

VEDANAM

A MONTHLY NEWSLETTER BY MEHTA & MEHTA

Legal Updates

by Mehta and Mehta



WHY VEDANAM?

We, Mehta & Mehta, present you with our monthly newsletter which covers regulatory updates, case laws and study articles. We hereby release our March 2023 issue.

TABLE OF CONTENT

- MCA UPDATES
- SEBI UPDATE
- RBI UPDATE
- KNOWLEDGE SHARING
- IBC CASE LAWS



THOUGHT

“ Never mistake law for justice because
Justice is an ideal, law is a tool ”

MEHTA & MEHTA
Legal and Advisory Services

Ministry of Corporate Affairs Updates

MCA issued circular for the Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2023.

They shall come into force with effect from 15th day of June, 2023.

Rule	Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2016	Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2023.	Comments
Rule 25 sub rule (5)	Where no objection or suggestion is received to the scheme from the Registrar of companies and official Liquidator or where the objection or suggestion of registrar and official liquidator is deemed to be not sustainable and the central government shall issue a confirmation order of such scheme of merger or amalgamation in Form No. CAA.12	Where no objection or suggestion is received within a period of thirty days of receipt of copy of scheme under sub-section (2) of section 233, from the Registrar of Companies and Official Liquidator by the Central Government and the Central Government is of the opinion that the scheme is in the public interest or in the interest of creditors, it may, within a period of fifteen days after the expiry of said thirty days, issue a confirmation order of such scheme of merger or amalgamation in Form No. CAA.12: Provided that if the Central Government does not issue the confirmation order within a period of sixty days of the receipt of the scheme under sub-section (2) of section 233, it shall be deemed that it has no objection to the scheme and a confirmation order shall be issued accordingly.	No objection or suggestion is received within thirty days from the Registrar of Companies and Official Liquidator, and if the Central Government is of the opinion that the scheme is in the public interest or the interest of creditors, it may issue a confirmation order within fifteen days after the expiry of the thirty-day period. If the Central Government does not issue a confirmation order within sixty days, it is deemed to have no objection to the scheme

<p>Rule 25 sub rule (6)</p>	<p>Where objections or suggestions are received from the registrar of companies or official liquidator and the central government is of the opinion, whether on the basis of such objections or otherwise, that the scheme is not in the public interest of creditors, it may file an application before the tribunal in Form No.CAA.13 within sixty days of the receipt of the scheme stating its objections or opinion and requesting that tribunal may consider the scheme under section 232 of the act.</p>	<p>Where objections or suggestions are received within a period of thirty days of receipt of copy of scheme under sub-section (2) of section 233 from the Registrar of Companies or Official Liquidator or both by the Central Government and – (a) such objections or suggestions of Registrar of Companies or Official Liquidator, are not sustainable and the Central Government is of the opinion that the scheme is in the public interest or in the interest of creditors, it may within a period of thirty days after expiry of thirty days referred to above, issue a confirmation order of such scheme of merger or amalgamation in Form No. CAA.12.</p>	<p>If objections or suggestions are received within thirty days from the Registrar of Companies or Official Liquidator or both, the Central Government has two courses of action</p> <p>a) If the objections or suggestions are deemed unsustainable and the Central Government is of the opinion that the scheme is in the public interest or the interest of creditors, it may issue a confirmation order within thirty days after the expiry of the initial thirty-day period.</p> <p>No objection or suggestion is received within thirty days from the Registrar of Companies and Official Liquidator, and if the Central Government is of the opinion that the scheme is in the public interest or the interest of creditors, it may issue a confirmation order within fifteen days after the expiry of the thirty-day period. If the Central Government does not issue a confirmation order within sixty days, it is deemed to have no objection to the scheme</p>
-------------------------------------	---	---	---

(b) the Central Government is of the opinion, whether on the basis of such objections or otherwise, that the scheme is not in the public interest or in the interest of creditors, it may within sixty days of the receipt of the scheme file an application before the Tribunal in Form No. CAA.13 stating the objections or opinion and requesting that the Tribunal may consider the scheme under section 232 of the Act:

Provided that if the Central Government does not issue a confirmation order under clause (a) or does not file any application under clause (b) within a period of sixty days of the receipt of the scheme under sub-section (2) of section 233 of the Act, it shall be deemed that it has no objection to the scheme and a confirmation order shall be issued accordingly."

If objections or suggestions are received within thirty days from the Registrar of Companies or Official Liquidator or both, the Central Government has two courses of action

a) If the objections or suggestions are deemed unsustainable and the Central Government is of the opinion that the scheme is in the public interest or the interest of creditors, it may issue a confirmation order within thirty days after the expiry of the initial thirty-day period.

b) If the Central Government is of the opinion that the scheme is not in the public interest or the interest of creditors, it may file an application before the Tribunal within sixty days of the receipt of the scheme, stating the objections or opinion and requesting the Tribunal to consider the scheme under section 232 of the Act. If the Central Government does not issue a confirmation order or file an application within sixty days, it is deemed to have no objection to the scheme.



SEBI Update: Legal Entity Identifier for issuers

SEBI vide its Circular dated 3rd May 2023 issued a Circular for the Introduction of Legal Entity Identifier (LEI) for issuers who have listed and/ or propose to list non - convertible securities, securitized debt instruments and security receipts

The Circular States:

LEI is a unique global identifier for legal entities participating in financial transactions. LEI is designed to create a global reference data system that uniquely identifies every legal entity, in any jurisdiction, that is party to a financial transaction. It is a unique 20 - character code to identify legally distinct entities that engage in financial transactions. Presently, RBI directions, inter alia, mandate non - individual borrowers having aggregate exposure of above Rs. 25 crores, to obtain LEI code.

In view of the above, issuers having outstanding listed non - convertible securities as on August 31, 2023, shall report/ obtain and report the LEI code in the Centralized Database of corporate bonds, on or before September 1, 2023. Similarly, issuers who have outstanding listed securitised debt instruments and security receipts as on August 31, 2023, shall report/ obtain and report the LEI code to the Depository(ies), on or before September 1, 2023.

[Link: LEI SEBI UPDATE](#)

SEBI Update: Testing Framework for the Information Technology (IT) Systems of the Market Infrastructure Institutions (MIIs)

SEBI on 5th May 2023 states a comprehensive testing framework for the information technology (IT) systems of the stock exchanges and other market infrastructure institutions (MIIs).

The framework will be for the IT systems of MIIs stock exchanges, clearing corporations, and depositories - throughout their lifecycle, which can assist the MIIs in performing thorough risk assessment before deploying any IT systems in production or live environment.

All MIIs have to do extensive testing, validation, and documentation whenever new systems or changes to existing systems are introduced before the deployment in the production/live environment.

To set up a comprehensive methodology for system testing, functional testing, and application security testing, and the same need to be approved by the Standing Committee on Technology (SCOT) of respective MIIs.

The scope of testing includes covering business logic, system function, security controls, and system performance under load and stress conditions. Moreover, any dependency on the existing systems shall be properly tested.

Testing should be carried out in a separate environment that replicates/mirrors the production environment to minimize any disruption.

All issues identified from testing, including system defects or software bugs, should be properly tracked and remediated immediately.

Moreover, major issues that could hurt the MII should be reported to their SCOT and addressed before deployment to the production environment.

MIIs have to establish policies and procedures on the use of third-party systems or software codes to ensure these systems are subject to review and testing before they are integrated with their systems.

MIIs have been directed to perform white box testing or structural testing, which includes analysing data flow, control flow, information flow, coding practices, exception, and error handling within the system.

Further, they have to submit the testing framework of all their IT systems after approval of SCOT within 30 days.

The circular shall come into force with immediate effect.

[Link: Market Infrastructure Institution](#)

SEBI Update - Registration with the FINNET 2.0 system of the Financial Intelligence Unit – India (FIU-India)

SEBI vide its Circular dated 9th May 2023 issued to All Registered Debenture Trustees. (MIIs).

The Circulars state that It has been informed by FIU-India that:

- a) all Reporting Entities falling under the Debenture Trustee segment registered in FINNET 1.0 system of FIU-India are required to re-register themselves in FINNET 2.0 system/module1;
- b) those reporting entities who have not yet registered themselves with FIU India are required to be registered in the FINNET 2.0 system/ module of FIU India immediately in light of the FATF mutual evaluation.

[Link: Financial Intelligence Unit –](#)



SEBI Update- Direct Market Access (DMA) to SEBI registered Foreign Portfolio Investors (FPIs) for participating in Exchange Traded Commodity Derivatives (ETCDs)

SEBI vide its Circular dated 10th May 2023 issued to All Recognized Stock Exchanges having Commodity Derivatives Segment All Foreign Portfolio Investors registered with SEBI All Custodians registered with SEBI.

The Circulars state that

In order to promote institutional participation in Exchange Traded Commodity Derivatives (ETCDs), SEBI allowed stock exchanges to extend direct market access to registered Foreign Portfolio Investors (FPIs) with immediate effect.

MIIs have been directed to perform white box testing or structural testing, which includes analysing data flow, control flow, information flow, coding practices, exception, and error handling within the system.

Further, they have to submit the testing framework of all their IT systems after approval of SCOT within 30 days.

The circular shall come into force with immediate effect.

[Link: Direct Market Access](#)

SEBI Update: Investment in units of Mutual Funds in the name of a minor through a guardian

Sebi on 12th May vide its circulars states the rules about investment in mutual funds made in the name of a minor through a guardian. The regulator has asked all Asset Management Companies (AMCs) to make the necessary changes to facilitate such mutual fund transactions with effect from June 15, 2023.

Under the new rule, payment for investment in mutual funds by any mode will be accepted from the bank account of the minor, parent or legal guardian of the minor, or a joint account of the minor with parent or legal guardian, Sebi said in a circular.

For existing mutual fund folios, the AMCs will have to insist upon a change of pay-out bank mandate before redemption is processed.

Irrespective of the source of payment for the subscription, all redemption proceeds will be credited only to the verified bank account of the minor, which he or she can hold with the parent /legal guardian.

[Link: Investment in units of MF](#)

SEBI Update: Risk disclosure with respect to trading by individual traders in Equity Futures & Options Segment

The SEBI on May 19 2023 issued a circular which states the following :

It states that in order to facilitate informed decision-making by the investors trading the derivative segment. It has been decided to introduce Risk disclosure with respect to trading in the equity Future & Options segment.

It states that all the stock brokers shall display the "Risk disclosure" given in Annexure -I on their website and to all their clients as follows namely:-

Upon login into their trading accounts with brokers, the clients may be prompted to read the Risk disclosures' (which may appear as a pop-up window upon login) and shall be allowed to proceed ahead only after acknowledging the same.

The 'Risk disclosures' shall be displayed prominently, covering at least 50 per cent area of the screen.

All Qualified Stock Brokers (QSBs) shall maintain the Profit and Loss (P&L) data of their clients on a continuous basis as per the format given in Annexure II. The P&L data of the clients shall be retained for at least 5 years.

[**Link: Risk Disclosures w.r.t trading by individual traders**](#)

SEBI Update: Dematerialization of securities of Hold Cos and SPVs held by Real Estate Investment Trusts (REITs)

Sebi on May 22 vide its circulars states: Regulation 14(18) of SEBI (Real Estate Investment Trust) Regulations, 2014 ("REIT Regulations") provides that the units of REIT shall be issued only in the dematerialized form to all the applicants.

It has been decided that REITs shall henceforth hold the securities of Hold Cos and SPVs in dematerialized form only. The Manager of the REIT shall ensure the same.

Further, for existing securities holdings by REITs in Hold Cos and SPVs in physical form, the Manager of the REIT is directed to dematerialize the securities of Hold Cos and SPVs of the REIT on or before June 30, 2023.

[**Link: Dematerialisation of securities**](#)



SEBI Update: Dematerialization of securities of Hold Cos and SPVs held by Infrastructure Investment Trusts (InvITs)

Sebi on May 22 vide its circulars states:

Regulation 14(4)(r) of SEBI (Infrastructure Investment Trusts) Regulations, 2014 (“InvIT Regulations”) provides that the units of InvIT shall be issued only in the dematerialized form to all the applicants.

In order to promote the dematerialization of securities, encourage ease of doing business, and improve transparency in the dealings of securities of Hold Cos/ SPVs, it has been decided that InvITs shall henceforth hold the securities of Hold Cos and SPVs in dematerialized form only. The Investment Manager of the InvIT shall ensure the same.

Further, for existing securities holdings by InvITs in Hold Cos and SPVs in physical form, the Investment Manager of the InvIT is directed to dematerialize the securities of Hold Cos and SPVs of the InvIT on or before June 30, 2023.

This circular is being issued in the exercise of powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 and Regulation 33 of the InvIT Regulations. This circular is issued with the approval of the competent authority. This circular shall come into force with immediate effect.

This Circular is available on the website of the Securities and Exchange Board of India at www.sebi.gov.in under the category “Legal” and under the drop-down “Circulars”.

[Link: Demat of securities by INVITS](#)

SEBI Update: Revision in the computation of Core Settlement Guarantee Fund in Commodity Derivatives Segment

Sebi on 23rd May revised the methodology for clearing corporations with regard to the computation of the core Settlement Guarantee Fund corpus in the commodity derivatives segment.

A core Settlement Guarantee Fund (SGF) is a corpus used for settlement of trades during defaults and all intermediaries stock exchanges, clearing corporations and brokers contribute towards it.

SEBI received representations from clearing corporations that in light of the turnover and the open interest observed at the stock exchanges in recent times, the target corpus level prescribed in 2018 needs to be reviewed and the methodology for computation of core SGF corpus in the commodity derivatives segment.

The clearing corporations in the commodity derivatives segment can now align their core SGF in terms of its framework issued in August 2014 and July 2018 and excess contributions may be returned to the contributing stakeholders on a pro-rata basis, after taking due approval from SEBI.

The circular shall come into effect from June 01, 2023.

[Link: Dematerialisation of securities](#)

Revision in the computation of the Core Settlement Guarantee Fund in the Commodity Derivatives Segment

Sebi on 23rd May revised the methodology for clearing corporations with regard to the computation of the core Settlement Guarantee Fund corpus in the commodity derivatives segment.

A core Settlement Guarantee Fund (SGF) is a corpus used for settlement of trades during defaults and all intermediaries, stock exchanges, clearing corporations and brokers contribute towards it.

SEBI received representations from clearing corporations that in light of the turnover and the open interest observed at the stock exchanges in recent times, the target corpus level prescribed in 2018 needs to be reviewed as a methodology for the computation of core SGF corpus in the commodity derivatives segment.

The clearing corporations in the commodity derivatives segment can now align their core SGF in terms of its framework issued in August 2014 and July 2018 and excess contribution may be returned to the contributing stakeholders on a pro-rata basis, after taking due approval from SEBI.

The circular shall come into effect from June 01, 2023.

[Link: Core settlement guarantee fund](#)

SEBI Update: Model Tripartite Agreement between the Issuer Company, Existing Share Transfer Agent and New Share Transfer Agent as per Regulation 7(4) of SEBI (Listing Obligation and Disclosure Requirements) Regulation, 2015

SEBI vide its circular dated 25th May 2023 issues the Model Tripartite Agreement between the Issuer Company, Existing Share Transfer Agent and New Share Transfer Agent as per Regulation 7(4) of SEBI (Listing Obligation and Disclosure Requirements) Regulation, 2015

The circular states the following Regulation 7(4) of SEBI LODR Regulations, 2015, "In case of any change or appointment of a new share transfer agent, the listed entity shall enter into a tripartite agreement between the existing share transfer agent, the new share transfer agent and the listed entity, in the manner as specified by the Board from time to time."

It states that model Tripartite Agreement has been prepared in consultation with the Registrar Association of India (RAIN) and some issuer companies. Format of the Tripartite Agreement is placed at Annexure-A. RTAs and listed companies are advised to: publish the format of the tripartite agreement on their respective websites. comply with the conditions laid down in this circular. make necessary amendments to the relevant bye-laws, rules and regulations, and operational instructions, as the case may be, for the implementation of the above circular.

RTAs are advised to submit compliance of the direction given above to SEBI vide email at rta@sebi.gov.in latest by June 01, 2023, along with the link to their website containing the format of a tripartite agreement.

[Link: Model Tripartite Agreement](#)

RBI Update: Amendment to the Master Direction (MD) on KYC – Instructions on Wire Transfer

RBI vide its notification dated 4th May 2023 to the Chairman of all regulated entities.

The notification states:

Reserve Bank of India has time to time, as amended from time to time, in terms of which Regulated Entities (REs), inter alia, have to undertake certain measures while dealing with the Wire Transfer.

In this regard, on a review, it has been decided to amend the MD on KYC to update the instructions on Wire Transfer (Section 64 of the MD), also aligning the same with the relevant FATF Recommendation. The amended instructions of Section 64 of the MD on KYC are provided in the annexure for reference. Further, definitions of the relevant terms used in the amended Wire Transfer instructions are being added in Section 2 (“Definitions”) of the MD on KYC.

The amended provisions shall come into force with immediate effect.

[**Link: Wire Transfer instructions**](#)

RBI Update: Formalisation of Informal Micro Enterprises on Udyam Assist Platform

RBI vide its notification dated 9th May 2023 to all banks.

The Ministry of Micro, Small and Medium Enterprises (‘MSME’), Government of India has launched the Udyam Assist Platform (UAP) to facilitate the formalisation of Informal Micro Enterprises (IMEs) through the online generation of Udyam Assist Certificate. Registration on the platform is done with the assistance of Designated Agencies which are RBI-regulated entities (including scheduled commercial banks, non-banking financial companies, etc.).

The Government of India, vide Gazette Notification S.O. 1296(E) dated March 20, 2023, has specified that the certificate issued on the UAP to IMEs shall be treated at par with Udyam Registration Certificate for the purpose of availing Priority Sector Lending (PSL) benefits.

The government of India has clarified to RBI that IMEs are those enterprises which are unable to get registered on the Udyam Registration Portal (URP) due to a lack of mandatory required documents such as Permanent Account Number (PAN) or Goods and Services Tax Identification Number (GSTIN). Hence such enterprises are unable to avail the benefits of Government schemes or programmes. Further, it has been clarified that the turnover of enterprises exempted from filing returns under the provisions of the Central Goods and Services Tax Act, 2017 shall be the sole criterion to be defined as IMEs for the purpose of UAP. Accordingly, IMEs are those enterprises that are not covered in the Goods and Services Tax regime.

RESERVE BANK OF INDIA UPDATES

An interface has been created between the UAP and Udyam Registration Portal (URP) to enable the transition and migration of the IMEs from UAP to URP, once IMEs obtain the mandatorily required documents.

In view of the aforementioned notification and clarification, IMEs with an Udyam Assist Certificate shall be treated as Micro Enterprises under MSME for the purposes of PSL classification.

[Link: Formalisation of MSME](#)

RBI Update: Levy of charges on forex prepaid cards/store value cards/travel cards, etc.

RBI vide its notification dated 9th May 2023 to all authorised persons. stated:

To relevant instructions contained in A.P. (DIR Series) Circular No. 46 dated June 14, 2005, and A.P. (DIR Series) Circular No. 102 dated April 02, 2012, regarding the use of International Debit Cards/Store Value Cards/Charge Cards/Smart Cards or any other instrument that can be used to create a financial liability, as 'currency'.

A few Authroised Persons are levying certain fees/charges, which are payable in India on such instruments, in foreign currency. It is advised that fees/charges payable in India have to be denominated and settled in Rupees only.

The directions contained in this circular have been issued under sections 10 (4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and are without prejudice to permissions/approvals, if any, required under any other law.

The Government of India, vide Gazette Notification S.O. 1296(E) dated March 20, 2023, has specified that the certificate issued on the UAP to IMEs shall be treated at par with Udyam Registration Certificate for the purpose of availing Priority Sector Lending (PSL) benefits.

[Link: Levy of Charges on Forex](#)

RBI Update: LIBOR Transition

RBI vide its notification dated 12th May 2023 to all authorised persons. stated:

Reserve Bank advisory on "Roadmap for LIBOR Transition" dated July 08, 2021, wherein banks/FIs, inter-alia, were (i) encouraged to cease, and also encourage their customers to cease, entering into new financial contracts that reference London Interbank Offered Rate (LIBOR) as a benchmark and instead use any widely accepted Alternative Reference Rate (ARR), as soon as practicable and in any case by December 31, 2021, and (ii) urged to incorporate robust fallback clauses in all financial contracts that reference LIBOR and the maturity of which was after the announced cessation date of the LIBOR settings.

RESERVE BANK OF INDIA UPDATES

With the concerted efforts of banks/FIs as well as industry associations like the Indian Banks' Association, a smooth transition with respect to LIBOR settings that have ceased to be published/become non-representative after December 31, 2021, has been achieved. The transition away from LIBOR was also facilitated by the continuing publication of US\$ LIBOR settings in five tenors which provided a longer transition period, particularly for the insertion of the fallback clauses in legacy financial contracts that reference LIBOR. New transactions are now predominantly undertaken using ARRs such as the Secured Overnight Financing Rate (SOFR) and the Modified Mumbai Interbank Forward Outright Rate (MMIFOR). At the same time, there have been instances of a few US\$ LIBOR linked financial contracts undertaken/facilitated by banks/FIs after January 1, 2022. Also, while banks have reported that substantial progress has been made towards the insertion of fallback clauses, the process is yet to be completed for all contracts where such fallbacks are required to be inserted.

Banks/FIs are advised to ensure that no new transaction undertaken by them or their customers relies on or is priced using the US\$ LIBOR or the MIFOR. Banks/FIs are also advised to take all necessary steps to ensure the insertion of fallbacks in all remaining legacy financial contracts that reference US\$ LIBOR (including transactions that reference MIFOR).

Fallbacks in such contracts should be inserted at the earliest so as to ensure that the transition of any remaining US\$ LIBOR-linked contracts is completed well before the deadline of the end of June 2023 and any disruptions due to a last-minute rush to insert fallbacks is avoided. Banks/FIs are advised not to rely on the availability of synthetic LIBOR rates as a substitute for fallbacks in legacy contracts.

Banks/FIs are expected to have developed the systems and processes to manage the complete transition away from LIBOR from July 1, 2023. Continued efforts in sensitising customers on the steps to be taken to manage the associated risks will enable a smooth completion of the final leg of the transition.

The Reserve Bank will continue to monitor the efforts of banks/FIs for ensuring a smooth transition from LIBOR.

[Link: LIBHOR Transition](#)

Master Circular – Basel III Capital Regulations

RBI vide its notification dated 12th May 2023 to scheduled commercial banks. stated:

The instructions contained in the aforesaid Master Circular have been suitably updated/amended by incorporating relevant guidelines, issued as of date. A list of circulars consolidated in this Master Circular is contained in Annex 26.

3. Small Finance Banks and Payments Banks may refer to their respective licensing guidelines and operating guidelines issued by Reserve Bank, for prudential guidelines on capital adequacy.

[Link: Base III Capital Regulations](#)

RBI Update: ₹2000 Denomination Banknotes – Withdrawal from Circulation; Will continue as Legal Tender

RBI vide its notification dated 19th May 2023 to all authorised persons. stated:

₹2000 denomination banknote was introduced in November 2016 under Section 24(1) of RBI Act, 1934 primarily to meet the immediate currency requirement of the economy after withdrawal of the legal tender status of all ₹500 and ₹1000 banknotes in circulation at that time. With the fulfilment of the objective of introducing ₹2000 denominations and availability of banknotes in other denominations in adequate quantity, the printing of ₹2000 banknotes was stopped in 2018-19.

2. Further, the majority of the ₹2000 denomination notes issued prior to March 2017, have completed their estimated lifespan and are not observed to be commonly used for transactions anymore. Therefore, it has been decided that, in pursuance of the “Clean Note Policy” of the Reserve Bank of India, the ₹2000 denomination banknotes shall be withdrawn from circulation. The ₹2000 banknotes will continue to be legal tender.

3. Accordingly, to implement the decision stated above, the following plan of action has been formulated which, the banks shall follow meticulously:

A. Handling of existing stock and receipts

- All banks shall discontinue issue of ₹2000 denomination banknotes with immediate effect. ATMs/Cash Recyclers may also be reconfigured accordingly.
- Banks holding Currency Chests (CCs) shall ensure that no withdrawal of ₹2000 denomination is allowed from the CCs. All balances held in the CCs shall be classified as unfit and kept ready for dispatch to respective RBI offices.
- All banknotes in this denomination received by the banks shall be sorted immediately through Note Sorting Machines (NSMs) for accuracy and genuineness and deposited in the currency chests under the Linkage Scheme or kept ready for dispatch to the nearest Issue Office of RBI.
- The instructions contained in our Master Direction dated April 03, 2023, on detection, reporting and monitoring of counterfeit notes shall be meticulously followed.

B. Facility for Deposit and Exchange

- The facility for deposit and/or exchange of ₹2000 banknotes shall be available for members of the public up to September 30, 2023.

RESERVE BANK OF INDIA UPDATES

Deposit of ₹2000 banknotes into accounts maintained with all banks can be made in the usual manner, that is, without restrictions and subject to compliance with extant Know Your Customer (KYC) norms and other applicable Statutory requirements. The banks shall also be required to comply with Cash Transaction Reporting (CTR) and Suspicious Transaction Reporting (STR) requirements, where applicable.

- The facility for exchange of ₹2000 banknotes shall be provided to all members of the public by all banks through their branches.
- With a view to minimise inconvenience to the public, to ensure operational convenience and avoid disruption of the regular activities of bank branches, all banks may exchange ₹2000 banknotes upto a limit of ₹20,000/- at a time.
- Business Correspondents (BCs) may also be allowed to exchange ₹2000 banknotes upto a limit of ₹4000/- per day for an account holder. For this purpose, banks may, at their discretion, enhance the cash holding limits of BCs.
- To give time to the banks for preparatory arrangements, members of the public have been requested to approach the banks/branches from May 23, 2023 for availing exchange facility. Deposit of ₹2000 banknotes may continue as per the normal banking practice.
- For providing deposit / exchange facility to people residing in remote/unbanked areas, banks may consider using mobile vans, if necessary.

- While crediting the value of ₹2000 notes to Jan Dhan Yojna Accounts / Basic Savings Bank Deposit (BSBD) Accounts, the usual limits will apply mutatis mutandis.
- The banks shall to the extent feasible make special arrangements to reduce inconvenience to the senior citizens, persons with disabilities and women seeking to exchange/deposit ₹2000 notes.

C. Replenishment of Stock of Other Denominations for Exchange

- Branches / CCs should estimate their cash requirement and obtain banknotes of other denominations from the linked / nearby currency chest / RBI well in time.
- CC holding branches shall extend required support to the linked / non-linked branches in accepting ₹2000 notes and distribution of banknotes in other denominations. In case of any difficulty in obtaining cash, the banks may contact the concerned Issue Office of RBI.



RESERVE BANK OF INDIA UPDATES

D. Dissemination of Information

- The banknotes in ₹2000 denomination will continue to be legal tender.
 - A document on Frequently Asked Questions (FAQs) in the matter has been prepared and given in the Annex. A copy of the same may be provided to the staff manning the exchange counters as well as displayed in the banking hall, ATM kiosks, etc.
 - A Press Release informing the public of the exercise and soliciting their cooperation is being issued separately. A copy of the same is enclosed for ready reference which may also be displayed in the banking hall, ATM kiosks, etc.
 - Banks may also consider advising their customers suitably in the matter.
4. The above instructions will be effective until September 30, 2023.
5. You are requested to issue suitable instructions to the branches and advise them to extend all cooperation to members of the public so that the exercise is conducted in a non-disruptive manner, without any inconvenience to the public.

[Link: 2000 rupees denomination to remain legal tender.](#)

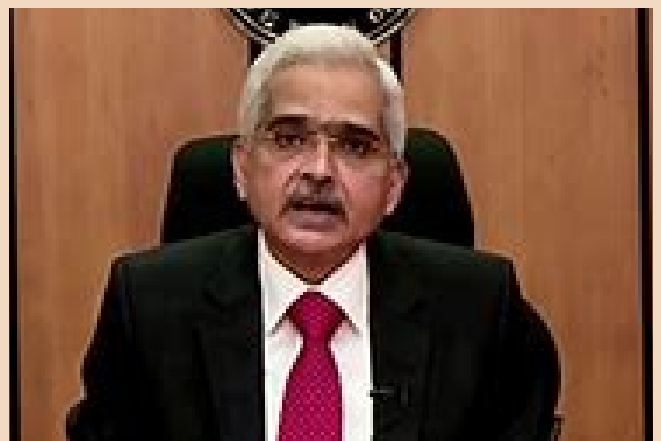
RBI Update - ₹2000 Denomination Banknotes - Withdrawal from Circulation; Will continue as Legal Tender

RBI vide its notification dated 22nd May 2023 to all authorised persons. stated:

In continuation to our circular DCM(Plg). No.S-236/10.27.00/2023-24 dated May 19, 2023 on the captioned subject, it is advised as follows:

2. The facility of exchange of ₹2000 banknotes across the counter shall be provided to the public in the usual manner, that is, as was being provided earlier.
3. Banks are advised to provide appropriate infrastructure at the branches such as shaded waiting space, drinking water facilities, etc. considering the summer season.
4. Banks shall maintain daily data on deposit and exchange of ₹2000 banknotes in the format given below and submit the same as and when called for.

[Link: 2000 rupees denomination legal tender](#)



CASE LAW

DHL Supply Chain India Pvt. Ltd. Vs. Eicher Motors Ltd. – NCLT New Delhi Bench Court-II [Dated 29-May-23]

Summary:

In the given case an applicant DHL Supply Chain India Pvt. Ltd (Operational Creditor) has filed a petition against M/S Eicher Motors Pvt. Ltd. with a prayer to initiate CIRP under section 9 of the Insolvency and Bankruptcy Code, 2016.

Facts of the case

As per the case details the Respondent M/S Eicher Motors Pvt Ltd. stated that Demand Notice was not served upon the Corporate debtor's registered office by hand, registered post or speed post to the whole-time director, designated partner or Key managerial personnel. It was further stated that the email was sent to <info@eicher.com> which was not the email address of Key Managerial Personnel and that the email ids of Directors are publicly available through MCA through form DIR-12.

Further, it was also stated by the respondent that the claim made by Applicant through Application under section 9 was of Rs. 8,28,86,046/-, while in the Demand Notice demand was made for Rs. 9,07,25,209/-.

Issues Involved:

It was observed that the issue in the above case pertains to the Demand notice issued to the Corporate Debtor (M/S Eicher Motors Pvt Ltd.) by the Operational Creditor (DHL Supply Chain India Pvt Ltd) which according to the respondent wasn't rightly served upon to the Corporate Debtor's registered office by hand, registered post or speed post and the Email sent by the Operational creditor was not addressed to Key Managerial Personnel but the Email was sent on <info@eicher.com>. The respondent also stated that the email ids of the Directors are publicly available on MCA through form DIR-12.

Further, the claim made in Demand Notice was Rs. 9,07,25,209/- while the applicant filed by the applicant stated amount to be Rs. 8,28,86,046/-.

The decision of the Adjudicating Authority:

It was rightfully observed by the adjudicating authority that the demand notice was sent on the official email id of the "Corporate Debtor" as per MCA. The email was duly addressed with "Attention (to): Managing Director.

Further, it was also noted that the MCA signatory details do not contain the email ids of the Directors and one cannot determine whether the director is a whole-time director or Key Managerial Personnel.

The above-mentioned issue was addressed by the adjudicating authority by stating that the Section 8 notice is demanded against the Corporate Debtor and not against KMP or the whole-time director.

It was also further noted that the attention of the Managing Director was duly drawn through the email and is covered under the definition of KMP u/s 2(51) of the Companies Act 2013 and the Whole-time directors or Key Managerial Personnel in charge of running the business are supposed to know all the emails being received at the official/publicly noticed email id of the company mentioned on MCA especially when attention is drawn to its Managing Director.

Conclusion:

The Adjudicating authority through its observations concluded that there was no illegality or deficiency in serving the Demand Notice to the Corporate Debtor. The authority thus concluded by saying that the proceeding examination of the application on its merits has to be considered.

It was held that the demand notice was issued on 7th December 2021 and there have been several pre-existing disputes as per the emails exchanged between the parties. It was observed that the Corporate Debtor too had raised plausible contention which required investigation and hence the Application is dismissed. However, nothing expressed herein shall be construed as an opinion before any other forum to affect the rights of both parties to agitate the matter further.

Notice of demand



CASE LAW

The delay caused by the Operational Creditor in presenting the cheque for collection cannot be exempted from computation of period of limitation – Jindal Stainless Ltd. Vs. Zenith Strips Ltd. – NCLT Mumbai Bench Judgement [dated 19th May 2023]

Summary:

In the above case Operating Creditor has caused delay in presenting the cheque for collection which were dishonored on 06.08.2016. and 17.08.2016 respectively. The counsel based on the date of dishonor has argued that the Company Petition filed on 09.08.2019 is within the limitation. The question is whether the delay in presenting cheque by Operational Creditor can be exempted from period of limitation or not

Facts of the case

This Company Petition is filed by Jindal Stainless Limited (Operational Creditor) seeking to initiate CIRP against Zenith Strips Limited, Corporate Debtor by invoking the provisions of Section 9 Insolvency and Bankruptcy Code for a Resolution of Operational Debt of Rs. 39,36,512/-. The Company Petition is filed claiming an amount of Rs. 39,36,512/- with subsequent interest basing on 15 invoices covering the period from 19.12.2015 to 19.01.2016. The Company Petition is filed on 09.08.2019.

The counsel appearing for the Operational Creditor submits that the Corporate Debtor has issued two cheques for Rs. 18,35,323/- each dated 27.06.2016 and 10.07.2016 which were dishonored on 06.08.2016 and 17.08.2016 respectively and therefore the Company Petition being filed on 09.08.2019 is within limitation.

Issues Involved:

In the above given case, the Company Petition was filed by Jindal Stainless Limited against Zenith Strips Limited on 9th August 2019 for claim of Rs. 39,36,512/- against which Corporate Debtor had issued two cheques one of Rs. 18,35,323/- each and the cheques dishonored on 6th August 2016 and 17th August 2016 respectively.

The decision of the Adjudicating Authority

The Adjudicating Authority held that let us assume for argument's sake without admitting that both the above cheques are true and genuine, yet one of the cheques was returned on 06.08.2016 and the above Company Petition being filed on 09.08.2019, is clearly barred in respect of that particular cheque.

Even otherwise it is incorrect to say that the limitation would begin to run from the date of dishonor of cheques since the limitation would begin to run from the date of issue of the cheques and not from the date of return of the cheques as contended by the Operational Creditor.

The above analogy holds good only for initiating proceedings against Corporate Debtor under Section 138 of Negotiable Instrument Act and not in recovery proceedings or initiating proceedings under the IBC Code.

The delay caused by the Operational Creditor in presenting the cheque for collection cannot be exempted from computation of period of limitation since no person is entitled to take advantage of his own wrong as per the settled position of law.

Thus, viewing from any angle, this Bench has no hesitation in holding that the above Company Petition is barred by limitation and is liable to be dismissed. Accordingly, the above Company Petition is dismissed without costs.

Conclusion:

The above petition has been filed on 9th August 2019 by the Operational Creditor against the dishonor of the cheques issued by the debtor in 2016. Considering the same it was held that the cheques issued on 27.06.2016 and 10.07.2016 dishonored on 06.08.2016 and 17.08.2016 respectively and the petition was later filed on 09.08.2019 which is barred by limitation.

It was also noted that the period of limitation starts from the date of issue of the cheque and not dishonor of the cheque. Thus, it was duly noted that there was no good reason to initiate the proceedings against the Corporate Debtor for recovery procedure under IBC but the only proceedings that can be initiated against the Corporate Debtor are u/s 138 of Negotiable Instrument Act.

Considering this it was held that the above petition barred by limitation is liable to be dismissed without any costs.



CASE LAW

Whether copy of Resolution Plan, which has been approved by the CoC but awaits the approval of Adjudicating authority, can be given to a party who is neither a Claimant nor a Creditor or a participant? – Rupinder Singh Gill Vs. Three C Universal Developers Pvt. Ltd. Through RP Rakesh Kumar Gupta – NCLAT New Delhi Dated [25th May 2023]

Summary:

In the above case Appellant has filed Application for intervention and supply of Resolution Plan to the RP while it is still pending for approval from Adjudicating Authority. The Appellant stated that the Appellant has interest in the shareholding of Corporate Debtors based on the Agreement dated 8th October 2018. Thus, the Appellant has claimed that the Appellant is entitled to copy of Resolution Plan.

Facts of the case:

- The Application for intervention as well as supply of the Resolution Plan during the pendency of the approval of the Resolution Plan by the Adjudicating Authority has been declined on the ground that the applicant has not submitted any claim before RP, the Applicant has no locus standi. Simply on the ground that there is litigation between the applicant and Suspended board of Directors of the Corporate Debtor, the Adjudicating Authority are not inclined to permit the applicant to intervene and direct the RP to serve a copy of the Resolution Plan. Accordingly, rejected the prayer of the Appellant.
- Counsel for Appellant has argued that the Appellant has an interest in the shareholding of the Corporate Debtor by virtue of Agreement dated 08.10.2018, therefore, the Appellant is entitled to a copy of the Resolution Plan.

Issues involved:

The issue involved in this case is as to whether copy of the Resolution Plan, which has been approved by the CoC but awaits the approval of the Adjudicating authority, can be given to the Appellant who is neither a Claimant, nor a Creditor or a participant?

The other question also arises in this case as to whether there is any provision in the Code for the purpose of giving a copy of the Resolution Plan to the Appellant who is neither a Claimant, nor a Creditor or a participant, even before the approval of Resolution Plan by the Adjudicating Authority?

Decision of the Appellate Tribunal:

- The answer to this question is no more res integra as it has already been answered in Association of aggrieved Workmen of Jet Airways (India) Ltd. Vs. Jet Airways (India) Ltd. (2022) ibclaw.in 66 NCLAT and by the Hon'ble Supreme Court in the case of Vijay Kumar Jain Vs. Standard Chartered Bank & Ors. [2019] ibclaw.in 24 SC.
- In the case of Association of Jet Airways (supra), it was observed in para 25 that “the above scheme of the Code also indicates that after Resolution Plan is submitted to the Adjudicating Authority and it is approved by the Adjudicating Authority, it no longer remains a confidential document, so as to preclude Regulator and other persons from access of the said document.” It further said that “We thus do not accept the submission of learned Counsel for Respondent No.4 that Resolution Plan even after approval, is a confidential document and cannot be disclosed to a claimant.”
- In the case of Vijay Kumar Jain (supra), it has also held that “a resolution plan which has been approved or rejected by an order of the Adjudicating Authority, has to be sent to “participants” which would include members of the erstwhile Board of Directors – vide Regulation 39(5) of the CIRP Regulations. Obviously, such copy can only be sent to participants because they are vitally interested in the outcome of such resolution plan, and may, as persons aggrieved, file an appeal from the Adjudicating Authority’s order to the Appellate Tribunal under Section 61 of the Code.
- None of the judgments, cited at the instance of the Appellant, either of this Tribunal or the Hon'ble Supreme Court has held that the copy of the Resolution Plan, which is still in the process of approval or rejection by the Adjudicating Authority, be given to a party who is neither a Claimant nor a Creditor or a participant. Therefore, we do not find any error on the part of the Adjudicating Authority in rejecting the application of the Appellant by way of the impugned order.

Conclusion:

Thus, in the above judgement it has been clarified that the Resolution Plan which is yet to be approved by the Adjudicating Authority need not be given to a party who is neither a claimant, a Creditor or a participant of the Corporate Debtor. It was also further noted that the Resolution Plan once approved is no more a confidential document and hence it can be accessed by interested parties after the approval. Thus, the application filed by the Appellant for the copy of the Resolution Plan during pendency of the Adjudicating Authority is rightfully rejected in the above case.



For regular updates subscribe to our Youtube Channel
Decoding Corporate laws with Mehta and Mehta



CLICK HERE TO WATCH OUR LATEST WEBINARS

Don't forget to
SUBSCRIBE



Thank you!!

MEHTA & MEHTA
Legal and Advisory Services