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EDITORIAL

Strengthening India's MSME Sector: Key Challenges and Policy Solutions



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The Micro, Small, and Medium Enterprises (MSME) sector in India stands at a cornerstone of the nation's economic growth contributing significantly to its GDP through enhanced manufacturing output and employment generation. With over 7.9 million registered enterprises under MSME employing more than 110 million people it is only second

to agriculture in employment generation.

Despite their crucial role, MSMEs in India grapple with a multitude of challenges that hinder the tapping of their full potential. Foremost among these challenges is access to easy and low-cost finance. Unlike larger corporations, MSMEs are insisted to provide collateral (barring Government schemes of Guarantees) and strict financial norms to secure loans. MSME are charged interest rates ranging from 10% to 15% as compared to large corporates of 6% to 8% by all banks including Public Sector banks. This financial hurdle, compounded by cumbersome paperwork and approval processes, impedes their speed and ability to capitalize on business opportunities in real time. The charging of interest rates by NBFCs to small borrowers including micro finance and MSME is totally unregulated where it could go up as high to 20% to 36% or even more.

This is really a kind of open loot without any cognisance of the hardships and necessary actions taken by RBI or Government of India in this regard.

Moreover, the GST landscape offers no special benefits to MSMEs except lower tax without input credit and that too limited to a small turnover thresh hold. It is important to consider lower output GST or accelerated input tax credit to MSME.

Key Relaxations approved by 53rd GST Council Meeting held on June 22, 2024:



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- Waiver of interest and penalties for demand notices issued under Section 73 of the CGST Act (i.e. the cases not involving fraud, suppression or wilful misstatement, etc.) for the fiscal years 2017-18, 2018-19 and 2019-20, if the full tax demanded is paid upto 31.03.2025.

- Time limit to avail input tax credit w.r.t. any invoice or debit note under Section 16(4) of CGST Act, through any GSTR 3B return filed upto 30.11.2021 for FY 2017-18, 2018-19, 2019-20 and 2020-21, may be deemed to be 30.11.2021.
- Monetary limit of Rs. 20 lakh for GST Appellate Tribunal, Rs. 1 crore for High Court and Rs. 2 crore for Supreme Court, for filing of appeals by the Department, to reduce litigation.
- Reduction of the quantum of pre-deposit to 10% of disputed demand, required to be paid for filing of appeals under GST.
- Amendment of provisions of CGST Act to provide that the three-month period for filing appeals in GST Appellate Tribunal will start from a date to be notified by the Government.
- To ease the interest burden of the taxpayers, GST Council recommends to not levy interest u/s 50 of CGST Act in case of delayed filing of return, on the amount which is available in Electronic Cash Ledger (ECL) on the due date of filing of the said return.
- Sunset clause from April 1st, 2025 for receipt of any new application for Anti-profiteering.

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Strengthening India's MSME Sector: Key Challenges and Policy Solutions

The current special income tax framework of 15% tax aimed at manufacturers is limited to new Companies (till 31.03 2024) only and fails to provide a level playing field for smaller enterprises structured as proprietorships or partnerships or LLPs. The tax reduction to Corporate to 22% exclude them as well as individual assessee from tax rate available to corporate entities by charging 30% plus surcharge. The surcharge is also very high for non-corporate sector.

The current Government support ecosystem often fall short in reaching the grassroots level of MSMEs. Production Linked Incentives (PLI) Schemes are designed to benefit only larger players offering 2% to 15% of turnover as cash incentive in different sectors and that too only above specified threshold of net worth and minimum investment, which in itself becomes difficult to achieve by most of the MSME. The Government and PSU contracts and tenders are also issued with the qualifying criteria of minimum turnover, experience and net worth which is much beyond the strength of almost 95% of MSME and thus inequitable by denying required appropriate opportunities to prove their capabilities.

Compliance with government regulations presents another significant bottleneck. MSMEs typically operating with limited resources find it daunting task to navigate through the intricate web of GST, labour laws, and environmental standards complex requirements. These compliance burdens not only strain their operational capabilities but also deter many from scaling up their businesses.

Furthermore, MSMEs including retail traders and wholesalers face fierce competition from larger corporations and multinational giants with superior financial resources, market dominance and direct access to buyers of electronic market. The Government could not provide any effective e-marketplace at low service charge to the MSME and small traders. To survive and thrive amidst this competition, MSMEs must be supported to differentiate themselves through innovation, product quality, and customer service excellence beside access to market with low concessional tax regime specially structured for them.

Amongst various such measures foremost is the need for improved concessional adequate credit keeping in view their specific requirements coupled with a simplified and expanded credit guarantee scheme (Guarantee fee to be borne by the government) to facilitate ease of raising finances. Other notable measures could be increased and reserved allocations to PLI schemes, capital subsidy, interest subvention and rate preference of 10% to MSME on all government purchases, preference for certain goods and services supply to Local MSME (graded as per size).

Tax relief and procedural simplification are also vital demands. MSMEs seek a reduction in the non-corporate tax rate to align it to lower than the corporate sector to stimulate their business activities for growth.

Simplifying GST compliance procedures by limiting GST filing only to once in a year with monthly tax payments is necessary to lessen administrative burdens on small enterprises. **The faceless scrutiny of GST returns be limited to only 0.2% cases, once an audited annual Audited annual return is filed with an appropriate scope, coverage and reporting by CA Auditors.** The harassment and corruption of GST inspecting officers has to have **ZERO tolerance as per the stated commitment of our respected PM.**

Policy reforms aimed at **limiting all regulatory filing to one single master annual return for all compliances for all laws and regulations and tax related disclosures** would be a right step and top priority in simplifying the regulatory environment for the MSME sector.

There is an immense need for government to empower its MSMEs to drive inclusive growth and innovation thereby achieving its economic aspirations on a global scale.

Key Relaxations approved by 53rd GST Council Meeting held on June 22, 2024:

- Exemption from Compensation Cess leviable on the imports in SEZ by SEZ Unit/developer for authorised operations from 1st July, 2017.
- 12% GST on milk cans (steel, iron, aluminum) irrespective of use; Carton, Boxes and Cases of both corrugated and non-corrugated paper or paper-board; Solar cookers whether single or dual energy source; and sprinklers including fire water sprinklers.
- Exemption of certain services provided by Indian Railways to common man and also intra railway supplies.
- Certain exemptions related to accommodation services, providing relief to students and working professionals.
- To roll-out the biometric-based Aadhaar authentication of registration applicants on pan-India basis in a phased manner.

Latest in Finance

Amendment to definition of "Bulk Deposits" under RBI Master Direction on Interest Rate on Deposits Directions, 2016

Effective immediately, for Scheduled Commercial Banks (excluding RRBs) and Small Finance Banks, "Bulk Deposits" will refer to single rupee term deposits of Rs. 3 crore and above from existing limit of Rs.2 crore.

RBI invites application for recognition of Self-Regulatory Organisations (SROs) for NBFCs

The Reserve Bank of India (RBI) invited applications for the recognition of SROs for Non-Banking Financial Companies (NBFCs) under its omnibus framework issued in March. Applications must be submitted by September 30. SROs are intended for NBFCs in investment and credit companies, housing finance companies, and factors, though other NBFC categories can also be included. SROs must fairly represent smaller NBFCs, comprising at least 10 percent of the NBFCs in the base layer. Entities applying for SRO recognition must have a minimum net worth of Rs.2 crore within one year of recognition or before starting operations, and maintain this thereafter.

RBI may allow change in ARC trusteeship

The RBI may allow Security Receipts holders to change the trusteeship of Asset Reconstruction Companies (ARCs). This change would enable ARCs to retain stressed assets without acting as trustees, thereby expediting the resolution process.

E-mandates framework extended to Fastag, UPI Lite payments

Payments such as replenishment of balances in Fastag and National Common Mobility Card (NCMC), which are recurring in nature, will be brought under the framework of e-mandates. The inclusion of Fastags and NCMC under the e-mandate framework will allow users to automatically replenish the balances in Fastag, NCMC, etc.

Startups see rise in venture debt funding

Venture debt is a type of loan offered to Series A and above startups with institutional backing, and includes equity warrants in addition to the debt component, with a repayment period of 2-3 years. These equity kickers are typically about 10% of the debt quantum and usually translate to less than 1% ownership on a fully diluted basis.

Crypto dealings not illegal: Orissa HC

A recent Orissa High Court order observed that dealings in crypto currency are not illegal. The HC said crypto currency is not money within the meaning of Price Chits and Money Circulation Schemes (Banning) Act, 1978 and investment by the general public in crypto cannot partake the nature of deposit within the meaning of Odisha Protection of Interests of Depositors Act; the HC said there was no evidence to show the petitioners had convinced the public to invest money on promise of high returns; or that any person was defrauded or his investment misappropriated by the petitioners. The Supreme Court in 2020 set aside a April 6, 2018 circular of the Reserve Bank of India prohibiting banks and entities regulated by it from providing services in relation to virtual currencies.

SBI targets to make 7.5% of domestic loan portfolio green

In a push towards making India carbon neutral, the country's largest lender, State Bank of India (SBI) is targeting to deploy a minimum of 7.5% of its domestic loans in the green energy sector by 2030. The bank's overall loan book stood at Rs. 37.67 trillion as on FY24 end. It has sanctioned Rs. 47,419 crore of loans for renewable energy projects as of March, 2024.

SBI Launches Digital Business Loans for Small & Medium Cos

State Bank of India (SBI) has launched a new SME digital business loans programme where India's largest bank will use data from income tax and GST returns and bank statements for credit assessment of micro, small and medium enterprises (MSMEs) and sanction loans in 10 seconds after submitting the required details without any human intervention. For loans up to Rs. 50 lakh, SBI has waived the requirement for financial statements, relying instead on transaction history and GST returns for appraisal. This new digital loan product is expected to reduce the end-to-end sanction turnaround time to 45 minutes. The new product can be accessed through all channels of the bank, including its website, branches, SME centres, as well as internet platforms.

SBI, Union Bank announce major fund-raise plans

SBI, India's largest bank, plans to raise up to \$3 billion through a public offer and/or private placement of senior unsecured notes in US dollar or any other major foreign currency this financial year. Union Bank has firmed up plans to mobilise up to Rs. 10000 crore, including Rs. 6000 crore by the way of equity capital and the balance through bonds.

No. of Bank Fraud Transactions Tripled in FY24

The amount involved due to fraud in public banks was Rs. 10,507 crore, while private banks incurred losses of Rs. 3,107 crores. The number of frauds due to card and internet transactions shot up more than four times, with 29,000 cases being detected in FY24.

Adani makes credit card foray, ties up with ICICI Bank

Adani Group chairman Gautam Adani has introduced a credit card in alliance with ICICI Bank, marking his foray into retail finance. The partnership will take on competitors like Tata, Reliance and Aditya Birla groups. Through his group's digital platform Adani One, and ICICI Bank have launched the credit card with airport-linked benefits in collaboration with Visa.



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RBI liberalises investments in overseas funds

The Reserve Bank of India (RBI) amends Foreign Exchange Management (Overseas Investment) Directions, 2022, lifting several restrictions. The amendment remove restrictions, which permitted Indian Limited Partners (LPs) to invest only in units issued by overseas funds. Now, investment is allowed in any instrument, regardless of its form whether in units or not. The changes do away with the condition that the investment could only be made in funds that were directly regulated by the financial regulator of host country and not those regulated through their Investment Managers.

This enables Indian resident investors and companies to make overseas investments, especially carry and co-investment contributions, in offshore/overseas fund vehicles, such as Overseas Portfolio Investment (OPI).

Companies with multiple overseas holding structures face enhanced RBI scrutiny

Several major Indian companies, including prominent IT firms, conglomerates, and fintech companies, are under scrutiny by the Reserve Bank of India (RBI) for non-compliance with the country's Overseas Direct Investment (ODI) rules, particularly related to the two-layer overseas investment restriction. **This rule mandates that Indian entities cannot invest in foreign companies that have operations in India through structures with more than two layers of subsidiaries.** Many companies had previously utilized multiple layers of subsidiaries in tax-neutral jurisdictions like the Netherlands and Singapore to manage M&A activities and maintain control. Companies found in violation are being asked to unwind non-compliant structures and may need to undergo a compounding process with the RBI, potentially involving fines for past breaches.

Reserve Bank's PRAVAAH portal to ease FEMA processing for NRIs, corporates

The launch of PRAVAAH portal has opened a direct digital interface with the Reserve Bank of India (RBI) for seeking a host of approvals under the Foreign Exchange Management Act (FEMA). Until now, all communication for FEMA approvals had to be routed through authorised dealer (AD) banks, which follow their own internal due diligence measures, often making the process complex and time-consuming. There could also be favouritism shown to bigger clients.

SEBI permits up to 100% aggregate NRI corpus contribution for FPIs based out of GIFT IFSC

Sebi allows up to 100% Non-Resident Indians (NRI), Overseas Citizens of India (OCI), and Resident Indians contribution in Foreign Portfolio Investors (FPIs) at International Financial Services Centre (IFSC) to boost Indian investment. Declarations and PAN card submissions are required, with provisions for contributors lacking PAN or taxable income. Existing FPIs must submit declarations within six months for renewal review.

Capital Market**SEBI issued Framework for providing flexibility to Foreign Portfolio Investors in dealing with their securities post expiry of their registration**

Key provisions include allowing FPIs to dispose of securities within specified timeframes, with financial disincentives for delays, and mandatory transfer of written-off securities to escrow accounts operated by empanelled brokers for eventual sale.

SEBI to not freeze MF portfolios, demat accounts over non-submission of nominee

SEBI issued a circular on June 10, 2024 stating that it will not freeze the mutual fund portfolios and demat accounts of investors for non-submission of nomination. Investors holding securities in physical form shall be eligible for receipt of dividend, interest payment or redemption payment, as well as to lodge grievance.

Sebi revise diktat on annulment of private equity special rights

SEBI has revised its stance so that private equity special rights will lapse on the date of listing instead, providing reassurance to investors.

Modification in duration for Call Auction in pre-open session for Initial Public Offer (IPO) and Relisted scrips

Based on analysis, stock exchanges will seek explanations from the clients for modifications of prices significantly away from previously placed orders, cancelled quantity exceeding specified percentages during the pre-open session in case of call auction session for IPO & relisted scrips.

Compensation Claims to investors by Stock Exchanges IPF

Any investor can claim up to Rs. 25 lakh from the NSE and Rs. 15 lakh from the BSE through their respective investor protection fund (IPF) in the event of defaulters' assets not being sufficient to meet the amount lost. As of May 31, NSE's fund had a corpus of Rs. 2,065 crore and that of the BSE had Rs. 673 crore the data showed.

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Audio-visual disclosure mandatory norms for Initial Public Offer(IPO)

Audio-visuals(AVs) must be uploaded on the issuer's and Association of Investment Bankers of India(AIBI's) websites within five working days of filing the Draft Red Herring Prospectus(DRHP) with SEBI. For documents pre-filed under Chapter IIA of SEBI Issue of Capital and Disclosure Requirements (ICDR) Regulations, the AVs should be available within five working days of filing the updated DRHP-I.

SEBI expands 'promoter' definition for Initial Public Offer(IPO)-bound firms

Founders collectively holding 10% will all be promoters if they are Key Management Personnel(KMP) or a director. Immediate relatives of the promoter will also be promoters if she/he is on the board or a KMP. Relatives of promoters holding 10% or more in the company will also be deemed promoters.

Export Import

CBIC initiates electronic disbursement of duty drawback amount

In an effort to facilitate trade, Central Board of Indirect Taxes and Customs (CBIC) will electronically disburse duty drawback amount directly to exporter's bank account through Public Finance Management System (PFMS) in a transparent and efficient manner with effect from 5th June, 2024.

DGFT implements automated system for adhoc input-output norms fixation

The Directorate General of Foreign Trade (DGFT) has introduced a new automated system to establish adhoc input-output norms, aimed at facilitating foreign trade procedures. This initiative allows exporters to import duty-free raw materials for manufacturing goods meant for export under advance authorisation. Exporters can now apply for customized adhoc norms through a rule-based, automated process if standard norms do not meet their specific requirements.

Exporters must meet EU standard for ESPR'

Indian firms exporting items such as textiles, paints, furniture, mattresses, steel and aluminium to the EU must proactively prepare to comply with Ecodesign for Sustainable Products Regulation (ESPR) which requires them to provide barcode accessible detailed information to prove that they meet prescribed European Sustainability standards from January 2026, according to a report by research body Global Trade and Research Initiative.

Income Tax

Use of Black Money Law Retrospectively Unconstitutional: HC

The Karnataka High Court has quashed the criminal proceedings initiated by the income-tax department against persons connected to overseas bank accounts and firms which were closed well before the Black Money Act came into force.

Direct Tax (Case Laws)

HC: Interest on deposits with HO/overseas branch not taxable in India; Holds Indian PE not separate entity

The Revenue argued that the interest income received by the Indian Permanent Establishment (PE) of Bank of Tokyo-Mitsubishi UFJ should be taxed in India. However, the Assessee contended that, by virtue of Article 7(3) of the India-USA Double Taxation Avoidance Agreement (DTAA), such interest was not taxable. The court observed that the PE's interest receipts from its head office fell within the exception carved out for banking enterprises. It emphasized that branch offices do not have separate legal personalities and relied on precedents and the DTAA provisions to support its decision. Consequently, the court upheld the Assessee's position and dismissed the Revenue's appeal. [CIT Vs The Bank Of Tokyo-Mitsubishi Ufj Ltd, ITA 773/2018]

HC: Voluntary disclosure of concealment will not absolve Assessee from penalty proceedings

The Assessee, initially filed income tax returns for AYs 2006-2007 and 2007-2008, disclosing specific incomes. Following a search conducted by the department, the Assessee admitted to concealing income and voluntarily revised the returns, adding previously undisclosed amounts. Penalty proceedings under Section 271(1)(c) were initiated. The Calcutta High Court found the penalty proceedings initiated by the Revenue to be in order and appreciated the evidence presented regarding the concealment of income by the Assessee. It invoked the deeming fiction under Section 271(1B) and emphasized the significance of the assessment order as grounds for initiating penalty proceedings. [PCIT vs Thakur Prasad Sao & Sons Pvt Ltd, ITA/66/2018]

HC: Allows 15% deduction under Sec.11(1) for extending donations to other charitable institutions; Expounds Sec.11(3) not applicable

The Delhi High Court upheld the Income Tax Appellate Tribunal (ITAT) order, allowing a deduction under Section 11(1) to the extent of 15% on the deemed income of Rs. 20 Cr., which the Assessee donated to the corpus of other charitable institutions. Highlighting that Section 11(3) would be applicable only if accumulated income is diverted for non-charitable purposes or not utilized as per the provisions. [CIT Vs Jamnalal Bajaj Foundation, ITA 808/2017]



Honesty

ईमानदारी के लिए हम प्रतिबद्ध हैं



Certificate under section 65B of the Indian Evidence Act for electronic evidence mandatory for addition based on electronic data obtained during a search operation u/s 132

The appeal concerns an addition made by the Assessing Officer (AO) based on electronic data found during a search at Company. The data, obtained from WhatsApp messages of an employee, indicated an interest payment to the assessee. The AO did not furnish a certificate under Section 65B of the Indian Evidence Act for the electronic evidence. The appellant contested this addition, citing a decision of the Madras High Court that mandates electronic evidence be supported by corroborative evidence in the absence of such certification. The Revenue relied on a sale deed as corroboration, which the tribunal found insufficient, leading to deletion of the addition. *[Shri Purushotham Naidu Lekkala Versus A.C.I.T Central Circle 3 (2) Hyderabad, ITA No. 608/Hyd/2023]*

Exp. incurred towards Interior Decoration Work of Rented Office Premises is allowable as Revenue Expenditure

A Company engaged in the entertainment business, incurred expenses for interior decoration of its rented office premises. AO treated these expenses as capital in nature, disallowing them as revenue expenditure. However, the ITAT disagreed, noting the importance of office aesthetics in the entertainment industry for client engagement and business enhancement. They highlighted that the rented nature of the office and the minimal expense relative to turnover supported the conclusion that the expenditure was revenue in nature. Therefore, the ITAT allowed the deduction of interior decoration expenses as revenue expenditure, benefiting the assessee. *[Harmony Entertainment (P) Ltd. v. DCIT - [2023] (Kolkata-Trib.)]*

GST

GST Taxpayers Can Now Amend Sales Return Form

GST taxpayers will now have the option to amend outward supply or sales return form GSTR-1 before payment of taxes for a month or quarter. The GST Council in its meeting had recommended providing a new optional facility by way of Form GSTR-1A to facilitate tax-payers to amend the details in Form GSTR-1 for a tax period and/or to declare additional details.

No Tax Recovery within 3 Months of Notice: CBIC

The Central Board of Indirect Taxes and Customs (CBIC) has asked its field formations to not initiate recovery within three months of serving a tax notice, asking them to strike a balance between the interest of there-venue and ease of doing business. Only in cases where there is risk of closure of business or an impending insolvency, the field formations can initiate recovery before the mandated period after getting a nod from the jurisdictional principal commissioner, the CBIC said in a letter dated May 31 to all the zonal heads.

GST (Case Laws)

Granting Opportunity to Contest Tax Demand

The impugned order was issued without considering the petitioner's objections or responses to show cause notices. Madras High Court set aside the impugned order, emphasizing that the petitioner should be granted an opportunity to contest the tax demand on its merits. It was directed that the petitioner remit 10% of the disputed tax demand within two weeks and submit a reply to the show cause notice within the same period. *[(Madras), Stem Infrastructure v. Assistant Commissioner (GST)*, W.P. NO. 12406 OF 2024 W.M.P. NOS. 13534 & 13535 OF 2024].*

Appellate Authority's Jurisdiction to condone delay in Appeals under GST

The petitioner filed an appeal against an order passed under section 73(9) of the West Bengal Goods and Services Tax Act, 2017. Calcutta High Court emphasized that the Appellate Authority must consider the petitioner's explanation for the delay and proceed to hear the appeal on its merits within two months from the date of the Court's order. *[(Calcutta), Partha Pratim Dasgupta v. Joint Commissioner of State Tax, WPA NO. 12584 OF 2024]*

Penalty reduced to token amount of Rs. 10,000/- following reversal of Input Tax Credit

The petitioner under the GST regime, transitioned various amounts as input tax credit under Section 142 following the implementation of GST from 1st July 2017. Subsequently, a show cause notice was issued alleging wrongful availment of transitional credit without proper documentation support. The Madras High Court, in W.P. (MD) No. 26254 of 2022, observed that penalties under Section 74 of the CGST Act, 2017, are applicable in cases where there is evidence of fraud, wilful misstatement, or suppression of facts leading to tax evasion. Since the revenue did not establish fraud or misstatement and the petitioner had reversed the credited amounts post-notice, the imposition of higher penalties was deemed inappropriate. Consequently, the court reduced the penalty to a token amount of Rs. 10,000/-, reflecting the petitioner's compliance post-notice. *[(Madras), Greenstar Fertilizers Ltd., v. Joint Commissioner (Appeals), W.P. (MD) NO. 26254 OF 2022, W.M.P. (MD) NOS. 20437 & 20438 OF 2022]*

Other Important Laws

IBBI issues new guidelines to streamline process of appointing IPs as resolution professionals

The Insolvency and Bankruptcy Board of India (IBBI) issues new guidelines streamline the appointment of insolvency professionals (IPs) as interim resolution professionals, liquidators, and bankruptcy trustees, effective from July 1, 2024. Under the new guidelines, a panel of IPs will be set up, and will be shared with the National Company Law Tribunal and the Debt Recovery Tribunal (DRT) to avoid administrative delays.

Filing Forms to monitor liquidation processes under Insolvency & Bankruptcy Code, 2016

To alleviate the compliance burden for Insolvency Professionals (IPs), a set of forms on an electronic platform has been created by the IBBI to capture the details of the voluntary liquidation process. These forms are vital for the voluntary liquidation procedure under the Insolvency and Bankruptcy Code (IBC), as they enable systematic and transparent recordkeeping and seamless reporting.

Cashless health claim settlement: IRDAI asks insurers to deploy systems by July 31

Insurance companies will have to go for cashless settlement of health insurance claims from August 1 this year, making hospital bill settlement of policyholders smoother and faster. The regulator said insurers should arrange for dedicated Help Desks in physical mode at the hospital to deal and assist with the cashless requests. Insurers should also provide pre-authorisation to the policyholder through the digital mode.

IRDAI issues master circular on general insurance

IRDAI stated that general insurance companies cannot reject claims for lack of documents, introducing a customer information sheet that will provide all policy details, including scope of coverage, exclusions, warranties and claim settlement processes.

Life insurers to mandatorily provide loan facility against policies

IRDAI said the facility of policy loan is now mandatory in all life insurance savings products, enabling policyholders to meet liquidity requirements. Issuing a master circular which consolidates all regulations with regards to life insurance policies, the Insurance Regulatory and Development Authority of India (IRDAI) also said the free look period, which provides time to review the policy terms and conditions, is 30 days as against 15 days earlier.

Employees' Provident Funds (Amendment) Scheme, 2024.

The amended scheme provides that where an employer makes default in the payment of any contribution to the fund, or in the transfer of accumulations required to be transferred by him or in the payment of any charges payable under any other provisions of the Act or Scheme, the Central Provident Fund Commissioner or such officer as may be authorised by the Central, may recover damages from the employer at the rate of one per cent of the arrear of contribution per month or part thereof.

The Telecommunications Act, 2023: Ushering in new era of connectivity

The Telecommunications Act 2023 supersedes the regulatory framework for the telecommunication sector, based on the Indian Telegraph Act, 1885, the Wireless Telegraphy Act (1933), and the Telegraph Wires (Unlawful Possession) Act (1950). The structural reforms envisaged under The Telecommunications Act, 2023 aim to streamline what has so far been a complex licensing system in the

telecom sector and instead ushers-in a simple authorisation mechanism. It prioritises user protection but also extends powers to the government to intercept communications. While it excludes from its ambit broadcasting, and over-the-top services such as WhatsApp and Telegram, it cements rules for spectrum allocation and provides for a non-auction route for assigning airwaves for satellite-based communication services. This allows the government to temporarily take control of telecom services in the interest of national security.

AUDIT & ACCOUNTANCY

Auditor of Coffee Day Group entity debarred for 10 years

The National Financial Reporting Authority (NFRA) has debarred proprietor of Lavitha & Associates, a Karnataka-based auditor, for 10 years and fined Rs 10 Lakh due to deficiencies in the FY20 statutory audit of Mysore Amalgamated Coffee Estates Ltd, a group entity of Coffee Day Enterprises Ltd. NFRA cited significant failures in adhering to auditing standards and a lack of professional judgment.

NFRA's Action Against M/s K.B Chaturvedi & Associates

The National Financial Reporting Authority (NFRA) has issued an order, imposing a penalty of Rs.1 lakh and a one-year debarment from auditing roles against partner of M/s K.B. Chaturvedi & Associates, following an investigation into his role in the audit of five branches of Dewan Housing Finance Corporation Ltd (DHFL) for FY 2017-18. NFRA's Audit Quality Review revealed that the branch auditors were not approved at DHFL's AGM as required by law. Further, the audit conducted by firm did not comply with the required Standards on Auditing, lacking proper documentation.

Other Case Laws

Trademark

Delhi HC: "DISH" not deemed distinctive enough to grant monopoly

Delhi High Court rejects interim injunction against Prasar Bharti's DD Free Dish that Use of "Dish" deemed non-infringing trademark.

The word 'DISH' is a common English word which denotes Dish Antenna and cannot be described as a prominent or an essential feature of such nature so as to allow the plaintiff a monopoly over its use. The two products at dispute were "DD Free Dish" by Prasar Bharti (Doordarshan) and "Dish TV" by Dish TV India Limited. [Prasar Bharti v Dish TV India Limited, FAO(OS)(COMM) 267 of 2019, (Delhi High Court)]

Delhi High Court Judgment: Use of Trademarks as Keywords in Google Ads

In a special leave petition, filed by MakeMyTrip against the Delhi High Court judgment, wherein the Court set aside the interim order passed by a Single Judge that restrained

Google from using MakeMyTrip's registered trademarks as 'keywords' on the Google Ads Program, the three-Judge Bench of Dr. DY Chandrachud, CJI., J.B. Pardiwala and Manoj Misra, JJ. while dismissing the plea, orally remarked that those looking to book their tickets through 'MakeMyTrip' would not confuse it with 'Booking.com'.

MakeMyTrip claimed that its registered trademarks 'MakeMyTrip' and 'MMT' were being used as keywords in the Google Ads Program for displaying the links/ads of its competitor 'Booking.com', which amounted to violation of its trade mark.

The Delhi High Court in the impugned Judgment has held that the use of trade marks as keywords in the absence of any confusion or unfair advantage would not infringe on the trade mark. [*MakeMyTrip (India) Private Limited v. Google LLC, SLPC 1575-76/2024 (The Supreme Court of India)*]

Prevention of Money Laundering Act, 2002

Delhi MLA from AAP denied pre-arrest bail in Corruption and Money Laundering Case

A case was filed against the petitioner, an MLA from the Aam Aadmi Party (AAP) in Delhi, along with Mahboob Alam, the former CEO of the Delhi Waqf Board (DWB), and others by the CBI, AC-III, New Delhi, for offenses under Section 120-B of the Penal Code, 1860, and Section 13(1)(d) along with Section 13(2) of the Prevention of Corruption Act, 1988. The chargesheet alleged that Mahboob Alam, a retired IPS officer, was unlawfully appointed by the petitioner through a tailored advertisement, resolution passed for his appointment prior to the application deadline, and failure to interview other candidates. The petitioner, also the Chairman of DWB, was accused of misusing his position by hiring relatives and acquaintances without official authorization, though their appointments were later regularized via an Urdu newspaper advertisement on 24th April, 2016.

During its investigation, the Anti-Corruption Branch (ACB) conducted searches at locations linked to the petitioner and associates, seizing incriminating documents and illegal weapons, including diaries detailing cash transactions over Rs 100 crore from 2018 to 2022, revealing property deals in multiple locations.

The court opined that while individuals have rights to legal

remedies like anticipatory bail, failure to diligently pursue legal action can't justify avoiding investigation. Refusing to cooperate obstructs justice, eroding public trust in the legal system, as highlighted in previous Supreme Court rulings. Evidence suggested the petitioner acquired substantial cash through corrupt practices, including illegal recruitment and misappropriation while serving as Chairman of DWB and MLA.

Despite multiple summons, the petitioner failed to cooperate with investigations, leading the court to deny pre-arrest bail, citing sufficient evidence of money laundering under PMLA Section 45. [*Amanatullah Khan v. Enforcement Directorate, Bail Appln. 795 of 2024, (Delhi High Court)*]

Arbitration Law

Arbitration and Conciliation Act, 1996: Appointment of Arbitrator for Disputes

An arbitration petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 ('the Act, 1996') filed at the instance of a company based in Kabul, Afghanistan and engaged in the business of providing training to desirous students in computer education, English language, information technology, etc. praying for the appointment of an arbitrator for the adjudication of disputes and claims arising from the Contract dated 21-03-2013 entered between the petitioner and the respondent.

The three Judge Bench Dr. DY. Chandrachud, CJI, J.B. Pardiwala and Manoj Misra, JJ. held that the present arbitration petition having been filed within a period of three years from the date when the respondent failed to comply with the notice of invocation of arbitration issued by the petitioner is not hit by limitation. Further, the notice for invocation of arbitration having been issued by the petitioner within a period of three years from the date of accrual of cause of action, the claims cannot be said to be ex-facie dead or time-barred on the date of commencement of the arbitration proceedings. [*M/S Arif Azim Co. Ltd. vs M/S Aptech Ltd, Arbitration Petition No. 29 OF 2023 (The Supreme Court of India)*]



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