

LEXPORT NEWSLETTER

NOVEMBER 2025 | Week 3

Dear Readers,

This weekly newsletter offers you a concise analysis of important developments, notable judgments, and noteworthy regulatory amendments and developments in the corporate and financial sectors.

This newsletter will cover updates inter alia from **Banking Laws & FEMA, Corporate Laws, Securities Laws and Capital Markets, Competition Laws, Indirect Taxes, Customs and Foreign Trade, Intellectual Property Laws, and Arbitration Laws.**

Acknowledging the significance of these updates and the need to stay informed, this newsletter provides a concise overview of the various changes brought in by our proactive regulatory authorities and the courts.

Feedback and suggestions will be much appreciated. Please feel free to write to us at mail@lexport.in.

Regards,
Team Lexport



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Quick Bites

Rebate First Needs Liability: HC Clarifies Rule 18



- The Bombay High Court Held that a Rule 18 Rebate Cannot Be Denied Without First Determining Whether Excise Duty Was Actually Payable on the Exported Goods
- The Department Must Establish Tax Liability Before Evaluating or Rejecting a Rebate Claim
- Yamaha's Rebate Claim Has Been Remanded for Fresh, Reasoned Adjudication
- The Ruling Reinforces that Rebate Eligibility Begins With Proving Duty Liability, Not on Assumptions or Procedural Shortcuts

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Shelley Singh

Bombay High Court Remands Yamaha's Rebate Claim Under Rule 18 for Fresh Consideration

Case Title: India Yamaha Motor P. Limited v. The Union of India

The Bombay High Court has held that a rebate under Rule 18 of the Central Excise Rules, 2002 cannot be denied without first determining whether excise duty was actually payable on the exported goods. The Division Bench of Justices M.S. Sonak and Advait M. Sethna set aside the order rejecting India Yamaha Motor Pvt. Ltd.'s rebate claim and remanded the matter for fresh evaluation.

Yamaha manufactures motorcycles and scooters attracting Basic Excise Duty (BED) and NCCD, and had availed CENVAT credit on inputs. Up to February 2016, credit could be used to pay NCCD; however, the department alleged violation of the 5th proviso to Rule 3(4) of CCR, 2004, for March 2016–June 2017 and demanded ₹22.31 crore, which Yamaha paid under protest.

After adjudication, Yamaha settled the dispute under SVLDRS, 2019 and sought restoration of the CENVAT credit utilised earlier followed by a rebate claim on duty paid for exported goods. The department rejected the rebate, and the Principal Commissioner (RA) upheld the rejection.

The High Court observed that the Principal Commissioner failed to examine the core issue—whether tax was even leviable on the exported final products, a prerequisite for deciding a rebate claim under Rule 18. The Court held that none of the cited provisions established a link between non-payment of interest and denial of rebate. It also criticised the reliance on Yamaha's "payment under protest" as a disqualification, noting that such reasoning lacked legal basis and Yamaha was not given an opportunity to respond.

The Court therefore set aside the impugned order and remanded Yamaha's revision application for fresh, reasoned adjudication.



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No Pleadings, No Relief: Delhi HC Rejects Illegal Arrest Claim



- The Petitioner, a Turkmen National, Alleged Illegal Arrest in a 2018 Gold Smuggling Case — But Made No Such Averments in His Pleadings
- Delhi High Court Noted that the Gold Seized Was 15.5 Kg Worth ₹4.46 Crores, Not a "Personal Effect" as Claimed
- Since the Confiscation Order Was Never Challenged and Arrests Were Made Under Proper Legal Process, the Court Declined Interference

Another Reaffirmation of Procedural Discipline in Writ Litigation

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Delhi High Court Declines to Entertain Turkmen National's Plea Alleging Illegal Arrest in Gold Smuggling Case

Case title: Myratgeldi Mammedov v. Union Of India & Anr.

The Delhi High Court has refused to entertain a writ petition filed by a Turkmenistan national who alleged that the Indian Customs Department had illegally arrested him in 2018 in connection with an alleged gold smuggling case. The Division Bench of Justices Prathiba M. Singh and Shail Jain noted that the petitioner's pleadings contained no averments regarding illegal arrest, and submissions on this aspect were made only during oral arguments.

Customs produced the seized gold jewellery before the Court in a sealed cover. Upon inspection, the bench observed that the jewellery a thick, heavy chain composed of interlinked rings could not be considered the petitioner's personal effect, contradicting his claim. The petitioner argued that the gold seized from him was valued below ₹50 lakh, falling short of the statutory threshold for arrest. He further alleged that he was detained for three days and wrongfully arrested.

The Customs Department, however, asserted that 15,560 grams of gold worth ₹4.46 crore was recovered from the petitioner and 22 others travelling with him. The gold was confiscated under an Order-in-Original passed in May 2018, accompanied by penalties.

Since the petitioner had never challenged the confiscation order, the Court held that no interference was warranted at this stage. Noting that all passengers had been arrested and granted bail by the Chief Metropolitan Magistrate in May 2018, the Court declined to allow the challenge, finding no basis for relief.



Shelley Singh



Indirect Tax



ITAT Mumbai Partly Allows Appeal on Section 14A Disallowance and Capital Receipt Issue

CASE TITLED: SANJAY KOTHARI (HUF) VS. NATIONAL FACELESS ASSESSMENT CENTRE

In a significant ruling dated 17 November 2025, the Mumbai Bench of the ITAT comprising Shri Vikram Singh Yadav (AM) and Shri Sandeep Singh Karhail (JM) partly allowed the assessee's appeal, providing clarity on Section 14A disallowance and taxation of capital receipts.

The dispute involved two issues:

- (1) Disallowance under Section 14A r/w Rule 8D, and
- (2) Taxability of excess refund of capital advance received from the Karta of the HUF.

The assessee argued that the disallowance under Section 14A had no factual basis since no expenditure was incurred to earn exempt income, and in any case, the disallowance could not exceed the actual expenditure claimed. The ITAT accepted this contention, directing the AO to restrict the disallowance to ₹69,455, being the only expenditure booked in the profit and loss account.

On the second issue, the assessee demonstrated that the refund of ₹1.26 crore was merely an excess return of capital advance and not income. The ITAT held that only income can be subjected to tax and that a capital receipt cannot be treated as income merely because it was later used for business activities. Accordingly, the addition was deleted.

With these findings, the ITAT partly allowed the appeal.



Shelley Singh

Karnataka High Court Orders Refund of Wrongly Paid IGST After Correct Tax Paid to State

Case Title: M/s Merck Life Science Pvt. Ltd. v. Union of India

The Karnataka High Court has ruled that the Central Government cannot retain IGST that was wrongly paid by an assessee once the correct tax has been paid to the State authorities. Justice S R Krishna Kumar held that when an assessee mistakenly pays IGST under a bona fide belief and later pays the appropriate State GST, the Centre is bound to refund the erroneously paid IGST.

The assessee, a science and technology company providing intermediary services to foreign entities, initially believed its services qualified as export of services and paid IGST accordingly. Upon realising that the supply was not an inter-State one, the assessee paid State GST under the Karnataka GST Act. A refund claim for the IGST paid was filed before Central authorities, but it was rejected on limitation grounds under Section 54 of the CGST Act.

The assessee argued that Section 54 and Rule 89(1A) are directory, not mandatory, and that the refund power in such cases flows from Section 19 of the IGST Act and Section 77 of the CGST Act. The Court accepted this position, noting earlier judgments holding these provisions to be directory. It further applied the principles of restitution and unjust enrichment, observing that under Article 265, the Centre cannot retain tax that is not legally due. Accordingly, the Court held the refund claim was not time barred and ordered that the IGST be refunded, allowing the petition.



Shelley Singh



Indirect Tax

Bombay High Court Quashes Order Denying Condonation of Delay to Charitable Trust

CASE TITLED: SAVITRIBAI PHULE SHIKSHAN PRASARAK MANDAL, KAMLAPUR VS. DIRECTORATE GENERAL OF INCOME TAX INVESTIGATION (INVESTIGATION) PUNE & ORS.

The Bombay High Court has allowed a writ petition filed by the Charitable Trust Savitribai Phule Shikshan Prasarak, setting aside the order of the Directorate General of Income Tax Investigation Pune which had rejected the Trust's request for condonation of a 509 day delay in filing Form 9A for Assessment Year 2022-23. The issue arose from the amendment introduced through the Finance Act 2022 which mandated that application of income by charitable trusts must be claimed on an actual payment basis from Assessment Year 2022-23. Due to a misprint in the 67th Edition of Taxmann's Income Tax Bare Act the Trust believed the amendment applied from Assessment Year 2023-24 and therefore did not file Form 9A for the earlier year.

During assessment proceedings under Section 143(3) the Trust discovered that the amendment was applicable from Assessment Year 2022-23 and promptly filed Form 9A along with an application under Section 119(2)(b) seeking condonation of delay. The Directorate General rejected the application holding that reliance on a publication such as Taxmann was not a sufficient basis. A review application was also dismissed. The High Court observed that the Trust had derived no benefit from the delay and that refusing condonation would cause serious hardship. It therefore quashed the impugned order and directed reconsideration in favour of the Trust.

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Quick Bites

When Law Books Mislead: HC Steps In to Prevent Hardship

509
Days
Delay



- A Misprint Created Confusion Regarding When "Actual Payment" Rules Applied to Charitable Trusts
- The DGIT Rejected the Trust's Condonation Plea, Calling Reliance on Publications Insufficient
- The High Court Disagreed—Finding No Malafide, No Advantage Gained and Significant Hardship—Thus Setting Aside the Rejection

Bombay HC Reinforces: Justice Prevails Over Technical Lapses

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Shelley Singh



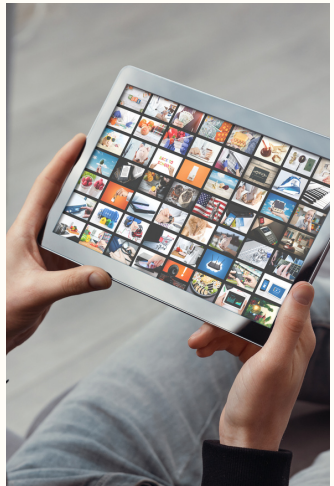
Intellectual Property Rights

Delhi High Court Restrains Engineering Firm from Using Pirated 'SOLIDWORKS' Software, Orders Raid on Gurugram Unit

The Delhi High Court granted an ex parte ad-interim injunction in favour of Dassault Systemes SolidWorks Corporation, restraining Samgo Engineering and its director from using pirated or unauthorized versions of the SOLIDWORKS CAD software. Justice Manmeet Pritam Singh Arora noted that despite repeated cease-and-desist notices since 2021, the defendants continued using unlicensed copies across 27 systems, generating over 5,600 infringement hits. Finding clear evidence of deliberate, large-scale piracy, the Court barred the defendants from using or reproducing any unlicensed SOLIDWORKS programs, except for one valid perpetual license they already hold. A Local Commissioner was appointed to raid the company's Gurugram premises, inspect systems, copy evidence, and seize infringing installations if the defendants refuse to regularise usage. [Dassault Systemes SolidWorks Corp. & Anr. v. Shashikant Sharma & Anr., CS(COMM) 1124/2025]



Anushka Tripathi



Delhi High Court Blocks 'Cricfy TV' and Other Rogue Apps from Illegally Streaming India-South Africa and India-New Zealand Cricket Tours

The Delhi High Court granted an ex parte ad-interim injunction in favour of JioStar India Pvt. Ltd., restraining rogue apps and websites such as Cricfy TV from illegally streaming the upcoming South Africa Tour of India 2025 and New Zealand Tour of India 2026. Justice Tejas Karia noted that JioStar holds the exclusive global TV and digital media rights for all BCCI events until 2028, including both tours. The Court found that the defendant apps were habitual infringers, having previously streamed major cricket content without authorization. To prevent real-time piracy once the matches begin, the Court ordered domain registrars and ISPs to block the identified domains within 72 hours and to disclose registrant details. A Dynamic+ injunction was also granted, allowing JioStar to notify authorities of newly emerging infringing links for immediate blocking during the tournaments. [JioStar India Pvt. Ltd. v. Cricfy TV & Ors., CS(COMM) 1203/2025]



Anushka Tripathi

Intellectual Property Rights

Delhi High Court Stops Sale of Counterfeit 'Safe AQ' Glucose Test Strips, Protects Sinocare's Trade Dress and Marks

The Delhi High Court granted an ex parte ad-interim injunction in favour of Changsha Sinocare Inc. and its Indian subsidiary, restraining Rajesh Kumar and associated entities from manufacturing and selling counterfeit medical devices under the marks Safe AQ and Safe Accu. Justice Tejas Karia noted that the defendants, former distributors of Sinocare, had copied the red-and-white trade dress, layout, slogans and overall packaging of Sinocare's glucose test strips, creating a near-identical product likely to mislead consumers. The Court found the imitation deliberate and commercially dishonest, especially since the defendants had earlier attempted to fraudulently register Sinocare's marks in their own name. Emphasising the public health risks of substandard diagnostic strips, the Court restrained the defendants from using the deceptive marks or trade dress and directed Moglix and IMDM to disable infringing product listings within 72 hours. [Changsha Sinocare Inc. & Anr. v. Rajesh Kumar & Ors., CS(COMM) 1188/2025]



Anushka Tripathi



Federal Circuit Reverses Jury Verdict: Claim 30 of Duke/Allergan Patent Held Invalid for Lack of Written Description

The U.S. Court of Appeals for the Federal Circuit has reversed a Colorado district court's judgment and invalidated Claim 30 of U.S. Patent No. 9,579,270, owned by Duke University and Allergan. The patent relates to using prostaglandin F (PGF) analogs to treat hair loss technology underlying Allergan's well-known Latisse® product. While a jury previously found that Sandoz failed to prove invalidity and awarded Allergan \$39 million in damages, the Federal Circuit concluded that no reasonable jury could find adequate written description support for the claimed subgenus of compounds. The Court emphasized that the patent's specification described billions of possible PGF analogs, while Claim 30 covers a far narrower set of 1,620–4,230 specific compounds without providing structural commonalities or "blaze marks" guiding a skilled chemist to the claimed subset. The Court held that the patent failed to identify even a single embodiment within the claimed subgenus and instead presented a "laundry-list" of possible chemical substitutions. Such disclosure, the Court explained, is insufficient to show the inventors possessed the full scope of the claimed invention under 35 U.S.C. §112(a). This ruling serves as a critical reminder for innovators in pharmaceuticals and biotechnology: precision in drafting specifications is essential to sustaining broad chemical-genus claims in litigation.



Swagita Pandey

Intellectual Property Rights

Madras High Court Clarifies Copyright Ownership in Insolvency

Madras High Court provides important clarity on how copyright ownership is treated when a rights-holder undergoes insolvency or compromise, and how legal heirs fit into that framework. The ruling addresses a scenario where the original author's copyright was transferred into an insolvency or compromise scheme, and subsequently concerns arose over whether the author's legal heirs or assignees can assert rights post-settlement. At issue was the principle that copyright, as a statutory right, must be qualitatively distinguished from mere contractual rights or claims, especially when assets are pooled and disposed of in an insolvency process.

The Court reiterated that once a copyright is transferred in a scheme of arrangement or insolvency resolution, its status depends on the legal terms of transfer, the statutory framework of the Copyright Act, and whether the initial author's moral and economic rights (or subsequent heirs' rights) survive the transfer. Importantly, the judgment highlights that legal heirs are not automatically endowed with ownership unless the author's estate or transfer arrangement explicitly reserves those rights. This distinction has significant implications for creators, publishing houses, rights-holders and insolvency practitioners alike.



Swagita Pandey



Hon'ble Bombay High Court Grants Leave and Extends Injunction in Bisleri Passing Off Action

The Hon'ble Bombay High Court granted ad-interim protection to Bisleri in its trademark and passing off suit. The Hon'ble Court noted that despite service, the defendants failed to appear, and earlier findings from the 24 October 2024 order established prima facie deceptive similarity between Bisleri's BISLERI mark and the defendants' impugned marks BISLREI and JESSY AQUA, including similarities in artwork, colour scheme, bottle shape, and overall trade dress. The Hon'ble Court held that the impugned products were clearly designed to mislead consumers and ride on Bisleri's substantial goodwill and reputation in the packaged drinking water market. Observing the likelihood of consumer confusion and damage, the Hon'ble Court allowed the passing off claim and restrained the defendants from manufacturing or selling the infringing products and bottle designs, granting ad-interim relief in terms of the passing off and design-related prayers. [Bisleri International Private Limited vs Mahananda Food Private Limited (COMMERCIAL IP SUIT NO. 365 OF 2024)]



Ananya Singh

Intellectual Property Rights

Hon'ble Bombay High Court Restrains Use of "New Indian Express" Outside Permitted Territories

The Hon'ble Bombay High Court granted an interim injunction in favour of Indian Express Pvt. Ltd., restraining Express Publications from using the mark "New Indian Express" for events such as the "New Indian Express – Mumbai Dialogues." The Hon'ble Court held that a 1997 Memorandum of Settlement and consent decree granted the defendants only a limited, territorial right to use the derivative mark exclusively for publication in five southern states and specified Union Territories. The Hon'ble Court rejected the defendants' arguments on waiver and acquiescence, noting that no rights can be waived under a consent decree, and that the IPAB's 2015 order restricting use of the mark to the same territories had attained finality. It held that "New Indian Express" is merely a non-distinctive derivative of the plaintiff's registered mark "Indian Express," and its use outside the agreed territory amounts to infringement and passing off. Finding a strong prima facie case, balance of convenience, and risk of irreparable harm, the Hon'ble Court made the interim injunction absolute. [The Indian Express P Ltd vs Express Publications Madurai Pvt Ltd (COMM IPR SUIT (L) NO.31230 OF 2024)]



Ananya Singh



Litigation

Om Swayambhu Siddhivinayak Vs. Harischandra Dinkar Gaikwad & Ors., 2025: BHC-AS:47203

The Hon'ble Bombay High Court held that under Section 8(1) of the Arbitration Act, a judicial authority must refer parties to arbitration if the subject matter of the suit corresponds with that of the arbitration agreement and a valid agreement prima facie exists. It found that the trial court erred by relying on the absence of an arbitration clause in the Supplemental Agreement, since the Development Agreement's arbitration clause covered disputes regarding discharge of consideration recorded in that instrument. Allegations of fraud or "public overtones" were held insufficient to render the dispute non-arbitrable. Consequently, the impugned order was set aside, and the parties were directed to proceed to arbitration under the Development Agreement, with four weeks to mutually appoint an arbitrator.



Shyam Kishor Maurya

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Bombay HC: Valid Arbitration Clause Prevails – Parties Must Go to Arbitration



The Bombay High Court Held that When a Prima Facie Valid Arbitration Agreement Exists, Courts Must Refer the Parties to Arbitration Under Section 8(1) of the Arbitration Act. The Absence of an Arbitration Clause in a Supplemental Agreement or Mere Allegations of Fraud Cannot Block Arbitrability.

The Trial Court's Order Was Set Aside, and the Parties Were Given Four Weeks to Mutually Appoint an Arbitrator.

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Karnataka HC: LLP Partner Disputes Must Go to Arbitration – Sole Arbitrator Appointed



- Karnataka High Court Reaffirmed that LLP Partner Disputes Must Go to Arbitration Under the LLP Act and Arbitration Act
- Both Parties Had Already Nominated Arbitrators, Proving Clear Intent to Arbitrate
- Lack of Consensus on a Common Nominee Triggered Court Intervention
- The Court Therefore Appointed a Sole Arbitrator Through the Arbitration Center
- Ensures Structured Resolution and Continuity of the LLP's Dispute-Settlement Mechanism

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Maverick Motors LLP and Others Vs. Rohith Murthy, NC:2025: KHC:43884

The Hon'ble Karnataka High Court noted that, as no consensus was reached between the parties, the petitioners were justified in seeking appointment of an arbitrator. Emphasising that disputes between LLP partners must be referred to arbitration under Entry 14 of the First Schedule to the LLP Act and the Arbitration and Conciliation Act, 1996, the Court found that the respondent had in fact agreed to arbitration and only objected to the petitioners' nominee. Since the respondent had also nominated its own arbitrator, the Court held that arbitration was clearly intended. Accordingly, the petition was allowed, and a sole arbitrator was appointed under the aegis of the Court's Arbitration Center.



Shyam Kishor Maurya

Litigation

Iqbal Trading Company Vs. Union of India & Ors., 2025: BHC-AS:47439

The Hon'ble Bombay High Court held that the arbitral tribunal, constituted after the 1996 Act came into force, was wrongly subjected to the 1940 Act and that the limitation finding was baseless. It found the award to be an unreasoned, summary determination, delivered without providing the appellant access to crucial documents necessary for defending the claim. The tribunal's refusal to supply relevant material and its failure to give reasons were held to violate principles of natural justice and demonstrate a lack of judicial approach. Consequently, the Court set aside both the arbitral award and the District Judge's order affirming it.



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Quick Bites

Natural Justice Can't Be Locked Away



UNREASONED & UNFAIR



JUSTICE RESTORED

The Bombay High Court Reaffirmed the Core Values of Arbitration – Fairness, Transparency and Judicial Reasoning.

In the Case *Iqbal Trading Company Vs. Union of India & Ors.*, the Court Held that Applying the Outdated 1940 Act to a Tribunal Formed Under the 1996 Arbitration Act Was a Serious Legal Misstep.

- Unreasoned Awards Cannot Stand Judicial Scrutiny
- Access to Documents & Reasoning are Not Privileges – They are Rights
- Natural Justice is Non-Negotiable

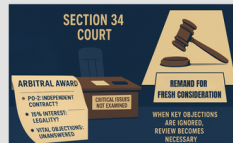
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Quick Bites

Judicial Scrutiny Demands Completeness – Not Silence



The Delhi High Court Held that Section 37 Intervention is Warranted When a Section 34 Court Either Fails to Exercise Jurisdiction or Overlooks Vital Issues. In *MTNL Vs Motorola*, Key Objections – Including Whether PO-2 Was an Independent Contract and the Validity of 15% Interest – Were Left Unexamined. Finding the Award's Scrutiny Incomplete, the Court Set Aside the Judgment and Remanded the Matter for Fresh Consideration.

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MTNL Vs. M/s Motorola Inc., FAO(OS) 169/2017 and CM APPL. 20733/2017; 2025: DHC :9910-DB

The Division Bench of Hon'ble Delhi High Court held that interference under Section 37 is justified where the Section 34 court either fails to exercise its jurisdiction or exceeds it and found that key issues in the arbitral award required proper scrutiny. It noted that several crucial objections raised by MTNL, such as whether PO-2 was an independent contract and the legality of 15% interest, were not addressed by the Single Judge. Emphasising that a Section 34 court must apply its judicial mind and give cogent reasons, the Court observed that ignoring vital contentions can render an award perverse. Accordingly, it set aside the Impugned Judgment and remanded the Section 34 petitions for fresh consideration.



Shyam Kishor Maurya

Litigation



Jibin Shaji v Kerala Forest Department and Ors., WP(C) 13262/ 2025

The Kerala High Court held that the Government and its instrumentalities have a constitutional duty of fairness and transparency to disclose all statutory bars and limitations when auctioning vehicles. The case involved an auction purchaser of a Kerala Forest Department car whose request for transfer of ownership was rejected due to Rule 52A of the Central Motor Vehicles Rules, 1989, which bars renewal or re-registration of Government vehicles after 15 years and mandates disposal only through a Registered Vehicle Scrapping Facility. The Court noted that the vehicle's registration had expired before the auction, making re-registration legally impossible. It held that the State, as a "model seller," must fully disclose such statutory prohibitions, citing *Union of India v. Hindustan Development Corporation*. The Court directed all Government bodies to specify Rule 52A restrictions in future auction notices. Though denying re-registration and refund, it allowed the petitioner to seek compensation in civil court.



Ananya Jain

SHRIKUMAR GUPTA & ANR. VERSUS UNION OF INDIA, @SLP(C) No. 7188/2024

The Supreme Court ordered the Railways to pay Rs. 8 lakhs with 9 percent interest to the parents of a passenger who died after mistakenly boarding the wrong train. The Railways argued that the deceased was negligent, claiming he tried to deboard a moving express train at Maihar since it did not halt there, and was therefore not entitled to compensation under Section 16G of the Railway Claims Tribunal Act, 1987. A bench of Justices Aravind Kumar and NV Anjaria rejected this defence, holding that boarding the wrong train does not make a passenger non bona fide. The Court noted that the Railways produced no evidence to prove negligence and observed that no sane person would attempt to jump from a running express train. Since the Railways failed to substantiate its allegations, the Tribunal's finding of liability was upheld. The Court directed that the compensation be paid within three months.



Ananya Jain



Litigation



Sunil Kumar Yadav vs. State of U.P. and Another, CRIMINAL APPEAL U/S 413 BNSS No. - 564 of 2025

The Allahabad High Court has directed all trial judges in Uttar Pradesh to invariably reproduce injury details from medical reports in their judgments, noting that many courts ignore this requirement despite long-standing circulars mandating it. The directive came while dismissing a criminal appeal challenging the acquittal of a husband accused of dowry death. The High Court observed that the Sessions Judge in Ghazipur failed to mention the injuries found on the deceased's body, a serious lapse given the forensic importance of such details. The Court ordered the Registrar (Compliance) to circulate the judgment to all judicial officers for strict adherence. On merits, the High Court upheld the acquittal, finding major contradictions in the testimony of the child witness and admissions by adult witnesses that allegations of dowry harassment were exaggerated. Emphasising the double presumption of innocence and the need for appellate restraint, the Court found no perversity in the trial court's judgment and dismissed the appeal.



Ananya Jain

Vineet v/s Vishal Sohal, Vineet v/s Dinesh Kapoor, Civil Revision No.4083 of 2013 with CR No.32 of 2014

The Himachal Pradesh High Court held that a landlord cannot be compelled to continue running his business from a rented shop when his own premises are available and his need is bona fide. Justice Vivek Singh Thakur observed that the landlord could not rely on his mother's pension as a permanent source of livelihood and that his operating a business from rented premises itself proved his genuine requirement for the property. The eviction petition, initially dismissed by the Rent Controller and Appellate Authority because pre 2012 law did not permit eviction from non residential premises on grounds of personal necessity, was reconsidered by the High Court. The Court noted that the landlord was educated yet unemployed and forced to run his shop in a less favourable location despite owning a shop in the main market. Importantly, the Court reaffirmed that bona fide requirement is a question of fact and must be interpreted liberally in favour of a landlord genuinely seeking to use his own premises. The tenants were ordered to vacate the property.



Ananya Jain



Corporate

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NPA Status to Continue. Creditor Rights Stay Strong.



In a Significant Ruling, NCLAT Held that an Auction Purchaser Cannot Alter the Corporate Debtor's Loan Classification to "Standard" If It Undermines a Bank's Rights.

The Decision Protects Creditors' Ability to Proceed Against Personal Guarantors, Affirming that Liquidation Doesn't Erode Statutory Recovery Mechanisms.

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www.lexport.in**Akshita Agarwal**

NCLAT: Auction Purchaser Cannot Seek NPA Reclassification That Impairs Creditor Rights

The National Company Law Appellate Tribunal (NCLAT), New Delhi, has held that a successful auction purchaser cannot demand the reclassification of a corporate debtor's loan from Non Performing Asset (NPA) to standard if such reclassification affects the rights of the financial creditor, particularly its rights against personal guarantors.

The case involved IDBI Bank, which had extended loans of about Rs 428 crore to the corporate debtor. After liquidation, the bank received only around Rs 7 crore from the sale of the debtor's assets. The auction purchaser, who acquired the corporate debtor as a going concern, approached the NCLT seeking a set of concessions including the reclassification of the loan from NPA to standard. The NCLT allowed this request.

IDBI Bank challenged the order, submitting that it had already discharged its charge over the secured assets and issued a No Objection Certificate. The bank argued that changing the loan classification would prejudice its ability to proceed against the personal guarantors, even though the assets purchased by the auction buyer would remain unaffected.

The NCLAT agreed, holding that an auction purchaser is only entitled to an encumbrance free title to the purchased assets and cannot compel a financial creditor to alter loan classification in a manner that restricts its rights. The appeal was allowed and the NCLT order was set aside.

Case: IDBI Bank Ltd. v. Silver Stallion Ltd.
(Consortium with Vikasa India EIF I Fund and AIG Direct LLC) and Another
Case Number: Comp. App. (AT) (Ins) No. 1054 of 2025



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