Interpreting India for commerce

New Delhi: K-1/114, First Floor, Chittaranjan (C.R.) Park, New Delhi – 110019, India

t: +91-11-2651-0505 / 1505
e: mail@lexport.in

# LEXPORT NEWSLETTER

## August 2026 | 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

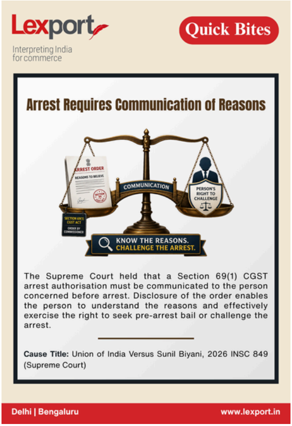
# Indirect Tax

**Arrest order under Section 69 CGST must be communicated to person concerned before arrest: Supreme Court**

The Supreme Court held that an order passed by the Commissioner under Section 69(1) of the CGST Act authorising arrest must be communicated to the person concerned. The Court noted that such an order is a prerequisite for seeking pre-arrest bail and that the Commissioner must record "reasons to believe" based on the material and evidence underlying the opinion. The Court observed that withholding the order would prevent the person from effectively challenging the reasons for arrest and exercising the remedy of seeking anticipatory bail. Accordingly, the Court directed that the Section 69 order be communicated to the respondent through electronic means or other permissible modes of communication and clarified that, without such communication, the question of arrest would not arise. The Court also held that merely being summoned under Section 70 of the CGST Act does not make a person an accused.

Union of India Versus Sunil Biyani, 2026 INSC 849 (Supreme Court)

Soumya Shrivastava




# Indirect Tax

**No Service Tax Payable on Indivisible Turnkey Contracts for ATM Supply, Installation, and Commissioning Prior to 01.06.2007: Supreme Court**

The respondent-assessee, M/s Diebold Systems Pvt. Ltd., was engaged in supplying, installing, and commissioning Automated Teller Machines (ATMs) to various banks under turnkey contracts for a single consolidated consideration, under which installation and commissioning were incidental obligations to the supply of ATMs. The Revenue Department (Commissioner of Service Tax, Chennai) issued three Show Cause Notices for the period July 2003 to April 2006, attributing 33% of the gross consideration to installation and commissioning activities and demanding service tax under "commissioning or installation" under Section 65(105)(zzd) of the Finance Act, 1994. On adjudication, the Commissioner confirmed the demands along with interest and penalties (except in one order where penalties were omitted), but the CESTAT set aside these Orders-in-Original, holding that indivisible turnkey contracts could not be vivisected to tax the service element without express statutory authority. The Supreme Court, examining Sections 65(105), 66, and 67 of the Finance Act, 1994, noted that prior to the introduction of "works contract service" under Section 65(105)(zzzza) with effect from 01.06.2007, the statute provided neither a charging provision nor a machinery mechanism to vivisect an indivisible composite contract and levy service tax on an assumed or notional percentage of the total consideration. Relying on the precedent established in Larsen and Toubro Limited, the Court reaffirmed that pre-01.06.2007 taxable entries applied only to service contracts simpliciter and not to indivisible composite works or turnkey contracts. Consequently, the Supreme Court held that the Commissioner of Service Tax, Chennai lacked statutory authority to artificially segregate 33% of the composite consideration for taxation, upheld the order of the CESTAT, and dismissed the appeals preferred by the Revenue.

Commissioner of Service Tax, Chennai v. M/s Diebold Systems (P) Ltd., Civil Appeal Nos. 4708-4711 of 2008 (Supreme Court)

Soumya Shrivastava



# Indirect Tax

**M/s S.S. Pharma v. State of Uttar Pradesh & Ors.**

Allahabad High Court Holds Issuing Circulars Alone Does Not Constitute Compliance in Making GST Appellate Tribunal Functional

The Allahabad High Court has observed that the mere issuance of circulars and advertisements cannot amount to compliance with the statutory obligation to operationalise the GST Appellate Tribunal. The Court emphasised that what is required is demonstrable and effective action culminating in the actual filling of vacancies, observing that formalistic compliance defeats the purpose of establishing an effective appellate mechanism.

The Court was hearing a petition concerning the functioning of the GST Appellate Tribunal in Uttar Pradesh. An affidavit filed by the Joint Secretary, Department of Revenue, revealed that against 92 sanctioned posts across the State, only 29 had been filled, leaving 63 vacancies. Although the Union relied on the affidavit to contend that the Tribunal was functional, the Court found that it disclosed no concrete, effective or time-bound steps taken to fill the vacancies.

The Court further noted that while successive circulars had been issued inviting applications, the affidavit failed to disclose when and how the vacancies were publicised, whether they were uploaded on the relevant official websites, the number of applications received, the scrutiny undertaken, or the reasons why the recruitment process had not reached fruition. It observed that repeated issuance of advertisements without meaningful follow-up could not satisfy the Government's obligation to ensure a functional statutory appellate forum.

Accordingly, the Court directed the Joint Secretary to file a fresh, comprehensive affidavit setting out the post-wise status of all vacancies, the action taken to fill each post, details of the recruitment process, correspondence exchanged with the GST Appellate Tribunal, and a definite, time-bound schedule for completing appointments. It further cautioned that failure to demonstrate effective progress may result in the personal appearance of the responsible officer before the Court.

**Meyank Pandey**

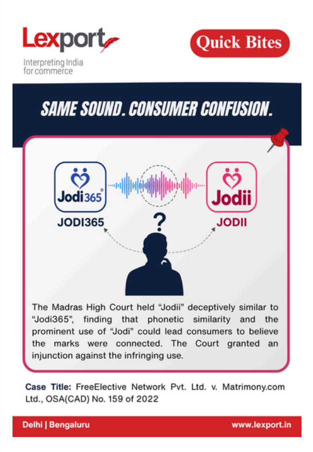

# Intellectual Property Right

**Madras High Court Holds “Jodii” Deceptively Similar to “Jodi365”**

The Madras High Court set aside the Single Judge’s decision and held that “Jodii”, used by Matrimony.com for its matchmaking app, was deceptively similar to “Jodi365”, the registered mark of FreeElective Network Pvt. Ltd. The Court noted that “Jodi” was the prominent and essential feature of the plaintiff’s mark, which had been continuously used since 2009 and had acquired substantial goodwill. The Court rejected the argument that protection could not extend to “Jodi” because the registration was for the composite mark “Jodi365”. It held that trademark use is composite and the distinctiveness of a sub-element need not be separately established under Section 17. It also emphasised that phonetic similarity must be considered while assessing deceptive similarity and found that consumers were likely to believe that “Jodii” was associated with “Jodi365”. The Court accordingly granted an injunction and directed surrender and destruction of infringing materials. However, the plaintiff’s claim for ₹1 crore in damages was rejected for want of evidence establishing the extent of loss. There was no order as to costs.

FreeElective Network Pvt. Ltd. v. Matrimony.com Ltd., OSA(CAD) No. 159 of 2022

**Anushka Tripathi**





# Intellectual Property Right

**Delhi High Court Declines Interim Injunction in Gurbani Broadcast Copyright Dispute**

The Delhi High Court declined to grant an ad interim injunction sought by the Shiromani Gurdwara Parbandhak Committee (SGPC) against television channels and other defendants for re-broadcasting Gurbani Kirtan from Sri Harmandir Sahib (Golden Temple), Amritsar). SGPC claimed that the defendants were infringing its broadcast reproduction rights under Section 37 of the Copyright Act, 1957, as the Gurbani broadcast was legitimately streamed on its YouTube channel and no broadcasting licence had been granted to the defendants. The defendants argued that the re-broadcast was protected under Section 52(1)(za) as communication to the public of a literary or musical work during a bona fide religious ceremony. They also contended that the broadcast was available to viewers free of charge and that SGPC's logo remained visible in the re-broadcast. On a preliminary assessment, the Court found prima facie merit in the defendants' submissions, particularly in light of Sections 37(3)(b), 52(1)(za) and 52(1)(l). It therefore declined to grant any interim relief at this stage. The issue of territorial jurisdiction was kept open for consideration.

Shiromani Gurdwara Parbandhak Committee & Anr. v. Galactic Television and Communications Pvt. Ltd. & Ors., CS(COMM) 883/2026

Anushka Tripathi



# Litigation

**National Highways Authority of India v. Oriental Structural Engineers Pvt. Ltd., O.M.P. (COMM) 386/2016**

The Delhi High Court, in National Highways Authority of India v. Oriental Structural Engineers Pvt. Ltd., partly allowed NHAI's Section 34 challenge to an arbitral award concerning Clause 70 of an NHAI contract.

On Claim No. 2, the Court held that the Tribunal had impermissibly included transportation charges, taxes and overheads while calculating the "actual percentage cost" of bitumen, cement and steel. Relying on the Supreme Court's subsequent ruling in M/s Progressive-MVR (JV), the Court clarified that Clause 70 is a self-contained price adjustment mechanism based on the agreed contractual formula. Such departure from the contractual methodology amounted to patent illegality under Section 34(2A), and the award of Rs.4,05,95,805/- with interest was set aside.

On Claim No. 3, concerning the additional 7.75% rebate, the Court upheld the Tribunal's interpretation that the rebate did not reduce BOQ rates for price adjustment. The Court also rejected NHAI's waiver argument based on acceptance of interim payment certificates.

The judgment reiterates that Section 34 review is supervisory, not appellate. Courts must defer to a reasonable contractual interpretation, but intervention is justified where an arbitral tribunal departs from the contractual bargain or binding Supreme Court law.

Hardik Jain


# Litigation

**M/s. Radhey Shyam Rishipal Factory v. Principal Commissioner of Customs (Import), CUSAA 89/2026**

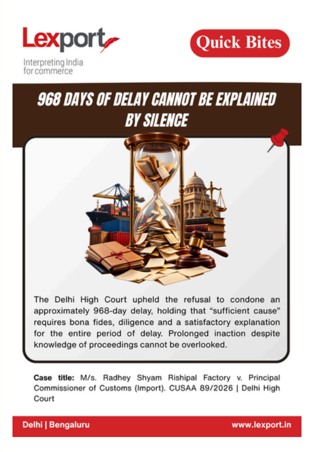
The Delhi High Court dismissed the appeals challenging CESTAT's refusal to condone a delay of approximately 968 days in filing appeals against the Order-in-Original. The Court reiterated that under Section 129A(5) of the Customs Act, "sufficient cause" for condonation must be assessed judicially, and although the expression is to receive a liberal, justice-oriented interpretation, it does not dispense with the requirements of bona fides, diligence and a satisfactory explanation for the entire period of delay.

The appellants contended that they had not received the Order-in-Original and became aware of it only when their bank accounts were frozen in February 2024. However, the Court found that they had participated in the adjudication proceedings through counsel, knew that the proceedings had concluded, and thereafter made no enquiry for nearly three years regarding the outcome. The order had also been e-mailed to the counsel who had represented them. The Court held that even if the counsel had failed to communicate the order, such failure could not explain the appellants' own prolonged inaction.

The Court further reiterated that its jurisdiction under Section 130 is confined to substantial questions of law and does not permit re-appreciation of facts or substitution of its own view for the discretion exercised by CESTAT, unless the Tribunal's findings are perverse, based on no evidence, or vitiated by an error of law. Since CESTAT had considered the relevant circumstances and there was no perversity or legal error, the High Court found no substantial question of law and dismissed the appeals.

Law: An inordinate delay cannot be condoned merely because the litigant claims that the order was not personally received. The litigant must satisfactorily explain the entire period of delay and demonstrate diligence and bona fides; prolonged inaction despite knowledge of the proceedings can itself defeat a plea of "sufficient cause".

**Hardik Jain**




# Litigation

**Dr. Sanchari Ghosh v. National Board of Examination in Medical Sciences & Anr., W.P. (C) 8158/2026**

The Delhi High Court held that eligibility conditions and cut off dates prescribed for competitive examinations must be applied strictly and uniformly. A candidate who did not possess the requisite qualification on the prescribed cut off date cannot become eligible merely because she acquired the qualification subsequently. The Court rejected the argument that subsequent acquisition could retrospectively cure the defect, holding that a cut off date necessarily determines the class of candidates eligible for a particular admission cycle.

The Court further held that provisional admission, document verification, allotment of a seat or permitting a candidate to undergo training does not create a vested or indefeasible right to continue where the candidate was ineligible from the outset. Administrative delay in detecting the defect cannot enlarge eligibility or validate an otherwise invalid admission. More importantly, where the candidate has herself made repeated incorrect declarations regarding her eligibility, she cannot invoke equity or estoppel to seek continuation in the course.

The Court distinguished cases where courts have protected students from cancellation after admission, observing that such relief is premised on absence of wrongdoing or default on the candidate's part. Here, the petitioner had repeatedly represented that she had obtained her DrNB qualification by 31.12.2024, although she actually obtained it only on 29.05.2025. Therefore, the Court held that she could not claim equitable relief merely because she had undergone several months of training.

Law: A prescribed eligibility cut off is substantive and cannot be retrospectively diluted by subsequent qualification. Provisional admission or administrative delay cannot create a vested right in an ineligible candidate, particularly where eligibility was secured through material misrepresentation. However, the Court also emphasised that examining authorities themselves must exercise due diligence in verification and cannot escape institutional responsibility for allowing an ineligible candidate to proceed through examination, counselling, allotment and training.

Dr. Sanchari Ghosh v. National Board of Examination in Medical Sciences & Anr., W.P.(C) 8158/2026

Hardik Jain

The Delhi High Court held that eligibility conditions and cut off dates prescribed for competitive examinations must be applied strictly and uniformly. A candidate who did not possess the requisite qualification on the prescribed cut off date cannot become eligible merely because she acquired the qualification subsequently. The Court rejected the argument that subsequent acquisition could retrospectively cure the defect, holding that a cut off date necessarily determines the class of candidates eligible for a particular admission cycle.

The Court further held that provisional admission, document verification, allotment of a seat or permitting a candidate to undergo training does not create a vested or indefeasible right to continue where the candidate was ineligible from the outset. Administrative delay in detecting the defect cannot enlarge eligibility or validate an otherwise invalid admission. More importantly, where the candidate has herself made repeated incorrect declarations regarding her eligibility, she cannot invoke equity or estoppel to seek continuation in the course.

The Court distinguished cases where courts have protected students from cancellation after admission, observing that such relief is premised on absence of wrongdoing or default on the candidate's part. Here, the petitioner had repeatedly represented that she had obtained her DrNB qualification by 31.12.2024, although she actually obtained it only on 29.05.2025. Therefore, the Court held that she could not claim equitable relief merely because she had undergone several months of training.

# Litigation

**Rani Gupta @ Rani Chaudhary v. Management Committee, Maheshwari Public School & Anr.**

Rajasthan High Court Enhances Compensation from ₹1 Lakh to ₹20 Lakhs for Teacher's Illegal Termination

The Rajasthan High Court has held that where the termination of a permanent teacher is declared illegal, awarding a token compensation of ₹1 lakh after nearly two decades of service is "shockingly disproportionate." The Court enhanced the compensation to ₹20 lakhs, observing that the employer cannot be permitted to benefit from its own illegal act.

The petitioner had served as a teacher since 1995 and was later promoted as a Post-Graduate Teacher (Hindi). After nearly 20 years of unblemished service, her employment was terminated in 2015 solely on the ground that there were no students for the Hindi subject. Although the Rajasthan Non-Government Educational Institutions Tribunal held the termination illegal for non-compliance with Rule 29(2) of the CBSE Bye-laws and Section 18 of the Rajasthan Non-Government Educational Institutions Act, 1989, it awarded only ₹1 lakh as lump-sum compensation since the petitioner had already attained the age of superannuation.

The High Court observed that once the finding of illegal termination had attained finality, the Tribunal was required to award compensation that bore a reasonable nexus to the loss suffered by the employee. It relied on Deepali Gundu Surwase v. Kranti Junior Adhyapak Mahavidyalaya, reiterating that reinstatement with continuity of service and back wages is ordinarily the normal rule where termination is found illegal, subject to the facts of each case. It also referred to Kailash Singh v. Managing Committee, Mayo College, which held that compensation should be neither "measly" nor a "bonanza", but should reflect the aggravating and mitigating circumstances.

In determining appropriate compensation, the Court noted that the petitioner was a permanent Post-Graduate Teacher, had rendered around 20 years of blemish-free service, was not terminated for misconduct, remained unemployed until her superannuation, and that the finding declaring her termination illegal had gone unchallenged. The Court further observed that, based on her last drawn salary of approximately ₹50,000 per month, the wages for the 67-month interregnum would have been approximately ₹33.5 lakhs, making the Tribunal's award of ₹1 lakh grossly inadequate.

Accordingly, the High Court modified the Tribunal's order and enhanced the compensation payable to the petitioner from ₹1 lakh to ₹20 lakhs, directing the respondent-school to pay the amount within two months, failing which it would carry interest at 9% per annum.

**Meyank Pandey**


# AI & Legal Technology

**Civil Appeal No. 11950 of 2025**

Supreme Court Holds Reliance on Fake or AI-Hallucinated Case Law Vitiates Adjudication; Directs Zero Tolerance for Unverified AI-Generated Precedents

The Supreme Court has set aside judgments of the NCLT and NCLAT after finding that the NCLT had relied upon non-existent, fake and AI-generated "hallucinated" judgments and paragraphs as legal precedents. The Court emphasised that while AI may be used as an aid in legal practice and adjudication, there must be human oversight and independent verification at every stage.

The Court was hearing an appeal arising from insolvency proceedings concerning Essel Infraprojects Ltd., where the NCLT had admitted a Section 7 application under the Insolvency and Bankruptcy Code, 2016. In dismissing the appeal, the NCLAT had relied upon several judgments referred to by the NCLT. Before the Supreme Court, however, it was pointed out that the authorities relied upon were either incorrectly cited, non-existent, or contained paragraphs that could not be traced to the reported judgments.

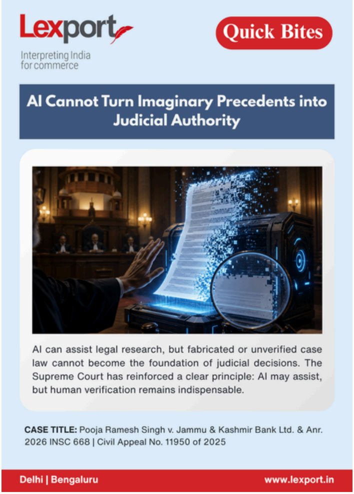
Upon independent verification, the Supreme Court found that some citations were completely non-existent, while in other cases the citation was genuine but the paragraphs attributed to the judgment did not exist. The Court observed that the fake authorities had escaped scrutiny even at the appellate stage, underscoring the importance of verification of legal authorities relied upon before Courts and Tribunals.

The Court held that the use of fake or hallucinated material as precedent is a serious threat to the integrity of judicial adjudication. It declared that Courts must adopt a "zero-tolerance" approach towards producing, citing or relying upon AI-generated precedents without verification. The Court further observed that an advocate citing such material without verification would amount to misconduct, while judicial reliance upon such material constitutes a serious lapse.

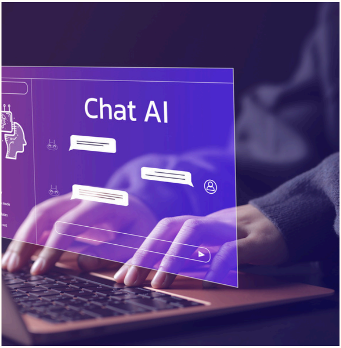
The Supreme Court further held that a decision founded upon fake or hallucinated legal material is "no decision at all" and amounts to a subversion of the rule of law. Accordingly, the NCLT and NCLAT orders were set aside, and the Section 7 application was restored for fresh consideration on its merits.

The Court clarified that its ruling does not prohibit the legitimate use of Artificial Intelligence in legal work or adjudication. Rather, it underscores that AI must remain an aid to human reasoning and cannot replace the independent responsibility of lawyers and judges to verify the authenticity and accuracy of legal authorities.

AI may assist legal research, but verification of every authority remains indispensable. A fabricated or hallucinated precedent cannot acquire the status of law merely because it is presented as a judicial decision. Reliance upon such material can undermine the entire adjudicatory process and render the resulting decision unsustainable.




**Maitreya Mahaley**



# Corporate

**SEBI's Action Against Manipulation of the Sensex Closing Auction Session**

The Securities and Exchange Board of India ("SEBI") has taken swift interim action against Copthall Mauritius Investment Limited and Mansi Share & Stock Broking Private Limited for alleged manipulation of the Sensex Closing Auction Session ("CAS") conducted on August 13, 2026. The action highlights potential vulnerabilities in the newly introduced CAS mechanism and SEBI's increasing focus on preserving market integrity.

The CAS, introduced from August 3, 2026, provides a designated auction window for determining closing prices through the interaction of buy and sell orders. SEBI's investigation found that large orders placed during the CAS allegedly caused artificial movements in Sensex constituent stocks. Copthall Mauritius allegedly placed substantial buy orders at aggressive prices, influencing the Sensex upwards, while Mansi allegedly placed large sell orders at lower prices and subsequently cancelled them, thereby exerting downward pressure. The alleged trades coincided with Sensex derivatives expiry positions, creating an opportunity to benefit from movements in the underlying index.

SEBI estimated wrongful gains of approximately ₹2.96 crore for Copthall Mauritius and ₹71.65 lakh for Mansi, aggregating to approximately ₹3.68 crore. The regulator has restrained both entities from accessing the securities market and directed impounding of the alleged wrongful gains, pending further investigation.

The matter demonstrates that although CAS is intended to improve price discovery, concentrated orders and thin liquidity can potentially create opportunities for price manipulation. SEBI's prompt intervention also signals that sophisticated trading strategies will remain subject to close regulatory scrutiny.

**Rishav Sagar**


# Corporate

**SEBI Eases FPI Onboarding Through Digitally Signed Power of Attorney**

The Securities and Exchange Board of India ("SEBI"), on August 20, 2026, introduced a significant procedural relaxation aimed at simplifying the onboarding of Foreign Portfolio Investors ("FPIs") into the Indian securities market. SEBI now permits FPIs to execute and submit digitally signed Powers of Attorney ("PoA") to their custodians, provided the digital signature complies with the Information Technology Act, 2000.

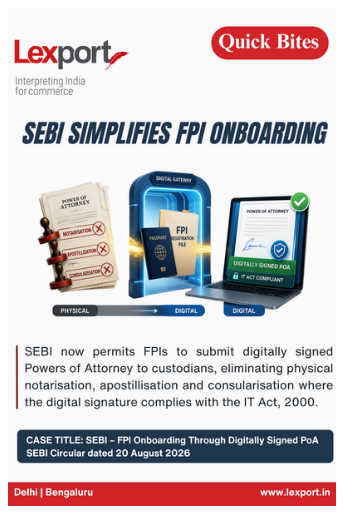
Under the earlier framework, PoAs executed by FPIs were generally required to undergo physical authentication procedures such as notarisation, apostillisation or consularisation. The revised framework removes these requirements where the PoA is validly executed through a compliant digital signature. The PoA must authorise the custodian to act on behalf of the FPI and specify the FPI's address.

The change is particularly relevant because custodians perform critical functions for FPIs, including holding and managing securities, facilitating registration, clearing and settlement of trades, and undertaking regulatory reporting and compliance-related activities. By allowing digitally executed PoAs, SEBI seeks to reduce documentation-related delays and administrative costs associated with onboarding overseas investors.

The measure forms part of SEBI's broader digitalisation and ease-of-doing-business initiatives for foreign investors, following earlier measures such as the Common Application Form and acceptance of scanned documentation for FPI registration.

Overall, the relaxation is expected to make India's FPI registration framework more efficient and internationally accessible while retaining the requirement that digital execution comply with the statutory framework governing electronic signatures. It also reflects SEBI's broader shift towards replacing physical documentation and authentication requirements with secure digital processes.

Rishav Sagar




## 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.

## Our Legal Team

**Srinivas Kotni**
Managing Partner, Lexport

**Litigation Team**

Hardik Jain
Meyank Pandey
Maitreya Mahaley

**IPR Team**

Rajlatha Kotni
Anushka Tripathi
Shreya Panda

**IDT Team**

Srinivas Kotni
Gurdeep Singh
Akshay Kumar
Rishabh Dev Dixit
Soumya Shrivastava

**Corporate Team**

Rajiv Sawhney
Akshita Agarwal
Rishav Sagar

**Anirban Roy, Editor**
Chief Operating Officer, Lexport

## Contact

### Delhi:

**Call us:** +91-11-2627 0506, 2627 1514, 3551 6872

**Email us:** delhi@lexport.in

**Visit us:** K1/114 First Floor, Chittaranjan (C.R.) Park, New Delhi – 110019, India

### Bangalore:

**Call us:** +91-08048501471

**Email us:** bangalore@lexport.in

**Visit us:** 516 10th A Cross 29th Main Sector 1 HSR Layout Bangalore - 560 102 , India