

Swift e-Bulletin

Edition 8/20-21

Week – September 7th to September 11th

Quote for the week:

“Before you become a leader, success is all about growing yourself. After you become a leader, success is about growing others.”

- Jack Welch, CEO of General Electric.

Introduction

We welcome you to our weekly newsletter for this week!

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 such as the Ministry of Corporate Affairs (“MCA”), the Securities and Exchange Board of India (“SEBI”), the Reserve Bank of India (“RBI”), and the Insolvency and Bankruptcy Board of India (“IBBI”) and critical judgements and orders passed by National Company Law Tribunal (“NCLT”), National Company Law Appellate Tribunal (“NCLAT”), SEBI, Supreme Court and High Court. With a constant endeavor to cover all regulatory updates and judgements/orders at one place, we have prepared a comprehensive summary for quick reference of such updates and Judgements orders issued during the week of September 7, 2020 to September 11, 2020.

**Thank you,
Swift Team**

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REGULATORY UPDATES

MCA UPDATES

1. **MCA amends the Companies (Acceptance of Deposits) Rules, 2014 of the Companies Act, 2013 vide Gazette notification dated September 07, 2020**



- ❖ MCA vide Notification dated September 07, 2020 has amended Companies (Acceptance of Deposits) Rules, 2014 in order to make fund raising by startups easier.
- ❖ In the Companies (Acceptance of Deposits) Rules, 2014 (hereinafter referred to as the said rules), among other changes, in rule 2, in sub-rule (1), in sub clause (c), in sub clause (xvii) the following change shall be inserted, namely

“an amount of twenty-five lakh rupees or more received by a start-up company, by way of a convertible note (convertible into equity shares or repayable within a period not exceeding ten years from the date of issue) in a single tranche, from a person.”
- ❖ Earlier the specified limit was only 5 years. Hence the notification grants an additional or extra time of 5 years.
- ❖ In the second proviso in sub-rule 3 of rule 3, there has been an amendment in clause (i), which now states that the maximum limit in respect of deposits to be accepted from members shall not apply to a private company which is a start-up for ten years from the date of its incorporation.

To read the entire notification in detail, please click [here](#).

2. **MCA relaxes fees and extension of last date of filing of CRA-4 (form for filing of cost audit report) for FY 2019-20 under the Companies Act, 2013 vide general circular dated September 10, 2020**



- ❖ In view of the prevailing pandemic and considering the representations received from various stakeholders, MCA has stated that if the cost audit report for the financial year 2019-20 by the Cost Auditor to the Board of Directors is submitted by November 30, 2020 then the same would not be viewed as a violation of Rule 6(5) of Companies (Cost Records and Audit) Rules, 2014. Consequently, the cost audit report for the financial year ended on March 31, 2020 shall be filed in Form CRA-4 within 30 days of receipt of the cost audit report by the Company.
- ❖ However, in case the Company has availed extension of AGM then e-form CRA-4 maybe filed with the timeline provided under proviso to Rule 6(6) of Companies (Cost Records and Audit) Rules, 2014.

To read the circular in detail, please click [here](#).

3. **Registrar of Companies (“RoC”) extends timeline for holding Annual General Meeting (“AGM) for companies for the financial year 2019-20**



- ❖ Section 96 (1) of the Companies Act, 2013 states that every company other than a One-Person Company shall in each year hold in addition to any other meetings, a general meeting as its Annual General Meeting (“AGM”) and shall specify the meeting as such in the notices calling it, and not more than fifteen months shall elapse between the date of one AGM of a company and that of the next:
- ❖ Provided that in case of the first AGM, it shall be held within a period of nine months from the date of closing of the first financial year of the company and in any other case, within a period of six months, from the date of closing of the financial year.
- ❖ The third proviso states that that the Registrar may, for any special reasons, extend the time within which any AGM, other than the first AGM, shall be held, by a period not exceeding three months.
- ❖ In terms of power vested under the third proviso to sub-section (1) of Section 96 of the Companies Act, 2013 and on receipt of various representations from the companies, Industry bodies, and Professional institutes, the RoC’s of various jurisdictions in the country have come out with orders by which they have extended the time to hold AGM, other than the first AGM, for the financial year ended on March 31, 2020 for Companies within the jurisdiction of various offices of the RoC, which are unable to hold their AGM within the due date of holding the AGM, by a

period of three months from the due date by which the AGM ought to have been held in accordance with the provisions of sub-section (1) of Section 96 of the Companies Act, 2013 without requiring the companies to file applications for seeking such extension by filing the prescribed Form No. GNL-1.

- ❖ RoC's have clarified that the extension granted under this order shall also cover the pending applications filed in Form No. GNL-1 for the extension of AGM for the financial year ended on March 31, 2020 which is yet to be approved.
- ❖ Further, the applications filed in Form No. GNL-1 for the extension of AGM for the financial year ended on March 31, 2020, which were rejected, where the approval for extension of AGM up to 3 months from the due date of the AGM shall be deemed to have been granted without any further action on the part of the company.

To get the list of RoC orders for various jurisdictions, please click [here](#).

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SEBI UPDATES

1. SEBI introduces Re-lodgment of Transfer Requests Shares vide circular dated September 07, 2020:



- ❖ SEBI has discontinued the transfer of securities held in physical mode w.e.f. April 01, 2019 in terms of Regulation 40 sub-regulation (1) of SEBI (Listing Obligation and Disclosure Requirements), 2015. Subsequently, SEBI vide press release No. 12/2019 dated March 27, 2019 clarified that transfer deeds lodged prior to deadline of April 01, 2019 and rejected/ returned due to deficiency in the documents may be re-lodged with requisite documents.
- ❖ SEBI, vide circular no. SEBI/HO/MIRSD/RTAMB/CIR/P/2020/166 has decided to fix March 31, 2021 as the cut-off date for re-lodgment of transfer deeds. Further the shares which are re-lodged for transfer (including those requests that are pending with the listed company / Registrar and Share Transfer Agent (“RTA”), as on date) shall henceforth be issued only in Demat mode.

To read the circular in detail, please click [here](#).

2. SEBI adds National Stock Exchange (“NSE”) to the list of entities permitted to undertake e-KYC Aadhaar authentication service of UIDAI in Securities Market vide circular dated September 08, 2020:



- ❖ SEBI vide circular No. SEBI/HO/MIRSD/DOP/CIR/P/2020/80 dated May 12, 2020. permitted eight entities to undertake Aadhaar authentication service of UIDAI subject to compliance of the conditions as laid down in this regard.
- ❖ The Government of India, Department of Revenue (DOR), vide Gazette Notification No. G.S.R. 516(E) dated August 20,2020, notified “National Stock Exchange of India Limited” (NSE) as per the recommendation by Unique Identification Authority of India (UIDAI). In view of the same, SEBI vide circular No.

SEBI/HO/MIRSD/DOP/CIR/P/2020/167 has added National Stock Exchange of India (NSE) to the list of entities that can undertake e-KYC Aadhar authentication service of the UIDAI subject to compliance of the conditions as laid down in the aforesaid circular.

To read the circular in detail, please click [here](#).

3. SEBI issues operating guidelines for Portfolio Managers in International Financial Service Centers (IFSC) vide circular dated September 09, 2020:



- ❖ SEBI has earlier issued SEBI (International Financial Service Center Guidelines 2015 (hereinafter referred to as 'IFSC Guidelines') on March 27, 2015 for facilitating and regulating financial services relating to securities market in an IFSC set up under section 18(1) of Special Economic Zones Act, 2005.
- ❖ SEBI has already issued IFSC guidelines and circulars which provide a broad framework for operation of various intermediaries as defined in Clause 2(1)(g) of the IFSC Guidelines.
- ❖ Based on the representations received from various stakeholders, SEBI vide circular **SEBI/HO/IMD/DF1/CIR/P/2020/169** dated September 09, 2020 has issued 'Operating Guidelines for Portfolio Managers in IFSC'.
- ❖ The guidelines provide that all provisions and subsequent amendments under the SEBI (Portfolio Managers) Regulations, 2020, the guidelines and circulars issued thereunder, shall apply mutatis mutandis to Portfolio Managers setting up/ operating in IFSC subject to these operating guidelines.

To read the circular in detail, please click [here](#).

4. SEBI introduces a system for automation of Continual Disclosures under Regulation 7(2) of SEBI (Prohibition of Insider Trading) Regulations (PIT Regulations), 2015 vide circular dated September 09, 2020:



- ❖ In SEBI vide circular no. CIR/CFD/DCR/17/2015 dated December 01, 2015, CFD/DCR/CIR/2016/139 dated December 21, 2016

and SEBI/HO/CFD/DCR1/CIR/ P/2018/85 dated May 28, 2018, implemented the system driven disclosures in phases, under SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 and PIT Regulations.

- ❖ Pursuant to the aforesaid amendment of PIT Regulations and discussions held with the Stock Exchanges and Depositories, it has now been decided to implement the system driven disclosures for member(s) of promoter group and designated person(s) in addition to the promoter(s) and director(s) of company (hereinafter collectively referred to as entities) under Regulation 7(2) of PIT Regulations.
- ❖ To begin with, the system driven disclosures shall pertain to trading in equity shares and equity derivative instruments i.e. Futures and Options of the listed company (wherever applicable) by the entities. The procedure for implementation of the system driven disclosures is annexed to this circular.

To read the circular in detail, please click [here](#).

5. **SEBI partially modifies guidelines regarding categorization and rationalization of Mutual Fund Schemes vide circular dated September 11, 2020:**



- ❖ SEBI vide circular no. SEBI/HO/IMD/DF3/CIR/P/2017/114 dated October 06, 2017, has issued guidelines regarding categorization and rationalization of Mutual Fund Schemes.
- ❖ In order to diversify the underlying investments of Multi Cap Funds across the large, mid and small cap companies, it has been decided to partially modify the scheme characteristics of Multi Cap Fund at **sr. no. 1 of point A of Annexure** of the aforesaid circular as under:

Minimum investment in equity & equity related instruments -75% of total assets in the following manner:

- *Minimum investment in equity & equity related instruments of large cap companies - 25% of total assets*
- *Minimum investment in equity & equity related instruments of mid cap companies - 25% of total assets*
- *Minimum investment in equity & equity related instruments of small cap companies - 25% of total assets*

- ❖ All the existing Multi Cap Funds shall ensure compliance with the above provisions within one month from the date of publishing the next list of stocks by Association of Mutual Funds of India (AMFI), i.e. January 2021 and the rest of the contents of the circular dated October 6, 2017 shall remain unchanged.

To read the circular in detail, please click [here](#).

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RBI UPDATES

1. RBI revises the Priority Sector Lending (PSL) Guidelines vide Press release dated September 04,2020



- ❖ As per the revised guidelines issued, the following have been included as fresh categories eligible for finance under priority sector:
 - Bank finance up to 50 crores;
 - loans to farmers for installation of solar power plants for solarisation of grid connected agriculture pumps
 - Loans for setting up Compressed Bio Gas (CBG) plants
- ❖ RBI has also specified some salient features of the revised PSL Guidelines in this press release.

To read the press release in detail, please click [here](#).

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IBBI UPDATES

1. **IBBI releases new guidelines for appointment of Insolvency Professionals as Administrators under the Securities and Exchange Board of India (Appointment of Administrator and Procedure for Refunding to the Investors) Regulations, 2018 dated September 05, 2020**



- ❖ These Guidelines shall come into effect for appointment as Administrator with effect from **October 01, 2020**.
- ❖ The IBBI and the SEBI have mutually agreed upon to use a Panel of Insolvency Professionals (“IPs”) for appointment as Administrators for effective implementation of the Regulations. The aforesaid guidelines also talk about IP that shall be eligible to be appointed on such panels of IPs
- ❖ The guideline prescribes the procedure that has to be followed by such IPs in case they want to be appointed on such panels.
- ❖ It prescribes certain guidelines based on which such IPs shall be appointed on such panel which shall include:
 - *Ongoing Processes*
 - *Completed Processes as IRP / RP*
 - *Completed Assignments as Liquidator / Bankruptcy Trustee*

To read more in detail, please click [here](#).

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JUDGEMENTS/ ORDERS

NCLT

1. **NCLT Mumbai Bench grants further time for repayment to Shree Sidhivinayak Cotspin Private Limited**

The Mumbai Bench of National Company Law Tribunal (“NCLT”) has granted time till November 26, 2020 to M/s Shree Sidhivinayak Cotspin Private Limited for making payment as provided in the resolution plan on account of unprecedented and extraordinary situation arising due to Covid-19 and considering that the applicant has already brought substantial amount for implementing the resolution plan.

To read the order in detail, please click [here](#)



2. **NCLT Indore Bench allowed Restoration of Sahyog Finlease Private Limited**

The Indore Bench of National Company Law Tribunal (“NCLT”) has allowed restoration of M/s Sahyog Finlease Private Limited (“Company”) struck off from the Registrar of Companies (“RoC”) on petition filed by the Company under section 252 (3) of the Companies Act 2013, on the basis of the fact that the company was in operation since 2012 and has also produced the financials pertaining to financial year 2016-17 and 2017-18. However the restoration is subject to payment of costs of INR 25,000 (INR Twenty Five Thousand only) for each year of default within a period of 30 (Thirty) days from the date of this order.

To read the order in detail, please click [here](#)



NCLAT

1. NCLAT set aside Impugned Order and allow Company to restored to the Registrar of Companies.



Mohindera Chemicals Private Limited
Registrar of Companies NCT of Delhi & Haryana & Anr.
Income Tax Department, New Delhi

Appellant
Respondent no. 1
Respondent no. 2

The appeal has been filed by the Appellant and claims that the name for the Appellant was wrongly struck off from the Registrar of Companies (RoC).

The learned counsel for the Appellant submitted that, the appellant company is doing business and filed balance sheet till financial year 2013-14. Further submits that merely, because the Balance Sheet remained to be filed the RoC presumed that the Company is not functional and the name got struck off. It is also stated that if the name is not restored the Appellant Company will seriously suffer.

Based on the material placed as mentioned in the order, NCLAT declares that Appellant Company has been functional as can be seen from the copies of Balance Sheets. For this reason NCALT set aside the impugned order and passed order to restored the Appellant Company by the RoC subject to the payment of INR 100,000/- (INR One Lakh Only).

To read the Judgement in detail please click [here](#).

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SEBI

1. SEBI Imposed Penalty on the Promoter for failure to make complete disclosures



In respect of Sanket Rakesh Jain (**Noticee**), SEBI observed that noticee failed to disclose the requisite disclosures pertaining to his acquisition of 1,24,475 shares of SRK Industries Limited (**SRK**) and also becoming the promoter of the SRK within 2 days from the date of acquisition. The Noticee also failed to make required disclosures under regulation 13 (4A) of SEBI (Prohibition of Insider Trading) Regulation, 1992 to Bombay Stock Exchange (**BSE**) for his change in shareholding of SRK by 8,45,820 shares from 12,447 shares to 8,58,267 shares on due to scheme of arrangement approved by Hon'ble High Court of Bombay and Hon'ble High Court of Madras for merger of Transcend Commerce Limited with SRK and imposed penalty upon noitcee of INR 2,00,000/- (INR Two Lakh).

To read the order in detail please click [here](#).

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HIGH COURT

1. **Liberty given to the revenue to revive the appeal where the tax effect is more than INR. 1,00,00,000 (INR One Crore).**



The Commissioner of Income-Tax
The Asst. Commissioner of Income-Tax
KMG Infotech Private Limited

Appellants
Respondent

Date of Judgement: September 7, 2020

Appeal submitted by the respondent stating that the appeal is not maintainable in view of the Circular issued by the Income-Tax Department, stating that the tax effect is less than INR 1,00,00,000 (INR One Crore) which the learned counsel for the appellant submitted that the Department be granted liberty to revive the appeal in case the tax effect is more than INR 1,00,00,000 (INR One Crore).

In this respect, the High Court in its judgement disposed of the appeal with liberty to the revenue to revive the appeal in case the tax effect is more than INR 1,00,00,000 (INR One Crore).

To read the Judgement in detail, click [here](#).

2. **Appellant fairly submitted that the tax effect is less than INR 1,00,00,000 (INR One Crore), which in view of the Circular issued by the Central Board of Direct Taxes in not maintainable. Hence, appeal stands dismissed.**

The Director of Income-Tax (International Taxation)
The Deputy Director of Income-Tax International Taxation Appellants
M/s. ANZ Operations & Technology Private Limited Respondents

Date of Judgement: September 07, 2020

Appeal filed by the appellants was dismissed with view that the appeal is not maintainable, which the respondent submitted against the appeal made by the appellant, who further fairly submitted, basis the Circular No. 17/2019 dated

September 08, 2019 issued by the Central Board of Direct Taxes, stating that the tax effect is less than INR 1,00,00,000 (INR One Crore).

To read the Judgement in detail, click [here](#).

3. On disposal of the main matter, the Writ Petition filed stands dismissed as having become infructuous.

Shri Mohanlal G. Parmer Former Managing Director, M/s. Sri.Genji Aqua Pvt. Ltd.	Petitioner
M/s. Shivsu Canadian Clear International Ltd.	Respondent 1
Mr. Shivakumar Executive Director, M/s. Shivsu Canadian Clear International Ltd	Respondent 2
Mr. Ashoka Rjanjan For M/s. Shivsu Canadian Clear International Ltd.	Respondent 3
Mr. Sushilkumar Technical Director, M/s. Shivsu Canadian Clear International Ltd.	Respondent 4
Mr. Somasunthor Vice President, M/s. Shivsu Canadian Clear International Ltd.	Respondent 5
The Sub Inspector of Police Kataki Police Station, Kataki	Respondent 6
Superintendent of Police Belagavi District	Respondent 7
The Commissioner of Police Belagavi District	Respondent 8
The Deputy Inspector General of Police Northern Range, Belagavi	Respondent 9
The Director General of Police Mylapore Chennai	Respondent 10

Date of Judgement: September 08, 2020

Writ Petition filed under Articles 226 and 227 of the Constitution of India, praying to direct the Hon'ble Judicial Magistrate First Class ("JMFC") Court, Belagavi to dispose of the case for the offences punishable under Sections 420, 406 of IPC, was dismissed as having become infructuous, basis the submission made by the learned counsel for the petitioner that the said petition has become unnecessary on account of the disposal of the main matter.

To read the Judgement in detail, click [here](#).

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SUPREME COURT

1. Award of compensation under the conventional head 'loss of love and affection' was set aside and appeal stood partly allowed.



Civil Appeal No. 3093 of 2020

(Arising out of SLP (C) No. 23478 of 2019)

The New India Assurance Company Limited
Smt. Somwati and Others

Appellant
Respondents

With

Civil Appeal No. 3094 of 2020

(Arising out of SLP (C) No. 4801 of 2020)

The New India Assurance Company Limited
Smt. Sangita and Others

Appellant
Respondents

With

Civil Appeal No. 3095 of 2020

(Arising out of SLP (C) No. 4643 of 2020)

The New India Assurance Company Limited
Azmati Khatoon and Others

Appellant
Respondents

With

Civil Appeal No. 3096 of 2020

(Arising out of SLP (C) No. 5441 of 2020)

Cholamandalam MS General Insurance Company Limited
Umrani and Others

Appellant
Respondents

With

Civil Appeal No. 3097 of 2020

(Arising out of SLP (C) No. 6381 of 2020)

**The New India Assurance Company Limited
Smt. Pinki and Others**

**Appellant
Respondents**

With

**Civil Appeal No. 3098 of 2020
(Arising out of SLP (C) No. 7556 of 2020)**

**The New India Assurance Company Limited
Nanak Chand and Others**

**Appellant
Respondents**

With

**Civil Appeal No. 3099 of 2020
(Arising out of SLP (C) No. 7556 of 2020)**

**The Oriental Insurance Company Limited
Smt. Rinku Devi and Others**

**Appellant
Respondents**

Date of Judgement: September 07, 2020

The appeals filed questioning the judgments of the High Court's arising out of the award by Motor Accident Claims Tribunal (MACT) with regard to the compensation awarded in favour of the claimants under two heads, i.e., "Loss of Consortium" and "loss of love and affection." Were filed by three insurance companies i.e., New India Assurance Company Limited, Cholamandalam MS General Insurance Company Limited. and The Oriental Insurance Company Limited.

For deciding on these appeals, it was thought sufficient to notice the facts in details in the first Civil appeal and then on the brief facts in other appeals. Further, going by the brief facts in all appeals, these appeals raising common questions of law were being heard together and were decided with the common judgement by partly allowing the appeals and stated that the award of compensation under the conventional head 'loss of love and affection' is set aside and informed that the MACT shall recompute the amount payable and take further steps in accordance with law.

To read the Judgement in detail, click [here](#).

2. Supreme Court dismisses both the appeals filed by the Rajasthan Road Transport Corporation and Others challenging the judgements of the Division Bench of Rajasthan High Court.

Civil Appeal No. 1789 of 2020

Rajasthan State Road Transport Corporation and Others Appellants
Goverdhan Lal Soni and ANR Respondents

With

Civil Appeal No. 1812of 2020

Rajasthan State Road Transport Corporation and Others Appellants
Mangla Ram Aanwala Respondents

Date of Judgement: September 09, 2020

Both the appeals filed by Rajasthan Road Transport Corporation and Others challenging the judgements of the Division Bench of Rajasthan High Court, dismissing the Special Appeals, were further dismissed by the Supreme Court.

Since, both the appeals having raised similar issues it was thought sufficient to refer the facts and pleadings in the first Civil Appeal for deciding both the appeals.

Considering the facts of the case and in view of the foregoing discussions, the considered opinion that the respondent had made out a case for grant of pension by the appellant and learned Single Judge and the Division Bench did not commit any error in allowing the claim of the respondent for pension.

The respondent has not withdrawn any amount and both the employees and employer contributions were transferred to the Rajasthan State Road Transport Corporation by Regional Provident Fund Commissioner and it was also noticed that the respondent who on attaining the age of superannuation had immediately filed the Writ Petition, with no delay in approaching the High Court for relief of Pension. The said Writ Petition was entertained and directions were issued by the learned Single Judge allowing the Writ Petition of the respondent although directed the appellant to return the benefit received under the Contributory Provident Fund (CPF) Scheme, but had not fixed any time for deposit.

In ends of justice, a period of two months from the issuance of the order was allowed to the respondent to refund the entire amount under the CPF Scheme including excess gratuity and it was further informed that on such deposit being made by the respondent, the Rajasthan State Road Transport Corporation shall sanction the pension to the respondent and take steps regarding payment of pension but without any interest thereon. To read the Judgement in detail, click [here](#).

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