Swift India
CORPORATE SERVICES LLP

MUMBAI SILICON VALLEY BANGALORE MUMBAI BKC NEW DELHI

91-92 B, Mittal Court, Nariman Point, Mumbai 400 021, India
tel +91 22 6669 5000 fax +91 22 6669 5001
www.swiftindiallp.com
CHANGE IN NAME FROM SWIFTINDIAINC CORPORATE SERVICES LLP AS ON 07.02.2017

Swift e-Bulletin
Edition 15/20-21
Week – October 26th to October 30th

Quote for the week:

"The greatest glory in living lies not in never falling, but in rising every time we fall."

- Nelson Mandela

Introduction

We welcome you to our weekly newsletter!

The 'Swift e-Bulletin' - weekly newsletter, covers all regulatory updates and critical judgements passed during the week. We hope that you liked our previous editions and found it to be of great value in its content. We want this newsletter to be valuable for you so, please share your feedback and suggestions to help us improve.

In the wake of COVID-19, we all are witnessing many relaxations, exemptions and amendments to the various legislations by regulatory authorities to ease out the operations during this time of crisis.

Further, various regulatory authorities have been proactive in bringing significant regulatory changes in recent challenging times. This week's newsletter covers various circulars/notifications issued by certain regulatory authorities the Ministry of Corporate Affairs (**"MCA"**), the Securities and Exchange Board of India ("**SEBI**"), the Ministry of Commerce and Industry ("**MCI**") ,the Reserve Bank of India (**"RBI"**) and the International Financial Services Centres Authority ("**IFSCA**"), and critical judgements and orders passed by the National Company Law Tribunal (**"NCLT"**), the National Company Law Appellate Tribunal (**"NCLAT"**), SEBI, Supreme Court and High Court.

We have prepared a comprehensive summary for quick reference of the aforesaid updates and Judgements / orders issued during the week of October 26, 2020 to October 30, 2020.

Thank you,
Swift Team

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CHANGE IN NAME FROM SWIFTINDIAINC CORPORATE SERVICES LLP AS ON 07.02.2017

REGULATORY UPDATES

Ministry of Corporate Affairs

1. **MCA issues notice on provisions related to Nidhi Companies under the Companies Act, 2013 for the purpose of sensitizing general public about Nidhi Companies dated October 26, 2020**

- To accomplish objectives of transparency & investor friendliness in corporate environment of the country and in order to make regulatory regime for Nidhi Companies more effective Central Government has amended the provisions related to NIDHI under the Companies Act and the Rules (effective from **August 15, 2019**).

- Under Nidhi Rules, 2014, Nidhi is a company which has been incorporated with the objective of cultivating the habit of thrift and saving amongst its members, receiving deposits from, and lending to, its members only, for their mutual benefit.

- The amended provisions of the Companies Act (Section 406) and Nidhi rules (as amended w.e.f. **August 15, 2019**) require that the companies have to apply to the Central government for updation/ declaration of their status as Nidhi Company in e-form **NDH-4**. These companies are required to ensure strict adherence to provision of Companies Act, 1956/ 2013 and Nidhi Rules, 2014 as amended.

- Applications are being received by the Ministry of Corporate Affairs from such companies in e-form **NDH-4** for either updation or declaration as Nidhi Company. It has been noticed that many of these companies are not following the extant rules. Stakeholders are advised to verify/ ensure that the Nidhi Company in which they are planning to become member, has been declared as such under the amended provisions of Companies Act, 2013 and is following the rules prescribed in this regard.

  To read the Notice in detail, please click here.

Securities and Exchange Board of India

1. **SEBI Chairman interacts with investors and other stakeholders from USA vide Press Release No 57/2020 dated October 28, 2020**

- Shri Ajay Tyagi, Chairman, SEBI along with other SEBI officials had an e-interaction on October 27, 2020 with various stakeholders including industry and investor associations from the United States of America ("**USA**"). The interaction was organized by US India Strategic Partnership Forum (**"USISPF"**).

- He interacted with various stakeholders including the investors in the Indian capital markets from USA. They were briefed about the key developments of the Indian economy as well as the recent trends in the securities market, especially in this COVID era. The achievements of Indian primary markets, secondary markets and specific products such Real estate investment trusts (**"REITs"**) and Infrastructure investment trusts (**"InvITs"**) were brought out in the interactions. The attractiveness of the Indian markets despite the COVID impact and the recent surge in foreign investment into India through the FPI route was also emphasized.

- The increasing number of registrations of Foreign Portfolio Investors **("FPIs"**) every year and increasing inflows of FPI investment in the Indian equity market signify the sustained interest of the foreign investors in the Indian capital markets. Considering that the largest number of FPIs & about one third of the total assets under custody of FPIs are from USA, the importance of US investments into India was emphasized especially taking into account the growing partnership between the two countries.

- The participants appreciated the various initiatives taken by SEBI, especially with respect to direct listing proposal and creation of new products like REITs and InvITs which have the potential to attract more foreign investment while benefitting domestic economy given its multiplier effect. The initiatives taken by SEBI towards ease of participation by FPIs such as simplified registration process, common application form, onboarding during COVID through digital scanning of KYC documents were also appreciated.

- They emphasized the need for early finalization of direct listing proposal; development of the corporate bond market; reforms in the IPO regulations; digitization of processes; and showed interest in participating in innovative ideas

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under SEBI's regulatory sandbox framework. Various queries raised during the meetings on multiple issues were clarified by the SEBI team

To read the Press Release in detail, please click here.

2. **SEBI releases FAQ's on Portfolio Managers under SEBI (Portfolio Managers) Regulations, 2020 dated October 28, 2020**

- A Portfolio Manager is a body corporate, which, pursuant to a contract with a client, advises or directs or undertakes on behalf of the client (whether as a discretionary portfolio manager or otherwise) the management or administration of a portfolio of securities or goods or funds of the client.

- SEBI has released Frequently Asked Questions ("**FAQ's**") on portfolio managers. Some of the questions covered by SEBI in the FAQ's are:

  - *What is the procedure of making an application for obtaining registration as a portfolio manager from SEBI?;*
  - *What is the minimum net worth requirement of a portfolio manager?;*
  - *What fees can a portfolio manager charge from its clients for the services rendered by him?;*
  - *What are the various securities in which a Portfolio Manager may invest clients' funds?;*
  - *How are the limits on transactions executed through associates of Portfolio Managers applicable?; and*
  - *On what basis is the performance of the portfolio manager calculated?*

To read the FAQ's in detail, please click here.

3. **SEBI amends the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015 vide Gazette Notification dated October 29, 2020:**

- These regulations may be called the Securities and Exchange Board of India (Prohibition of Insider Trading) (Second Amendment) Regulations, 2020.

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- In the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015, in regulation 7A, in sub-regulation (1), in clause (h), after sub-clause (iii), the following explanation shall be inserted, namely-

  "Explanation. – Information shall be considered timely, only if as on the date of receipt of the duly completed Voluntary Information Disclosure Form by the Board, a period of not more than three years has elapsed since the date on which the first alleged trade constituting violation of insider trading laws was executed."

- In the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015 in Schedule D

  - in the note, for the words "securities laws", the words "insider trading laws" shall be substituted
  - in the table, in the part III
    - in clause 1, for the words "securities laws", the words "insider trading laws" shall be substituted
    - for clause 9, the following shall be substituted, namely:
      "9. Please describe in detail how the information submitted by you constitutes a violation of insider trading laws. The details must include specific information with respect to:
      (i) details of the securities in which insider trading is alleged;
      (ii) the unpublished price sensitive information based on which insider trading is alleged;
      (iii) date on which the unpublished price sensitive information was made public;
      (iv) details of circumstances/evidence leading to possession of unpublished price sensitive information by the alleged violator(s);
      (v) details of insiders/suspects and their trades (i.e. purchase/sale and quantity purchased/sold) along with dates/period of trades."
    - in the clause 10, after the words and symbol "based on?" and before the words "Please attach", the words and symbols "Please include self-certified copies of all the relevant documents.", shall be inserted.

To read the Notification in detail, please click here.

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Ministry of Commerce and Industry

1. **Department for Promotion of Industry and Internal Trade, Ministry of commerce and Industry Government of India has notified the ''Consolidated FDI Policy'' which shall be effective from October 15, 2020**

- Foreign Direct Investment (FDI) is considered as a major source of non-debt financial resource for the economic development. FDI flows into India have grown consistently since liberalization and are an important component of foreign capital since FDI infuses long term sustainable capital in the economy and contributes towards technology transfer, development of strategic sectors, greater innovation, competition and employment creation amongst other benefits. Therefore, it is the intent and objective of the Government of India to attract and promote FDI in order to supplement domestic capital, technology and skills for accelerated economic growth and development. FDI, as distinguished from Foreign Portfolio Investment, has the connotation of establishing a 'lasting interest' in an enterprise that is resident in an economy other than that of the investor.

- To capture and keep pace with the regulatory changes and ever changing markets due to globalization and with the government's aim to liberalized the economy and to incorporate all changes made to the policy till date the **'Consolidated FDI Policy' 2020** was released. This Consolidated Policy was released after a gap of three years; the last Consolidated Policy was released in the year 2017.

- Among the changes made in the new Consolidated FDI Policy 2020 from the earlier policy, some of them are:

  - *In the Definition of Foreign Investments, if a declaration is made by a person as per the provisions of the Companies Act, 2013 about a beneficial interest being held by a person resident outside India, then even though the investment may be made by a resident Indian citizen, the same shall be counted as foreign investment hence by plain reading of this explanation we can state that Beneficial Ownership balance may have now shifted toward Companies Act definition as per section 89;*

  - *The New FDI policy has also replaced the clause involving investments from Countries of Concern which include Pakistan and Bangladesh, requiring security*

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clearance and has now inserted a new provision whereby an entity of a country, which shares land border with India or where the beneficial owner of an investment into India is situated in or is a citizen of any such country, can invest only under the Government route. It also mentions that any transfer of ownership of any existing or future FDI in an entity in India, directly or indirectly, resulting in the beneficial ownership falling within the restriction as above then such subsequent change in beneficial ownership will also require Government approval;

- *The Consolidated Policy has also done away with form FC-GPR (Foreign Currency-Gross Provisional Return) in the annexures list;*

- *In provision relating to transfer of shares in Annexure 1 the date of issuing capital instruments from the date of receipt of the inward remittance has been reduced to 60 days from the earlier 180 days;*

- *Form FC-TRS should be filed within 60 days of transfer of capital instruments or receipt / remittance of the funds whichever is earlier;*

- *As per the Updated FDI policy E-commerce marketplace entity with FDI shall have to obtain and maintain a report of statutory auditor by 30th of September every year for the preceding financial year confirming compliance of the e-commerce guidelines;*

- *Government has also liberalized FDI in several sectors including coal mining, digital news, contract manufacturing and single brand retail trading;*

- *The Guidelines for calculation of total foreign investment, both direct and indirect in an Indian company/LLP, at every stage of investment, including downstream investment, have been detailed in* **Annexure-4** *to the circular and has provided elaborated scheme for remittance, reporting and violation of FDI policy. These are available at* **Annexure-5** *to the circular;*

- *Downstream investment by an eligible Indian entity, which is not owned and/or controlled by resident entity(ies), into another Indian company, would be in accordance/compliance with the relevant sectoral conditions on entry route, conditionalities and caps, with regard to the sectors in which the latter Indian company is operating.*

To read the Policy in detail, please click here.

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Reserve Bank of India

1. **RBI notifies scheme for grant of ex-gratia payment of difference between compound interest and simple interest for six months to borrowers in specified loan accounts vide Notification dated October 26, 2020**

- The Government of India has announced the Scheme for grant of ex-gratia payment of difference between compound interest and simple interest for six months to borrowers in specified loan accounts (March 1, 2020 to August 31, 2020) (**the 'Scheme'**) on October 23, 2020, which mandates ex-gratia payment to certain categories of borrowers by way of crediting the difference between simple interest and compound interest for the period between March 1, 2020 to August 31, 2020 by respective lending institutions. To read the Scheme in detail, please click here:
- All lending institutions are advised to be guided by the provisions of the Scheme and take necessary action within the stipulated timeline.

  To read the Notification in detail, please click here.

2. **RBI amends Foreign Exchange Management (Foreign Exchange Derivative Contracts) Regulations, 2000**

- These regulations may be called the Foreign Exchange Management (Margin for Derivative Contracts) Regulations, 2020.

- Among the many amendments, some of the amendments are given below:

  - **Prohibition:** Save as otherwise provided in these regulations and any other regulations issued under the Act and in force on the date of commencement of these regulations, no person shall post or collect margin for derivative contracts and pay or receive interest on such margin without the prior permission of the Reserve Bank.

  - **Permission:** Notwithstanding anything contained in any other regulation issued by the Reserve Bank under the Act and for the time being in force, and subject to directions issued by the Reserve Bank in this regard, authorised dealers may:

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- *Post and collect margin, in India and outside India, on their own account or on behalf of their customers for a permitted derivative contract entered into with a person resident outside India, in the form and manner as specified by the Reserve Bank; and*
- *Receive and pay interest on margin posted and collected on their own account or on behalf of their customers for a permitted derivative contract entered into with a person resident outside India.*

To read the Notification in detail, please click here.

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International Financial Services Centres Authority

1. **International Financial Services Centres Authority ("IFSCA"), prescribes the regulatory framework for listing of Depository Receipts (DRs) vide Circular dated October 28, 2020**

❖ The guidelines for issue of capital, including depository receipts (DRs), in International Financial Services Centres ("**IFSCs**") were issued by Securities and Exchange Board of India (SEBI) in the SEBI (International Financial Services Centres) Guidelines, 2015. It has been decided to enact the regulatory framework for listing of Depository Receipts ("**DRs**") in the IFSC ***Annexure-1*** to the circular. Further, additional requirements for listing and trading of DRs in the IFSC may be prescribed by the recognized stock exchange(s).

❖ The listing of DRs in the IFSC shall be in compliance with the framework provided in ***Annexure-1*** to the circular and the requirements that may be prescribed by the recognized stock exchange(s)

❖ This Circular is issued in exercise of powers conferred by section 12 of the International Financial Services Centres Authority Act, 2019 to develop and regulate the financial products, financial services and financial institutions in the International Financial Services Centers.

To read the Circular in detail, please click here.

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JUDGEMENTS/ ORDERS

National Company Law Tribunal

1. National Company Law Tribunal accepts the Interlocutory Application filed by Bank of India for appointment of Resolution Professional ("RP") of the Salelink Ecom Private Limited

National Company Law Tribunal (**"Tribunal"**), Mumbai Bench accepts the Interlocutory Application (**"IA"**) filed by the Bank of India, acting on behalf of the Committee of Creditors (**"CoC"**) of Salelink Ecom Private Limited (**"Corporate Debtor"**) in accordance to section22 (2) read with 22 (3) (b) of the Insolvency & Bankruptcy Code, 2016 (**"IBC"**) for appointment Mr. Kamal Kishor Gurnani as RP of the Corporate Debtor.

Tribunal had initiated the Corporate Insolvency Resolution Process (**"CIRP"**) against the Corporate Debtor vide its order dated October 22, 2019 and had appointed Mr. Prabhakar Bhat as Interim Resolution Professional **("IRP")**.

Subsequent to the Public Announcement of CIRP, the CoC was duly constituted with Bank of India being the sole financial creditor. The CoC had failed to appoint the RP in its first two meetings on December 30, 2019 and January 14, 2020. Finally, at third meeting dated February 26, 2020, the CoC resolved to appoint Mr. Kishor Gurnani as the RP resulting a delay in appointment of RP in terms of section 22 of IBC.

Tribunal after duly considering the facts and circumstances mentioned in the interlocutory application and the submissions made by the learned counsel for the Applicant held that, the CoC failed to either appoint IRP as RP, or propose the replacement of the IRP with another RP of its choice in its first two meetings, in accordance to section 22 of IBC. Tribunal further held that the said delay in appointment of RP cannot be accepted based on the fact that the CoC did not get the approval from higher authorities for the said appointment as the Applicant Bank would have been already part of several other CoCs. Tribunal also noted that the IRP had tried his best to get the matter of appointment of RP resolved in first two CoC meetings and hence no blame can be placed on the IRP.

While pronouncing this order, the Tribunal felt that it has been virtually been presented with a fait accompli in this matter and hence believed that this matter needs to be brought to

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the notice of the Insolvency and Bankruptcy Board of India (**"IBBI"**) since this is a systemic issue. Tribunal by its order appointed Mr. Kamal Kishor Gurnani as RP of the Corporate Debtor and directed it to take charge as RP of the Corporate Debtor immediately. It further directed to the Registry of this Bench to communicate a copy of this order both to the RP as well as the IRP and IBBI, if deemed appropriate, to take up the matter with the Indian Banks' Association (**"IBA"**) for issue of appropriate directions to all the member banks of the IBA.

To read the order in detail, please click here.

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National Company Law Appellate Tribunal

1. **National Company Law Appellate Tribunal set aside the impugned order dated 6th July, 2020 passed by National Company Law Tribunal, Mumbai.**

Ashish O. Lalpuria	**Appellant**
Kumaka Industires Limited	**Respondent No. 1**
Union of India	**Respondent No. 2**
Through Office of Regional Director	
Western Region, Ministry of Corporate Affairs	
BSE Limited	**Respondent No. 3**

The present Appeal has been preferred by the appellant under section 421 of the Companies Act, 2013, challenging the impugned order dated July 06th, 2020 passed by the National Company Law Tribunal, Mumbai **('NCLT Mumbai').**

The Respondent No. 1 Company i.e. Kumaka Industries Limited presented a Scheme of Arrangement Under Section 391-394 of Companies Act, 1956 (Existing Sections 230-232 of Companies Act, 2013) for sanction of the Arrangement embodied in the scheme.

The brief facts of the case:

1. The Respondent no. 1 pointed out certain irregularities and non- compliances and raised the objections that the Scheme of Arrangements is a mere rectification of action already taken by the Respondent company without obtaining approval of the Tribunal and other Regulatory Authorities as required under the provisions of Companies Act.

2. The Appellant further submitted that the Company Suo-moto proceeded to fraudulently give effect to the capital reduction in its audited financial statements, annual returns, shareholding pattern and other documents of the company and its submission of quarterly and half yearly financial results made to the BSE, SEBI and other governmental authorities. Since then and till date and in absence of any communication to the contrary, the Company presumed and believed that these authorities have accepted the revised capital status of the Company.

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3. NCLT overruled Regional Directors objections with respect to irregularities that were present at the time of sanctioning the scheme, on the ground that they are merely procedural aspects and do not pointed out any illegality in the scheme.

4. NCLAT states that, even if the objections are procedural but it is the jurisdiction of the Tribunal that such procedural aspects need to be duly complied with before sanctioning of the scheme, as it would lay down a wrong precedent which would allow companies to do whatever acts without the compliances and confirmation of the Court and other sectoral and regulatory authorities and thereafter get it ratified by the Court under the Umbrella of "scheme".

5. The NCLAT holds that, the scheme under section 230 of Companies Act, 2013 cannot be used as a method of rectification of the actions already taken. Before the scheme gets approved, the company must be in compliance with all the public authorities and should come out clean. There must be no actions pending against the company by the public authorities before sanctioning of a scheme under section 230 of the Companies Act, 2013.

6. In light of the above observations the appeal was allowed and we set aside the impugned order dated July 06, 2020 passed by National Company Law Tribunal, Mumbai.

To read the order in detail, please click here.

Securities and Exchange Board of India

1. Adjudication Order in respect of Mr. P. Ravishankar in the matter of Biocon Limited

In the matter of Biocon Limited, Securities and Exchange Board of India ("**SEBI**") conducted investigation to ascertain whether there was any disclosure and code of conduct violation of the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015 ("**PIT Regulations**") by Mr. P Ravishankar ("**Noticee**"), a designated person of Biocon, with respect to his transactions during the period August 31, 2018 to October 01, 2018.

SEBI observed that, noticee sold a part of his shareholding which was acquired through exercise of stock options without seeking pre-clearance from the compliance officer. The Company via email intimated SEBI that the threshold value for seeking pre- clearance of trade by the designated persons from the Compliance Officer is INR 10, 00,000 (INR Ten Lakhs) and reasons for not seeking the pre-clearance for the above sale transactions were sought by the Compliance Officer.

The Noticee responded to the Company that he did not take prior approval due to oversight and contended that the transactions were executed by Edelweiss Finance Company and not by him. Noticee further submitted that he had inadvertently violated the provisions of the PIT Regulations read with Biocon's COC. It is submitted that the same was a technical and venial breach, occasioned by his genuine and bona fide belief that no compliance requirements were expected of him. However, as soon he became aware of the default, he took all necessary corrective steps and took all compliance measures possible.

SEBI elucidates that, as per Regulation 7(2) of PIT Regulations, every promoter, employee and Director of every company shall disclose to the company the number of securities acquired or disposed of within 2 trading days of such transaction if the value of the securities traded, whether in one transaction or series of transactions over any calendar quarter, aggregates to a traded value in excess of INR 10,00,000 (INR Ten lakhs).

SEBI after taking into consideration all the facts and circumstances of the case impose a consolidated monetary penalty of INR 3,00,000 (INR Three Lakh) on the noticee in totality for all the three violations i.e. not obtaining pre-clearance for his trades, entering into contra trades and making delayed disclosures which attracts penalty under section 15 HB and 15 A(b) of the SEBI Act.
To read the order in details, please click here.

High Court

1. **Writ Petition was disposed of with directions, as the Court observed that even prior to considering the stay petition, recovery steps were taken against the petitioner for recovery of the amounts.**

Komathu Kuriakose Thankachan	**Petitioner**
The Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, Government of India	**Respondent 1**
Income Tax Officer, Ward 3, Aluva, Income Tax Department	**Respondent 2**
Commissioner of Income Tax (Appeals) Kochi	**Respondent 3**

Date of Judgement: October 28, 2020

Writ Petition was disposed of with directions (i) The Commissioner of Income Tax (Appeal) Kochi, shall consider and pass reasoned orders on the Exhibit P4 stay petition within a period of four months from the date of receipt of a copy of this judgment, after hearing the petitioner. (ii) Recovery steps pursuant to Exhibit P3 demand notice for recovery of amounts confirmed against the petitioner by Exhibit P1 assessment order shall be kept in abeyance till such time as orders are passed by the Commissioner of Income Tax (Appeal) Kochi as directed above and communicated to the petitioner. (iii) The petitioner shall produce a copy of the writ petition together with a copy of this judgment, before the Commissioner of Income Tax (Appeal) Kochi, for further action.

It was observed that even prior to considering the stay petition, recovery steps are taken by the respondents against the petitioner for recovery of the amounts confirmed by Exhibit P1 assessment order.

To read the Judgement in detail, please click here.
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2. Sole Arbitrator was appointed to arbitrate on the dispute arisen on breach of the terms of the Concession Agreement

Lite Bite Foods Private Limited	**Petitioner**
Airports Authority of India, Calicut International Airport	**Respondent**

Date of Judgement: October 28, 2020

The Arbitration request was finally heard and the Court passed the Order allowing the Arbitration request.

It is a case were, a Sole Arbitrator was nominated to adjudicate upon the disputes between the petitioner and the respondent arising out of and in relation to the concession agreement. The respondent had floated a "request for qualification" [RFQ] and "request for proposal" [RFP] for concession to develop, market, setup, operate, maintain and manage the food and beverage outlets [F&B outlets] at Calicut International Airport, and invited bids from intending bidders in terms of the RFP and RFQ.

From the beginning of the Project, various acts of omission and commission on the part of the respondent resulted in a delay for operationalisation of the Project, as result, the services were delayed. Further it was stated that the petitioner could not commence commercial operations before the said date, and hence, there was no occasion to raise any invoice in respect of the period. The petitioner claims that, the respondent wrongfully, and in breach of the terms of the Concession Agreement, raised invoices, which the petitioner disputed and under such protest some payment were made to the respondent.

The respondent separately invoked the bank guarantee, furnished by the petitioner as security deposit, and blacklisted the petitioner from participating in future tenders floated by the respondent for a period of three years.

The Court was of the view that Article 22 of the Concessionaire Agreement constitutes the arbitration agreement between the parties, and at its discretion under Section 11 of the 1996 Act, sole arbitrator was appointed to arbitrate on the disputes that have arisen between the parties.

To read the Judgement in detail, please click here.
[While clicking on above, in case you are facing an error such as *"Orders is not uploaded for case number AR/103/2019"* then please copy link and paste in Google Chrome]

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3. Appeal filed challenging an ex-parte interim order granted by the Trial Court was disposed of

Vaibhav Chabbra	**Appellant**
M/s. Acumen Technical Advisory Private Limited	**Respondent 1**
Mr. Manish Kumar Singh	**Respondent 2**
MTA Services LLP	**Respondent 3**

Date of Judgement: October 29, 2020

Appeal filed challenging an ex-parte interim order granted by the Trial Court was disposed of with observations.

The Court had observed that the appellant had not filed a written statement and not placed on record the documents in support of contentions and it was informed that ends of justice would be met by directing the appellant to appear before the Trial Court by filing necessary application to advance the case and file written statement and an application for vacating the interim injunction granted by the Trial Court.

To read the Judgement in detail, please click here.

Supreme Court

1. **Aggrieved by the judgement of High Court, appeal filed by the appellant was allowed by the Supreme Court, who was arrested under Narcotic Drugs and Psychotropic Substances Act, 1985 ("NDPS Act."),**

M. Ravindran	**Appellant**
The Intelligence Officer, Directorate of Revenue Intelligence	**Respondent**

Date of Judgement: October 26, 2020

Appeal filed by the Appellant questioning the judgement of the High Court of Madras was allowed.

The appellant was arrested and remanded judicial custody for the offence punishable under Section 8(c) read with Sections 22(c), 23(c), 25A and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ("NDPS Act."), who on completion of 180 days filed application under Section 167(2) of the Code of Civil Procedure, 1973 before the Special Court for Exclusive Trial of cases under the NDPS Act, Chennai, on the ground that the investigation was not complete and charge sheet had not yet been filed and was granted bail by the Trial Court.

The High Court, by the impugned judgment, allowed the said appeal made by the Respondent/complainant, i.e. the Intelligence Officer, Directorate of Revenue Intelligence filed before the High Court of Judicature at Madras praying to cancel the bail of the Appellant and consequently cancelled the order of bail granted by the Trial Court.

Being aggrieved by the judgement of the High Court, the Appellant approached the Supreme Court.

To read the Judgement in detail, please click here.

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2. **Supreme Court quashed the judgement of Karnataka High Court under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("SARFAESI Act")**

M/s. L&T Housing Finance Limited	**Appellant(s)**
M/s. Trishul Developers and ANR.	**Respondent(s)**

Date of Judgement: October 27, 2020

The judgement of the Karnataka High Court was quashed and set aside and the appeal was allowed with no costs.

The appellant being a Housing Finance Company under National Housing Bank Act, 1987, notified as Financial Institution by the Department of Finance (Central Government) in exercise of the powers conferred Section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (**"SARFAESI Act"**). It was entitled to initiate measures under the provision of the SARFAESI Act for enforcement of security interest created on the secured assets by the respondents (being the borrower/guarantor) in favour of the appellant (being the secured creditor), as the appellant undeniably falls within the definition of "secured creditor" under the provisions of the SARFAESI Act.

Instant appeal was directed against the impugned judgment and order passed by the Division Bench of the High Court of Karnataka at Bengaluru in Writ Petition wherein the High Court while reversing the finding returned by the Debt Recovery Appellate Tribunal in its order, upheld the order of the Debt Recovery Tribunal quashing the demand notice served on the respondents (the borrower) under Section 13(2) of the "SARFAESI Act" followed with the possession notices.

The submission made by the respondent that the notice under Section 13(2) of the Act was served by the authorised signatory of "L&T Finance Limited" and that was not the secured creditor in the facts of the case. However, the Supreme Court in its view considered that, it is wholly without substance for the reason that "L&T Finance Limited" and "L&T Housing Finance Limited" are the companies who in their correspondence with all its customers use a common letterhead having their self-same authorised signatory, as being manifest from the record and it is the seal being put at one stage by the authorised signatory due to some human error of "L&T Finance Limited." in place of "L&T Housing Finance Limited". Considering its views, the judgement of the High Court is unsustainable and was set aside.

To read the Judgement in detail, please click here.

91-92 B, Mittal Court, Nariman Point, Mumbai 400 021, India
tel +91 22 6669 5000 fax +91 22 6669 5001

www.swiftindiallp.com

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