companies and was also fixing/prescribing the trade margins during the relevant time period, in contravention of the

provisions of Section 3(3)(a) and 3(3)(b) read with Section 3(1) of the Act.

Accordingly, CDAB was directed to cease and desist from indulging in the aforesaid anti-competitive practice. Further, the Commission imposed a monetary penalty of Rs. 32,724/- calculated at the rate of 10% of the average relevant income of CDAB for the relevant period, under the provisions of Section 27 of the Act. - **[Competition Commission of India, Press Release No. 17/2018-19, 15th January, 2019]**

2) CCI DECIDES THE THIRD LESSER PENALTY CASE IN RESPECT OF CARTELISATION IN INDIAN ZINC-CARBON DRY CELL BATTERIES MARKET

The Competition Commission of India ('CCI') passed a final order imposing penalty on Panasonic Energy India Co. Limited ('Panasonic') and Godrej and Boyce Manufacturing Co. Limited ('Godrej') for colluding to fix prices of zinc-carbon dry cell batteries in India. In respect of Panasonic, CCI granted 100 percent reduction in penalty by invoking the provisions of Section 46 of the Competition Act, 2002 ('the Act') read with the Competition Commission of India (Lesser Penalty) Regulations, 2009 ('Lesser Penalty Regulations').

The case was taken up by CCI *suo motu* under the provisions of Section 19 of the Act based on the disclosure made by Panasonic under Section 46 of the Act read with the Lesser Penalty Regulations. From the evidence collected in the case, which included an anti-competitive clause in the written agreement entered into between Panasonic and Godrej for supply of batteries, and e-mail

communications between the key managerial personnel of the two of them, CCI found existence of a bi-lateral ancillary cartel between Panasonic and Godrej in the market of institutional sales of dry cell batteries. It was found that Panasonic, which had a primary cartel with Eveready Industries India Ltd. and Indo National Limited as established in *Suo Motu* Case No. 01 of 2016 by CCI, having fore-knowledge about the time of price increase to be affected by this primary cartel, used such fore-knowledge as leverage to negotiate and increase the basic price of the batteries sold by it to Godrej. Further, Panasonic and Godrej, in accordance with the prices of the primary cartel, used to agree on the market price of the batteries being sold by them, so as to maintain price parity in the market.

Based on the above, CCI found that Panasonic and Godrej have indulged in the anti-competitive conduct of price co-ordination, in contravention of the provisions of Section 3 (3) (a) read with Section 3 (1) of the Act. It was observed that such conduct continued from 13.01.2012, when Panasonic and Godrej entered into a written agreement, till 30.11.2014, when Godrej terminated the said agreement.

Considering all the relevant factors, penalty on Panasonic was levied at the rate of 1.5 times of its profit for each year from January 2012 to November 2014 amounting to INR 31.76 crores, and on Godrej at the rate of 4 percent of its turnover for each year from January 2012 to November 2014 amounting to INR 85 lacs. Also, considering the totality of facts and circumstances of the case, penalty leviable on the individual officials of Panasonic and Godrej was computed at the rate of 10 percent of the average of their income for the preceding three years. As to

Panasonic, to the officials of Panasonic also, 100 percent reduction in penalty was granted under the provisions of Section 46 of the Act read with the Lesser Penalty Regulations. *-[Competition Commission of India, Press Release No. 18/2018-19, 17th January, 2019]*

INDIRECT TAXES

a. CUSTOMS & CENTRAL EXCISE

1) REMOVAL OF PRE-IMPORT CONDITION ON SPECIFIED DEEMED EXPORTS

The CBIC has removed pre-import condition and included specified deemed export supplies for exemption from integrated tax and Compensation cess for materials imported against Advance Authorizations and Advance Authorizations for Annual Requirement. – *[Notification No. 01/2019 – Customs, dated 10th January, 2019]*

2) BCD RATE ON PARTS OF POWER BANK OF LITHIUM ION AND BATTERY PACK OF CELLULAR MOBILE PHONES

Notification No. 57/2017-Customs dated 30th June, 2017 amended so as to prescribe effective BCD rate on parts of power bank of Lithium ion and Battery pack of cellular mobile phones. – *[Notification No. 02/2019 – Customs, dated 29th January, 2019]*

3) **BCD RATE ON ELECTRIC VEHICLE (EV) AND THEIR SPECIFIED PART AND RAW MATERIAL FOR MANUFACTURE OF LITHIUM ION CELLS**

Notification No. 50/2017-Customs dated 30th June, 2017 amended so as to prescribe effective BCD rate on Electric Vehicle (EV) and their specified part and raw material for manufacture of Lithium ion cells. – *[Notification No. 03/2019 – Customs, dated 29th January, 2019]*

4) **BARHNI INCLUDED IN THE LIST OF LCSS**

The CBIC issued the present Notification for inclusion of Land Customs Station (LCS), Barhni in the list of LCSs from which export under claim of Duty Drawback can be made to Nepal. – *[Notification No. 01/2019-Customs (N.T.), dated 3rd January, 2019]*

5) **ADD ON IMPORTS OF 'METHYLENE CHLORIDE**

Anti-dumping duty imposed on imports of "Methylene Chloride" originating in or exported from European Union and United States of America. – *[Notification No. 01/2019-Customs (ADD), dated 4th January, 2019]*

6) **ADD ON METAPHENYLENE DIAMINE**

Anti-dumping duty imposed on "Metaphenylene Diamine" originating in or exported from China PR for a period of five years. – *[Notification No. 5/2019-Customs (ADD), dated 24th January, 2019]*

7) **ADD ON FLUOROELASTOMERS (FKM)**

Definitive anti-dumping duty imposed on "Fluoroelastomers (FKM)" originating in or exported from China PR for a period of eighteen months. – *[Notification No. 6/2019-Customs (ADD), dated 28th January, 2019]*

8) **CBIC PROVIDES RESOLUTION FOR EGM ERRORS HAMPERING PROCESSING OF IGST REFUND**

The processing of IGST refund claims on exports is fully automated. Majority of refunds claims are getting processed and sanctioned within five days of filing of GSTR-1 and GSTR-3B returns. However, in a few cases, particularly for the LCL cargo consignments originating from ICDs, Export General Manifest (EGM) related errors continue to hinder smooth and automatic sanction of IGST refund claims. The CBIC observed that the main reasons for such EGM errors still hampering the IGST refund processing are as under and provided resolution:

- (i) Online filing of both local and Gateway EGM not being done on time by the concerned stakeholders.
- (ii) Mismatch in local and gateway EGM details wherever both are filed online.
- (iii) Non-filing of stuffing report by the Preventive officers at Gateway Ports for the LCL cargo being consolidated at the Gateway Ports/CFSS in the system. – *[Circular No. 01/2019-Customs, dated 2nd January, 2019]*

9) PROCEDURE TO BE FOLLOWED IN CASES OF MANUFACTURING OR OTHER OPERATIONS UNDERTAKEN IN BONDED WAREHOUSES UNDER SECTION 65 OF THE CUSTOMS ACT

The CBIC on receipt of representations to permit operations required for compliance with labeling/ packaging requirements under legislations pertaining to Legal Metrology, FSSAI, DGFT, State Excise Laws, etc., has decided to allow labeling/ fixing RSP etc. to fulfill statutory compliance requirements in all Customs Bonded Warehouse without the requirement of taking permission under Section 65 of the Customs Act. – *[Circular No. 03/2019-Customs, dated 31st January, 2019]*

10) CLARIFICATION ON VARIOUS TECHNICAL & OPERATIONAL ISSUES PERTAINING TO BUDGETARY SUPPORT SCHEME

The CBIC has clarified certain technical and operational issues to review the progress of implementation of Budgetary Support Scheme for eligible industrial units located in States of Jammu and Kashmir, Uttarakhand, Himachal Pradesh, and North East including Sikkim. Various technical and operational issues are forwarded by DIPP and other trade associations, the gist of the issues which are clarified by this Circular are as here under:

- i. Eligibility of units which were under threshold exemption or manufacturing of exempted goods but are required to pay GST under GST regime.
- ii. Where Procurement of inputs for supply as a part of Kit A cosmetics manufacturer has

sought clarification as to whether its hair colour kit, would be considered as manufacture. While kit consist of colourant tube manufactured in their own factory at Baddi and other items manufactured by third parties situated in area based exempt locations and are procured to be part of the kit. This finished hair colour kit is cleared by their factory.

- iii. Whether the entities having multiple operations in the state on account of there being single return for all the transactions.
- iv. Time limit for disposal of the claims filed by the eligible units was discussed as at present no time limit is provided in the scheme itself. – *[Circular no. 1068/01/2019-CX, dated 10th January 2019]*

b. GST

1) AMENDMENT TO THE MEANING OF ADVANCE AUTHORISATION FOR THE PURPOSE OF DEEMED EXPORT UNDER GST

Notification No. 48/2017 amended so as to amend the meaning of Advance Authorisation for the purpose of Deemed Export under GST. Supply of goods by a registered person against Advance Authorisation will be treated as Deemed Export only if a certificate from a Chartered Accountant is submitted to jurisdictional GST Commissioner within 6 months. However, certificate is not required if ITC has not been availed on inputs used in manufacture of export goods. – *[Notification No. 1/2019-Central Tax, dated 15th January, 2019]*

2) **CGST (AMENDMENT) ACT, 2018 BROUGHT INTO FORCE FROM 1ST FEB, 2019**

The CBIC has notified 1st day of February, 2019, as the date on which the provisions of the Central Goods and Services Tax (Amendment) Act, 2018 (31 of 2018), except clause (b) of section 8, section 17, section 18, clause (a) of section 20, sub-clause (i) of clause (b) and sub-clause (i) of clause (c) of section 28, shall come into force. – *[Notification No. 02/2019 – Central Tax, dated 29th January, 2019]*

3) **CGST RULES, 2019 NOTIFIED**

CBIC has issued Central Goods and Services Tax (Amendment) Rules, 2019 amending various CGST Rules and Forms prescribed under the Central Goods and Services Tax (CGST) Rules, 2017, applicable w.e.f. 1 Feb. 2019. – *[Notification No. 03/2019 – Central Tax, dated 29th January, 2019]*

4) **JURISDICTION OF JOINT COMMISSIONER (APPEALS) DEFINED**

Notification No. 2/2017-Central Tax dated 19.06.2017 amended so as to define jurisdiction of Joint Commissioner (Appeals). – *[Notification No. 04/2019 – Central Tax, dated 29th January, 2019]*

5) **RATES FOR COMPOSITION SCHEME ALIGNED WITH CGST RULES, 2017**

Notification No. 8/2017-Central Tax dated 27.06.2017 amended so as to align the rates for Composition Scheme with CGST Rules, 2017. –

[Notification No. 05/2019 – Central Tax, dated 29th January, 2019]

6) **CGST REGISTRATION PROVISION AMENDED TO ALIGN SPECIAL CATEGORY STATES**

Notification No. 65/2017-Central Tax dated 15.11.2017 amended in view of bringing into effect the amendments (to align Special Category States with the explanation in Section 22 of CGST Act, 2017) in the GST Acts. – *[Notification No. 06/2019 – Central Tax, dated 29th January, 2019]*

7) **DUE DATE FOR FURNISHING OF FORM GSTR – 7 EXTENDED**

The due date for furnishing of FORM GSTR – 7 for the months of October, 2018 to December, 2018 extended till 28.02.2019. – *[Notification No. 07/2019 – Central Tax, dated 31st January, 2019]*

8) **RCM EXEMPTION RESCINDED ON INTRA-STATE PURCHASES OF GOODS AND SERVICES FROM UNREGISTERED DEALERS**

Notification No. 32/2017 - Integrated Tax (Rate) dated 13.10.2017 rescinded in view of bringing into effect the amendments (regarding RCM on supplies by unregistered persons) in the GST Acts. This means exemption from tax under 'Reverse Charge Mechanism (RCM)' under GST stands rescinded w.e.f. 1 Feb. 2019 in respect of Intra-state Purchases of Goods and Services from Unregistered Dealers (of value upto Rs. 5,000 per day), in view of bringing into effect of the amendments (regarding RCM on supplies by

unregistered persons) in the Amended CGST/IGST/ UTGST Acts 2018. – *[Notification No. 01/2019 – Central Tax (Rate), dated 29th January, 2019 & Notification No. 01/2019 – Integrated Tax (Rate), dated 29th January, 2019 & Notification No. 01/2019 – Union Territory Tax (Rate), dated 29th January, 2019]*

9) CLARIFICATION ON APPLICABILITY OF GST ON VARIOUS PROGRAMMES CONDUCTED BY THE INDIAN INSTITUTES OF MANagements (IIMS)

The CBIC has clarified that for the period from 1st July, 2017 to 30th January, 2018, GST exemption would be available only to three long duration programs of IIM. It is further, clarified that with effect from 31st January, 2018, all IIMs have become eligible for exemption benefit under Sl. No. 66 of Notification No. 12/ 2017- Central Tax (Rate) dated 28.06.2017. As such, specific exemption granted to IIMs *vide* Sl. No. 67 has become redundant. The same has been deleted *vide* Notification No. 28/2018- Central Tax (Rate) dated, 31st December, 2019 w.e.f. 1st January. – *[Circular No. 82/01/2019- GST, dated 1st January, 2019]*

10) CLARIFICATION ON APPLICABILITY OF GST ON ASIAN DEVELOPMENT BANK (ADB) AND INTERNATIONAL FINANCE CORPORATION (IFC)

The CBIC has clarified that the services provided by International Finance Corporation and Asian Development Bank are exempt from GST in terms of International Finance Corporation (Status, Immunities and Privileges) Act, 1958 and Asian Development Bank Act, 1966 respectively. The exemption will be available only to the

services provided by Asian Development Bank (ADB) and International Finance Corporation (IFC), and not to any entity appointed by or working on behalf of ADB or IFC. – *[Circular No. 83/02/2019- GST, dated 1st January, 2019]*

11) CLARIFICATION ON THE ISSUE OF CLASSIFICATION OF SERVICE OF PRINTING OF PICTURES COVERED UNDER 998386

The CBIC has clarified that service of ‘printing of pictures’ falls under service code 998386 i.e., ‘Photographic and video graphic processing services’ and not under 998912 i.e., ‘Printing and reproduction services of recorded media, on a fee or contract basis’ of the scheme of classification of service annexed to Notification No. 11/2017-CT(Rate) dated June 28, 2018. The applicable GST rate would be 18%. – *[Circular No. 84/03/2019- GST, dated 1st January, 2019]*

12) CLARIFICATION ON GST RATE APPLICABLE ON SUPPLY OF FOOD AND BEVERAGE SERVICES BY EDUCATIONAL INSTITUTION

The CBIC has clarified that Supply of all services by an educational institution to its students, faculty, and staff is exempt *vide* S. No. 66 of Notification No. 12/2017-CT (Rate) dated June 28, 2017. Such services include supply of food and beverages by an educational institution to its students, faculty, and staff. However, such supply of food and beverages by any person other than the educational institutions would attract GST@ 5%. – *[Circular No. 85/04/2019- GST, dated 1st January, 2019]*

13) GST ON SERVICES OF BUSINESS FACILITATOR (BF) OR A BUSINESS CORRESPONDENT (BC) TO BANKING COMPANY

The CBIC has clarified the issues relating to transactions between the banking companies and banking facilitators (BF)/ banking correspondents (BC). The clarifications are as under:

- i. Banking company provides services to the customers and would be liable to pay GST on the entire value of service charge or fee charged to customers, whether or not received via BF/ BC.
- ii. To avail exemption on services provided in relation to 'accounts in rural area branch', the applicable conditions in notification, i.e., the classification of services of BF/ BC in their respective individual capacity should be covered under the heading 9971, and the service should be with respect to accounts in a branch located in the rural area. The classification adopted by the bank as per the Reserve Bank of India guidelines in this regard should be accepted. – *[Circular No. 86/05/2019- GST, dated 1st January, 2019]*

14) CLARIFICATIONS ON ISSUES ARISING FROM CENTRAL GST (AMENDMENT) ACT, 2018 ON SECTION 140(1) OF THE CENTRAL GST ACT, 2017

The CBIC has clarified the issues arising from the Central GST (Amendment) Act, 2018 on Section 140(1) of the Central GST Act, 2017 deal with carrying forward of credit balances. The clarifications are as under:

- The closing balance of CENVAT credit pertaining to service tax can be carried forward as

the legislative intent was not to disallow transition CENVAT credit in the form of service tax.

- The expression “eligible duties” under Section 140(1) of the Central GST Act, 2017, does not refer to the condition regarding goods in stock or to a condition regarding inputs and input services in transit. It has also been decided not to notify clauses 28(b)(i) and 28(c)(i) of the Central GST (Amendment) Act, 2018 (dealing with linking carry forward of closing balance of credits as per returns with various conditions) to avoid such linkage.

- The eligible duties which are allowed to be carried forward under Section 140(1) of the Central GST Act, 2017 would only cover the duties listed as eligible duties in Sr. nos. 1 to 7 of explanation 1 to Section 140 of the Central GST Act, 2017 and eligible duties and taxes as listed in sr. nos. 1 to 8 of explanation 2 to Section 140 of the Central GST Act, 2017. – No transition credit of cesses, including cess, collected as an additional duty of customs under Section 3(1) of the Customs Tariff Act, 1975 would be allowed. – *[Circular No. 87/06/2019-GST, dated 2nd January, 2019]*

15) EXTENSION OF TIME LIMIT FOR SUBMITTING THE DECLARATION IN FORM GST TRAN-1

The CBIC has extended the time limit for submitting the declaration in FORM GST TRAN-1 under Rule 117(1A) of the Central Goods and Service Tax Rules, 2017 till 31st March, 2019, for the class of registered persons who could not submit the said declaration by the due date on account of technical difficulties on the common portal and whose cases have been recommended by the Council. in certain cases. – *[Order No. 01/2019-GST, dated 31st January, 2019]*

INTELLECTUAL PROPERTY RIGHTS

1) THE APPELLATE COURT UPHELDS SINGLE JUDGE ORDER THAT THERE IS NO NOVELTY IN CROCS CLOG SHOE DESIGN

The present set of appeals impugn the common order of a learned single judge, who dismissed the plaintiff (Crocs Inc's) applications, filed in pending suits against the various defendants. M/s Crocs Inc. (Crocs) brought Design Infringement action against seven local manufacturers, M/s Liberty Shoes Ltd, M/s Relaxo Footwear & Anr. Ltd., Bioworld Merchandising India Ltd., M/s Bata India Ltd & Ors., M/s Action Shoes Pvt. Ltd. & Ors., Aqualite India Limited & Anr., Kidz Palace & Ors., for copying their design registered under nos. 197685 and 197686. The Ld. Single Judge of the Delhi HC rejected Crocs Inc.'s applications for interim injunctions against the breach of copyright in their registered design, finding that Crocs' designs for its namesake clog-type sandals were 'liable to be cancelled' on the grounds that the Design was prior published and there was no novelty in the design, and further imposed substantial compensatory costs on the plaintiff.

The Appellate court found the findings for the single judge to be reasonable and accordingly dismissed the appeal. – *[M/S Crocs Inc Usa v. M/S Bata India Ltd & Ors., dated 24 January, 2019 (Delhi HC)]*

2) DELHI HC REFUSES TO GRANT TEMPORARY INJUNCTION TO "BOOKMYSHOW" AGAINST THE RIVAL MARK "BOOKMYEVENT"

The Plaintiff (owner of 'Bookmyshow') in the present matter had sought to permanently restrain 'Bookmyevent', its partners and proprietors from using the mark 'Bookmyevent' or using the prefix 'BOOKMY' as trade mark/trade name or as part of corporate/domain name/trading name in online ticketing services or any similar services. The Delhi HC referring to a division bench judgment observed that it cannot be forgotten that 'Book My' is a common English term and its link with booking for shows, events and films is "but obvious". The Court held that the Plaintiff has failed to make out a *prima facie* case and dismissed the injunction applications of the plaintiff. – *[Bigtree Entertainment Pvt Ltd vs D Sharma & Anr, dated 21 January, 2019 (Delhi HC)]*

CONSUMER

1) SUPREME COURT OVERTURNS THE DECISION OF NCDRC IN A CASE OF MEDICAL NEGLIGENCE

Holding negligence on the part of doctors and overturning the decision of the National Consumer Disputes Redressal Commission, the Supreme Court recently directed a hospital to pay a compensation of Rs. 15 lakh in the case of a dengue death.

The case concerned 56-year-old Madhu Manglik who was admitted to the Chirayu Health & Medicare hospital at Bhopal in 2009. She was diagnosed with dengue fever. The patient had a prior medical history suggestive of cardiac complications. Since the patient was complaining

of abdominal discomfort, ultrasonography of the abdomen was carried out. Later, on the date of admission, the patient's health began sinking. The patient developed cardiac arrest and died.

Alleging negligence on the part of the doctors, the husband of the patient went to the Medical Council of India to register a complaint. The Ethics Committee of the Medical Council of India concluded that the treatment provided by the doctors to the patient was in accordance with the established medical guidelines but not timely.

The complainant moved to the State Commission seeking an award of compensation in the amount of Rs. 48 lakhs on the ground that the patient suffered an untimely death due to the medical negligence of the treating doctors at the hospital. The State Commission directed the hospital to pay compensation of Rs. 6 lakh to the family of the patient. The complainant then moved to the national commission and the claim was dismissed by the commission.

Assailing the decision of the National Commission, the complainant approached the Supreme Court. The Supreme Court went through the case thoroughly on the basis of the record and in the counter affidavit which has been filed by the respondents. The Supreme Court also, through the medical literature including WHO guidelines, laid down on dengue. The court iterated the history and literature of medical negligence jurisprudence in India.

The Supreme Court noted that the critical parameters of the patient were not evaluated. The simple expedient of monitoring blood parameters was not undergone. This was in contravention of WHO guidelines as well as the guidelines

prescribed by the Directorate of National Vector Borne Diseases Control Programme. It was the finding of the Medical Council of India that while treatment was administered to the patient according to these guidelines, the patient did not receive timely treatment. It had accordingly administered a warning to the respondents to be more careful in the future. In failing to provide medical treatment in accordance with medical guidelines, the respondents failed to satisfy the standard of reasonable care as laid down in the Bolam case and adopted by Indian Courts.

The court also held that the national commission had before it a well-considered judgment of the SCDRC based on the evidence on the record.

For the above reasons, the court held that the judgment of the NCDRC is unsustainable. There was no basis or justification to reverse the finding of medical negligence which was arrived at by the state commission.

The court, therefore, directed the compensation of Rs. 15 lakh to be paid to the complainant. The court however, absolved the director of the hospital holding that he wasn't a part of the treatment. *–[Arun Malik Manglik v. Chirayu Health and Medicare Private Limited and Another, 9th January, 2019 (NCDRC)]*

ENVIRONMENT

1) WILL COMPLY WITH NGT ORDER TO DEPOSIT RS 100 CRORE: VOLKSWAGEN

After the NGT slammed Volkswagen for not depositing Rs. 100 crore in accordance with its

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November 16, 2018 Order and directed the Company to submit the amount within 24 hours. The Company reiterated that all its cars conform to emission norms in India and said it will comply with the National Green Tribunal (NGT) Order and deposit Rs. 100 crore with the authority within the stipulated time frame. On November 16, 2018, the Tribunal had said that the use of 'cheat device' by Volkswagen in diesel cars in India leads to environmental damage and had asked the company to deposit an interim amount of Rs.100 crore with the Central Pollution Control Board (CPCB). – *[The Times of India, dated 17th January, 2019]*

2) EMISSION NORMS: SC ASKS NGT TO CONSIDER EXPANDING SCOPE OF VOLKSWAGEN CASE TO OTHER CAR MAKERS

The Supreme Court favoured widening of judicial scrutiny of a case pertaining to use of cheat device in diesel cars to flout emission norms in vehicles made by German auto major Volkswagen by bringing other auto majors under the scanner. A bench of justices D Y Chandrachud and Hemant Gupta said that the National Green Tribunal may consider whether the scope of the emission related case, involving Volkswagen presently, could be expanded to other carmakers also. A 'cheat' or 'defeat device' is a software in diesel engines to manipulate emission tests by changing the performance of the cars globally. – *[The Times of India, dated 21st January, 2019]*

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