

MONTHLY NEWSLETTER

DECEMBER 2023

Dear Readers,

We bring you a concise analysis of important developments, recent publications and judgements and noteworthy regulatory amendments in the corporate and financial sectors on a monthly basis.

Our newsletter will cover updates from RBI, FEMA, Foreign Trade, Corporate Laws, Securities Laws and Capital Markets, Competition Laws, Trade & Indirect Taxes and Customs, Intellectual Property Laws, Environmental Laws etc.

Perceiving the significance of these updates and the need to keep track of the same, we have prepared this newsletter providing a concise overview of the various changes brought in by our proactive regulatory authorities and the Courts!

Feedback and suggestions from our readers would be appreciated. Please feel free to write to us at mail@lexport.in.

Regards,
Team Lexport



ABOUT US

Lexport is a full-service Indian law firm offering consulting, litigation and representation services to a range of clients.

The core competencies of our firm's practice *inter alia* are Trade Laws (Customs, GST & Foreign Trade Policy), Corporate and Commercial Laws and Intellectual Property Rights.

The firm also provides Transaction, Regulatory and Compliance Services. Our detailed profile can be seen at our website www.lexport.in.

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BANKING LAWS & FEMA

S. No.	Particulars	Link
1.	<p>RBI (Government Securities Lending) Directions, 2023</p> <p>The Reserve Bank of India (“RBI”) has notified the RBI (Government Securities Lending) Directions, 2023 applicable to all Government securities lending transactions, undertaken in Over-the-Counter market.</p> <p>Key Points:</p> <p>1. Eligible securities:</p> <p>a) Government securities issued by the Central Government excluding Treasury Bills shall be eligible for lending/borrowing under a GSL transaction.</p> <p>b) Government securities issued by the Central Government (including Treasury Bills) and the State Governments shall be eligible for placing as collateral under a GSL transaction.</p> <p>2. Tenor- Minimum tenor of a GSL transaction will be one day and maximum tenor will be 90 days</p> <p>3. Settlement of Trades of GSL transactions will settle on:</p> <p>a) A Delivery versus Delivery basis.</p> <p>b) First leg of GSL Transactions will settle on a T+0 or T+1 basis.</p> <p>c) Such transactions will settle through Clearing Corporation of India Ltd. Or any other central counterparty or clearing arrangement approved by the RBI.</p> <p>4. The RBI can publish any anonymized data released to GSL transactions.</p> <p>5. In case of violation of Directions, the RBI, along with taking penal or regulatory action, can disallow the person/ agency from dealing in GSL transactions for a period not exceeding 1 month at a time.</p>	CLICK HERE

S. No.	Particulars	Link
2.	<p style="text-align: center;">FEM (Manner of Receipt and Payment) Regulations, 2023</p> <p>The RBI has notified the Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2023 mandating permission of RBI to make or receive payments from a person residing outside India.</p> <p>Key Points:</p> <ol style="list-style-type: none"> 1. These Regulations will be governed by the Foreign Exchange Management Act, 1999 ('FEMA'). 2. Any person residing in India cannot make or receive payments from any person residing outside India: <ul style="list-style-type: none"> • Unless permitted by RBI; • Allowed by FEMA; • Allowed by Rules or Directions under the FEMA; 3. Manner of Receipt and Payment- The receipt or payment will be made through an Authorized Bank or Authorized Person in the following manner: <ul style="list-style-type: none"> • Trade Transactions: <ol style="list-style-type: none"> a) Nepal & Bhutan- in Indian Rupees provided that in case of exports from India where the importer in Nepal has been permitted by the Nepal Rashtra Bank to make payment in foreign currency, such receipts towards the amount of the export may be in foreign currency. b) Member countries of Asian Clearing Union ('ACU'), other than Nepal & Bhutan- through ACU mechanism or in case of imports where the goods are shipped to India from a member country of the ACU (other than Nepal and Bhutan) but the supplier is resident of a country other than a member country of the ACU then in Indian Rupees or in any foreign currency. c) Countries other than member countries of ACU- in Indian Rupees or in any foreign currency. • Transactions other than Trade Transactions: <ol style="list-style-type: none"> a) Nepal & Bhutan- In Indian Rupees or in case of overseas investment in Bhutan, in foreign currency. b) Other Countries- in Indian Rupees or in any foreign currency. 	CLICK HERE
3.	<p>The RBI has granted three more months until April 1, 2024, to banks and NBFCs to implement the modified norms for levying penal charges in loan accounts, as part of fair lending practice.</p>	CLICK HERE

S. No.	Particulars	Link
4.	<p style="text-align: center;">Reserve Bank of India (Internal Ombudsman for Regulated Entities) Directions, 2023</p> <p>The RBI has issued Master Direction – Reserve Bank of India (Internal Ombudsman for Regulated Entities) Directions, 2023 which mandated regulated entities to appoint an internal ombudsman.</p> <p>Key Points:</p> <p>1. Short Title and Commencement:</p> <p>a) These Directions shall be called the Reserve Bank of India (Internal Ombudsman) Directions, 2023.</p> <p>b) These Directions shall come into effect from December 29, 2023 and shall apply to the whole of India.</p> <p>2. Suspension:</p> <p>The Reserve Bank, if it is satisfied that it is expedient to do so, may, by an order, suspend for such period as may be specified in the order, the operation of any or all of the provisions of these Directions, either generally or in relation to any specified regulated entity.</p> <p>3. Definitions:</p> <p>Clearly defines terms related to banks, NBFCs, NBSPs, CICs, Internal Ombudsman, and more.</p> <p>4. Office of the Internal Ombudsman:</p> <p>a. Appointment: Regulated entities must appoint Internal Ombudsman meeting specified criteria, ensuring necessary skills and experience. Deputy Internal Ombudsman may also be appointed.</p> <p>b. Tenure: Internal Ombudsman’s term is fixed, not exceeding five years. Removal requires RBI approval.</p> <p>c. Oversight: Internal Ombudsman reports administratively to Competent Authority and functionally to the Board of the regulated entity.</p> <p>d. Secretariat: Regulated entities provide necessary infrastructure and support to the Internal Ombudsman’s office.</p>	CLICK HERE
5.	<p style="text-align: center;">Reserve Bank of India (Financial Benchmark Administrators) Directions, 2023</p> <p>The RBI has issued the Reserve Bank of India (Financial Benchmark Administrators) Directions, 2023 to put in place a holistic risk-based framework covering all benchmark administrators in financial markets regulated by the Reserve Bank.</p> <p>FBAAs, in respect of the ‘significant benchmarks’ administered by them, shall be responsible for:</p> <p>a) Formulation of the benchmark calculation methodology;</p>	CLICK HERE

S. No.	Particulars	Link
	<ul style="list-style-type: none"> b) Determination of the benchmark values; c) Dissemination of the benchmark values; d) Ensuring transparency in the benchmark administration; e) Periodic review of the benchmark; and, f) Putting in place necessary organizational and process controls for effectively carrying out the above responsibilities. 	
6.	<p>The RBI has exempted the requirement of Additional Factor of Authentication (AFA) for transactions up to ₹1 lakh for certain categories of payments.</p> <p>It has been decided to increase the limit from ₹15,000/- to ₹1,00,000/- per transaction for the following categories:</p> <ul style="list-style-type: none"> (a) subscription to mutual funds, (b) payment of insurance premiums, and (c) credit card bill payments. 	CLICK HERE
7.	<p>The RBI has directed banks and non-banking financial companies (NBFCs) to not make investments in any Alternative Investment Funds (AIFs) that has downstream investments either directly or indirectly in a debtor company of the bank.</p>	CLICK HERE

CORPORATE LAWS, SECURITIES LAWS AND CAPITAL MARKET'S

S. No.	Particulars	Link
1.	<p>The Securities and Exchange Board of India (“SEBI”) has extended the timeline for implementation of linking SEBI Complaint Redressal (SCORES) with the online dispute resolution platform to April 1, 2024.</p>	CLICK HERE
2.	<p>BSE has notified the new eligibility criteria that SMEs must meet to make a successful migration to main board of BSE.</p> <p>Key Points:</p> <ul style="list-style-type: none"> 1) Paid up capital and market capitalization: Paid-up capital of more than 10 Crores and Market Capitalization should be minimum Rs. 25 Crores. 2) Promoter holding: Promoter(s) shall be holding at least 20% of equity share capital of the company at the time of making application. 	CLICK HERE

S. No.	Particulars	Link
	<p>3) Financial Parameters: The applicant company should have positive operating profit earnings before interest, depreciation and tax) from operations for at least any 2 out of 3 financial years and has positive Profit after tax (PAT) in the immediately preceding Financial Year of making the migration application to Exchange. The applicant company should have a Net worth of at least Rs. 15 crores for 2 preceding full financial years.</p> <p>(4) Track record of the company in terms of listing/ regulatory actions: The applicant company is listed on SME Exchange/ Platform having nationwide terminals for at least 3 years.</p>	
3.	The CCI seeks comments on the draft of Competition Commission of India (Determination of Turnover or Income) Regulations, 2023 . The draft provides for the determination of turnover or income for the purposes of Section 27(b) and Section 48 of the Act.	CLICK HERE
4.	The SEBI has issued the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) (Third Amendment) Regulations, 2023 . The amendment provides that the public issuance of Zero Coupon Zero Principal Instruments by a Not-for-Profit Organization shall be as per procedure and other conditions specified by the Securities and Exchange Board.	CLICK HERE
5.	The SEBI has issued the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) (Seventh Amendment) Regulations, 2023 . The amendment provides that a Social Enterprise, which is either registered with or has raised funds through a Social Stock Exchange or a Stock Exchange, as the case may be, shall be required to submit an annual impact report to the Social Stock Exchange or the Stock Exchange in the format specified by the Board from time to time.	CLICK HERE
6.	<p>The IBBI has issued the 'Insolvency Professionals to act as Interim Resolution Professionals, Liquidators, Resolution Professionals and Bankruptcy Trustees (Recommendation) (Second) Guidelines, 2023'. The Revised Guidelines provide the eligibility criteria, manner of expression of interest, scoring criteria and conditions for Insolvency Professionals.</p> <p>Key Points:</p> <p>(1) Eligibility Criteria:</p> <p>To be included in the panel, IPs must meet certain eligibility criteria, ensuring a high standard of professionalism. These criteria include the absence of pending disciplinary proceedings, no convictions in the last three years, submission of expression of interest, and holding a valid Authorization for Assignment (AFA) during the panel's validity.</p> <p>(2) Expression of Interest:</p> <p>The guidelines outline the process for inviting expressions of interest from IPs, emphasizing the unconditional consent of IPs to act as Interim Resolution Professionals, Liquidators, Resolution Professionals, or Bankruptcy Trustees. The deadline for submission is December 25, 2023, and the Board is set to share the panel with the Adjudicating Authority by December 29, 2023</p> <p>(3) Panel of IPs:</p>	CLICK HERE

S. No.	Particulars	Link
	The IBBI will prepare a common panel of IPs with a validity of six months, categorized by zones based on the registered office of the IP. This panel will be accessible to the Adjudicating Authority, allowing them to choose IPs for various insolvency processes.	
7.	Hiren Meghji Bharani vs. Shankheshwar Properties Pvt. Ltd. through its Resolution Professional and Anr., Company Appeal (AT) (Insolvency) No.446 of 2023 The National Company Law Appellate Tribunal, New Delhi Bench held that the non-stamping of document does not render the Corporate Insolvency Resolution Process petition filed to be non-maintainable when there exists other material on record to prove existence of default in the payment of debt.	CLICK HERE
8.	Maneesh Pharmaceuticals Ltd v Export Import Bank of India and Ors., Civil Appeal No 8135 of 2023 The Supreme Court has set aside an order passed by the NCLAT whereby the NCLT was directed to admit a petition under Section 7 of Insolvency and Bankruptcy Code, 2016. The Bench has held that it was inappropriate for the NCLAT to direct the NCLT to admit the application under Section 7 of IBC straightaway without an evaluation of the rival contentions on merits. The Bench has directed the NCLT to determine whether the petition under Section 7 of IBC is liable to be admitted, after hearing the parties.	CLICK HERE
9.	Bharti Airtel Limited and Another V Vijaykumar V. Iyer and Others, CIVIL APPEAL NOS. 3088-3089 OF 2020 The Supreme Court has held statutory set off or insolvency set off is not applicable to Corporate Insolvency Resolution Process proceedings under the Insolvency and Bankruptcy Code, 2016. Further, Regulation 29 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, which provides for mutual dealing and set off, does not apply to Part II of the IBC which deals with CIRP. The principle of Set-off recognizes the right of a debtor to adjust the smaller claim owed to him against the larger claim payable to his creditor.	CLICK HERE
10.	Sanjay Pandurang Kalate v Vistra ITCL (India) Limited and Others, Civil Appeal Nos 7467-7468 of 2023 The Supreme Court has held that when the NCLT hears a matter on a particular date but does not pronounce the order on the same date, then the limitation for filing an appeal from such order before the NCLAT under Section 61 of the Insolvency and Bankruptcy Code, 2016 (“IBC”), would commence from the date when the Order of NCLT gets uploaded. However, in cases where matter was heard and order was pronounced on the same day by the NCLT, limitation would commence from the date of pronouncement of order and not its upload.	CLICK HERE

INDIRECT TAX

S. No.	Particulars	Link
1.	The Ministry of Law and Justice has notified the Central Goods and Services Tax (Second Amendment) Act, 2023. Section 110 of the Central Goods and Services Tax Act, 2017 is modified by the CGST (Second Amendment) Act. A subclause permitting the appointment of advocates with ten years of experience in indirect tax disputes to the Appellate Tribunal is one of the revisions.	CLICK HERE
2.	GST officers have been given more time to issue demand notices for discrepancies in annual returns for 2018-19 and 2019-20 financial years. The government extended the deadline in this regard for 2018-19 fiscal to April 30, 2024, and for 2019-20 fiscal to August 31, 2024.	CLICK HERE
3.	M/s Prince Sanitation Gandhi Path Vs. State of Bihar and Others, Civil Writ No.17202 of 2023 The Patna High Court has provided relief to individuals facing delayed appeals under Sections 73 and 74 of the BGST Act. The judgment, arising from a petition challenging the rejection of an appeal due to a five-day delay, underscores the significance of a recent notification by the Central Board of Indirect Taxes and Customs. According to Notification No. 53 of 2023-Central Tax, dated 02.11.2023, the time for filing appeals against orders passed by the Proper Officer on or before 31.03.2023 has been extended.	CLICK HERE
4.	M/s Wave Distilleries Breweries Ltd. Vs. State of U.P. and 2 others, The Allahabad High Court has held that once the initiation of the proceedings itself is bad, the consequential proceedings automatically fail in the eyes of law and therefore the matter requires consideration. The court also held that after deducting 25% of the amount of Rs. 1,49,85,677.20 realized from the petitioner, which is required for filing revision under Section 11(2) of the Excise Act, the remaining amount shall be kept in a fixed term interest bearing account within a week from the date of the order in some National Bank for an initial period of two years renewable from time to time, which shall be subject to the final outcome of the instant writ petition.	CLICK HERE
5.	Cholaa Tapes Vs. Deputy Commissioner of GST & Central Excise, High Court of Madras, W.P. No. 34751 of 2023 The Madras High Court held that where appeal of assessee was rejected by Appellate Authority on ground of delay, since petitioner could very well avail Amnesty Scheme even after rejection of appeal on aspect of delay, thus petitioner was to be directed to avail Amnesty scheme in terms of Notification No.53/2023-Central Tax dated 2-11-2023 and respondent authority was to be directed to consider same in accordance with law.	CLICK HERE
6.	M/s Hero Cycle Ltd. Vs. Commissioner of CGST, Ludhiana, Excise Appeal No. 59084 of 2013 The CESTAT, Chandigarh has held that Hero Cycle is not required to pay automobile Cess on an e-bike as it was already paid at the time of import. The bench has observed that the entire information regarding the clearance of the e-bike was reflected in the ER-1 return submitted to the department periodically, and the department never raised any objection regarding the non-deposit of automobile Cess, which clearly shows that automobile Cess was paid as per the concurrence of the department.	CLICK HERE

S. No.	Particulars	Link
7.	<p>Atos India Private Limited Vs. The State of Maharashtra, Maharashtra Value Added Tax Appeal No.21 of 2015</p> <p>The Bombay High Court has held that an agreement to provide manpower to perform maintenance is a contract of service and not a sale contract under the MVAT Act. The bench has observed that the pith and substance of the contract or true nature of the transaction shows that the contract is a contract for service simpliciter and is not a works contract or composite contract consisting of two contracts, one for service and other for sale, but is an indivisible contract for service only. On examination of the contract as a whole, it becomes obvious that the contract is essentially an agreement to render service. The theory of works contract or the concept of aspect theory is not attracted at all.</p>	CLICK HERE
8.	<p>M/s Aaira Batteries Vs. Principal Commissioner of Department of Trade Taxes, Government of NCT of Delhi</p> <p>The High Court of Delhi has held that the order cancelling the petitioner's GST registration was in violation of the principles of natural justice as the petitioner was not afforded any opportunity of being heard. This was because the Show Cause Notice issued to call upon the petitioner for a personal hearing did not specify the date, time or the venue of such hearing. The court also observed that the delay on part of the petitioner to approach the court was not pernicious to the petitioner's claim for restoration of the GST registration.</p>	CLICK HERE

CUSTOMS, SEZ AND FOREIGN TRADE

S. No.	Particulars	Link
1.	<p>Special Economic Zones (Fifth Amendment) Rules, 2023</p> <p>The Department of Commerce the Special Economic Zones (Fifth Amendment) Rules, 2023. The amendment provides the following rules regarding setting up Information Technology Enabled Services Special Economic Zone:</p> <ul style="list-style-type: none"> • Board of Approval, on request of a Developer of an Information Technology or Information Technology Enabled Services Special Economic Zones, may, permit demarcation of a portion of the built-up area of an Information Technology or Information Technology Enabled Services Special Economic Zone as a non-processing area of the Information Technology or Information Technology Enabled Services Special Economic Zone to be called a non-processing area. • A non-processing area may be used for setting up and operation of businesses engaged in Information Technology or Information Technology Enabled services, and at such terms and conditions as may be specified by the Board. • A non-processing area shall consist of complete floor and part of a floor shall not be demarcated as a non-processing area. 	CLICK HERE

	<ul style="list-style-type: none"> There shall be appropriate access control mechanisms for Special Economic Zone Unit and businesses engaged in Information Technology or Information Technology Enabled Services in non-processing areas of Information Technology or Information Technology Enabled Services Special Economic Zones, to ensure adequate screening of movement of persons as well as goods in and out of their premises. 	
2.	<p>Holyland Marketing Pvt Ltd Vs. Commissioner of Customs (Import) ICD, Tughlakabad, New Delhi, Customs Appeal No. 54708 of 2023</p> <p>The CESTAT, Delhi has held that canned pineapple slices are classifiable under Customs Tariff Heading No. 0804. The bench has observed that there was confusion in the department itself regarding the classification of canned sliced pineapples. It has been submitted that there is a ruling dated September 17, 2018, by the AAAR in respect of their own group firm, M/s Bharat Agro, wherein it was held that canned pineapple slices are classifiable under CTH 0811. The Deputy Commissioner passed an order of reassessment on January 31, 2019, in which the canned pineapple slices were reclassified from CTH 20082000 to CTH 0811.</p>	CLICK HERE
3.	<p>The Central Government has exempted “Yellow Peas” falling under the tariff item “0713 10 10” of the First Schedule to the Customs Tariff Act, 1975, when imported into India, from the whole of the Agriculture Infrastructure and Development Cess leviable thereon. This notification came into force with effect from 8th December 2023 and shall remain in force up to and inclusive of 31st March 2024.</p>	CLICK HERE
4.	<p>Leyla Mohmoodi and Anr. Vs. The Additional Commissioner of Customs and others WRIT PETITION NO. 467 OF 2023</p> <p>The Bombay High Court has held that action on part of the Assistant Commissioner of Customs in disposing off/selling the gold jewellery belonging to the petitioners against Section 110 of the Customs Act is illegal and unconstitutional. Any reading of Section 110 otherwise than what has been discussed above, would amount to foisting draconian, reckless and/or unfettered authority on the Customs Officers conferring a licence to commit illegality. Thus, such substantive provisions of the Customs Act cannot be rendered nugatory, by recognizing unguided and unfettered powers being conferred under Section 110 on the Customs Officers, to dispose of the seized property, till the orders of any confiscation attains finality, unless there are strong reasons which would justify any such action when tested on such constitutional and legal parameters, and that too on the satisfaction of the officers to be reached only after hearing the owner of the property.</p>	CLICK HERE
5.	<p>Isha Exim carrying on business Vs. Union of India, Writ Petition No.10512 of 2023</p> <p>The Bombay High Court has quashed the customs deputy commissioner's order contrary to the ruling passed by the Authority of Advance Ruling (AAR). The bench has observed that the ruling passed by the AAR in the petitioner's own case is binding under Section 28 J (1) of the Customs Act, 1962 on the petitioner and the respondents/department as there is no change in law post-decision and the decision has been accepted by the department in the absence of any further challenge before the higher forum.</p>	CLICK HERE

INTELLECTUAL PROPERTY RIGHTS

S. No.	Particulars	Link
1.	<p>M/S Malhotra Book Depot vs M/S MBD Industries CS(COMM) 133/2019</p> <p>The dispute centered around the usage of the "MBD" mark by the defendants, alleged to be similar to the plaintiff's "MBD" mark. While the plaintiff was involved in the publishing business, the defendants operated in road construction. Through mediation hearings, an agreement was reached that the defendant would modify its mark to "JMVD." Despite this resolution, the plaintiff persisted in seeking damages. Considering the distinct industries of the parties and the plaintiff's repeated adjournment requests, the Delhi High Court determined that the plaintiff had no grounds to object to the defendant's use of the "JMVD" mark and granted permission for its continued use by the defendant.</p>	CLICK HERE
2.	<p>Himalaya Wellness Company & Ors vs PRK Productions LLP CS(COMM) 844/2023</p> <p>The plaintiff raised concerns about the use of the deceptively similar mark "Vimalaya" in the film "Aachar and Co.," the plaintiffs filed the suit seeking a permanent injunction against its usage. The argument highlighted that the film implies the products 'Liv.52,' 'Geriforte,' & 'Evecare' originate from 'Vimalaya.' Recognizing the deceptive similarity between "Himalaya" and "Vimalaya," the Delhi High court, in consideration of the relief sought, directed the issuance of a notice to the defendant, summoning them to appear before the court.</p>	CLICK HERE
3.	<p>Sporta Technologies Pvt. Ltd. Vs John Doe and Others CS(COMM) 852/2023</p> <p>The Delhi High Court ruled that the defendant's "Dreams11" mark is deceptively and confusingly similar to the plaintiff's mark "Dream11" and instructed MEITY to suspend the defendant's website www.dreams11exch.com.</p> <p>The court also scrutinized the contents of the defendant's website through screenshots, raising apprehensions about its content and the covert manner of its operation.</p>	CLICK HERE
4.	<p>Marico Limited vs K.L.F. Nirmal Industries Pvt. Ltd., COMMERCIAL IP (L) SUIT NO.22293 OF 2023</p> <p>The Bombay High Court rejected an application by KLF Nirmal Industries challenging an ex parte order passed in a suit filed by Marico Limited. The order restrained the defendant from using blue bottles infringing Marico's PARACHUTE Registered Marks and distinctive packaging elements. The court ruled that the defendant failed to establish the essential requirement for vacating an ex-parte order. The defendant's contention, based on an Information Memorandum, lacked substance, as it wasn't relevant to the specific infringement claims. The court dismissed claims of delay or suppression of facts by Marico, emphasizing that they took prompt action upon awareness. The court ordered that the ex parte injunction will continue until further orders.</p>	CLICK HERE
5.	<p>Burger King Company LLC vs. Virendra Kumar Gupta, 2023: DHC:8671</p> <p>The Delhi High Court has declared "Burger King" to be a well-known trade mark under Section 2(1)(zg) of the Trade Marks Act, 1999 on account of its long period of use in the fast foods industry, as well as on its satisfaction of the test for a well-known mark laid down in <i>Hermes International v. Crimzon Fashion Accessories Pvt. Ltd.</i> 2023/DHC/000961, which includes factors such as public recognition, duration and</p>	CLICK HERE

	extent of use, including geographical use, and a record of successful enforcement of rights.	
6.	Yashoda Hospital and Research vs Yashoda Super Specialty Hospital C.A.(COMM.IPD-TM) 40/2022 The plaintiff initiated a review petition challenging IPAB's decision to invalidate its trademark, citing non-appearance and for passing an ex-parte order. Contending improper service by the IPAB, the plaintiff asserted that due process was not adhered to by the IPAB. Subsequently, the Delhi High Court, acknowledging a breach of the principle of natural justice, nullified the contested order. In light of this, the court mandated a fresh hearing for the rectification petition, ensuring a fair and just process in accordance with legal principles.	CLICK HERE
7.	M/S Suman International & Anr. vs Mahendra Gulwani & Anr FAO (COMM) 199/2021 The plaintiffs filed an appeal challenging the Commercial Court's decision to grant an interim injunction, restricting the appellant from using the mark "Sweet Rose Lollipop," its trade dress, and the rose shape for its products. The commercial court found these elements to be deceptively similar to the respondent's "Madhur Rose Pop Lollipops" marks and product. However, the Delhi High Court overturned the order, stating that the word marks and trade dress were not deceptively similar. Additionally, for the shape mark, the court considered the "rose" shape for confectionery items as generic, concluding that the appellant could not be restricted from using it.	CLICK HERE
8.	Suzlon Energy Limited v. Suzlon Cotton Mills Private Limited and The Registrar of Trademarks (T)OP(TM)/316/2023 The Madras High Court has officially recognized the trademark 'SUZLON' owned by the Suzlon Group as a 'well-known' trademark. In light of this, the court has directed the rectification of the register by expunging the registered mark 'SUSLON' under Trademark Application No. 1502401 in Class 25, held by SUZLON COTTON MILLS PRIVATE LIMITED, from the Register of TradeMarks and canceling the corresponding registration certificate.	

ARBITRATION

1.	Shailesh Ranka and Ors v. Windsor Machines Limited, Commercial Arbitration Application (L) No. 38198 of 2022 The Hon'ble Bombay High Court held that a dispute related to the business of the firm cannot be referred to arbitration by a partner in absence of other partners. It held that the implied authority granted to a partner does not extend to referring the dispute to arbitration in view of the bar under Section 19(2)(a) of the Partnership Act, 1932. The Court also held that an arbitration notice issued by one of the partners without the consent of the remaining partners is invalid which renders the petition for the appointment of the arbitrator also invalid.	CLICK HERE
2.	Umaxe Projects Pvt Ltd v. AIR Force Naval Housing Board, O.M.P. (COMM) 469/2023 The Hon'ble Delhi High Court reaffirmed that filing an application under Section 29(A) does not amount to an express waiver in writing of the right to challenge the arbitrator's ineligibility under Section 12(5). The decision clarified that mere	CLICK HERE

	participation in arbitral proceedings, without an overt act indicating awareness and conscious waiver of the right to object, does not suffice.	
3.	Ministry of Health & Family Welfare and Anr v. M/s Hosmac Projects, FAO(OS) (COMM) 326/2019 & CM No.49717/2019 The Hon'ble Delhi High Court held that a copy of the signed arbitral award served only on the lawyer, or the agent of the party does not constitute a valid delivery in absence of the delivery on the party itself. The Court held that the term 'party' under Section 31(5) of the Act refers to the actual entity who executed the arbitration agreement, excluding agents or lawyers representing the party.	CLICK HERE

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