MEHTA & MEHTA
Corporate Legal Firm

VEDANAM वेदनम्

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Why Vedanam?

Mehta & Mehta proudly presents VEDANAM, our monthly newsletter designed to equip legal professionals, Company Secretaries, Chartered Accountants, and all stakeholders navigating complex regulatory and legal environments. VEDANAM delivers meticulously curated:

- Timely regulatory updates
- Comprehensive case law analysis
- Strategic knowledge article

With the release of our February 2025 issue, we reaffirm our commitment to providing you with the actionable knowledge needed to proactively navigate and thrive in today's dynamic business and legal landscapes.

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SEBI UPDATE – SAFER PARTICIPATION OF RETAIL INVESTORS IN ALGORITHMIC TRADING

Securities and Exchange Board of India (SEBI) issued a circular aimed at enabling safer participation of retail investors in Algorithmic Trading (Algo trading).

The regulatory framework aims to create a balance between opportunity and risk. While Algo trading offers retail investors new avenues to participate more effectively in the market, it also comes with certain risks, such as the possibility of automated trading strategies making erratic moves in volatile market conditions. By introducing a regulated environment and ensuring active monitoring of trades, SEBI's measures aim to provide a safer space for retail investors.

This framework is part of SEBI's larger vision to enhance the market infrastructure, increase investor participation, and foster trust in the Indian capital markets. By establishing clear roles for brokers, Algo providers, and exchanges, the framework will help ensure that algorithmic tools are used responsibly, benefiting the broader ecosystem without compromising market fairness.

Categorization of Algos

Algos shall be categorized into two categories:

1. Algos where logic is disclosed and replicable i.e. Execution Algos or White box Algos;

2. Algos where the logic is not known to the user and is not replicable, i.e. Black box Algos

The provisions of this circular shall be applicable with effect from August 01, 2025.

Link: SEBI Update – Safer participation of retail investors in Algorithmic trading

SEBI UPDATE – FRAMEWORK FOR MONITORING AND SUPERVISION OF SYSTEM AUDIT OF STOCK BROKERS (SBS) THROUGH TECHNOLOGY BASED MEASURES.

The following guidelines shall be prescribed for the conduct of system audit of Stock Brokers (SBs).

Monitoring and Supervision of System Audit process through online mechanism:

Stock Exchanges shall establish a web-based platform to oversee the system audit lifecycle of stock brokers. The platform shall track the audit process, capture the auditor's geo-location to confirm physical visits, and ensure secure access for authorized auditors via OTP authentication.

Standardization System Audit Process and Audit Report:

Pre-Audit:
Stock Exchanges shall monitor the audit process via a web portal.

- SBs must provide auditor details, appointment letter, audit period, and audit plan, including proposed physical visit dates and IT systems coverage

During Audit:

- Auditors must log in to the exchange's web portal from the SB's location via OTP authentication.
- The web portal shall capture the auditor's geo-location to confirm physical visits.
- Auditors must update visit details, including entry/exit time, interactions, and systems covered.
- Evidence collection shall include inspecting physical assets, records, and system-generated reports.
- Exchanges may conduct surprise visits for QSBs and sample SBs.
- Auditors shall assess third-party virtual assets, and SBs must provide SOC-II compliance or other prescribed certifications

Post-Audit:

- Exchanges shall provide a standardized audit report template for uniformity.
- The system audit report must cover IT infrastructure, systems audited, sample size, and methodology.
- The audit report and Action Taken Report (ATR) shall be submitted via the web portal.
- QSBs must get prior approval from their Governing Board and SCOT/TC before submission, while other SBs require approval from an authorized official.

2. Algos where the logic is not known to the user and is not replicable, i.e. Black box Algos

The provisions of this circular shall be applicable with effect from August 01, 2025.

Framework for Empanelment of System Auditors:

Appointment & Eligibility:

- Stock Exchanges shall empanel system auditors based on prescribed criteria, focusing on auditor qualifications, experience, firm size, and skilled personnel.
- The empaneled auditors list shall be available on the web portal.

Independence & Conflict of Interest:

- Auditors must remain independent, with a cap on appointments/reappointments to prevent conflicts and ensure audit quality.

Audit Cost Standardization:

- Exchanges, in consultation with SEBI, shall issue guidelines for audit cost rationalization based on factors like clients, turnover, and IT infrastructure.

Empanelment for QSB Audits:

- Additional criteria shall be prescribed for system auditors auditing QSBs.

Reappointment & Cooling-off Period:

- Auditors can serve for three consecutive years, followed by a two-year cooling-off period. Compliance shall be monitored via the web portal.

Reassessment of Audit:

- Critical audit areas shall be identified on the web portal, and reassessment shall be conducted by the same auditor if deficiencies are found.

De-empanelment:

- Auditors with repeated deficiencies shall be de-empaneled, and their cases may be referred to NFRA/ICAI/ISACA for action.

The web portal shall be developed by stock exchanges within six months from the issuance of this circular. Exchanges to ensure availability of adequate resources in terms of technology and manpower for implementation, adherence and support of requirements.

The proposed framework for Monitoring and Supervision of the System Audit of the Stock Brokers (SBs) through technology based measures shall come into force for the audit period FY 2025-26.

SEBI Update – Framework for Monitoring and Supervision of System Audit of Stock Brokers (SBs) through Technology based Measures.

SEBI UPDATE – FACILITATION TO SEBI REGISTERED STOCK BROKERS TO ACCESS NEGOTIATED DEALING SYSTEM-ORDER MATCHING (NDS-OM) FOR TRADING IN GOVERNMENT SECURITIESSEPARATE BUSINESS UNITS (SBU)

SEBI issued a notification regarding Facilitation to SEBI registered Stock Brokers to access Negotiated Dealing System-Order Matching (NDS-OM) for trading in Government Securities Separate Business Units (SBU).

Reserve Bank of India vide its notification dated February 07, 2025 permitted access of SEBI-registered non-bank brokers to Negotiated Dealing System-Order Matching (NDS-OM) through Master Direction – Reserve Bank of India (Access Criteria for NDS-OM) Directions, 2025.

To facilitate SEBI-registered stock brokers to participate in Government Securities (G-Secs) market in the NDS-OM, it has been decided that they may do so under a Separate Business Unit (SBU) of the stock broking entity itself, in the manner specified herewith.

Stock brokers shall ensure that activities of the NDS-OM under a SBU are segregated and ring-fenced from the securities market related activities of the stock

broker and arms-length relationship between these activities are maintained.

The SBU shall be under the jurisdiction of another regulatory authority, Grievance Redressal Mechanism and Investor Protection Fund (IPF) of the stock exchanges and SCORES shall not be available for investors availing the services of the SBU.

SEBI Update – Facilitation to SEBI registered Stock Brokers to access Negotiated Dealing System-Order Matching (NDS-OM) for trading in Government SecuritiesSeparate Business Units (SBU)

SEBI UPDATE – SERVICE PLATFORM FOR INVESTORS TO TRACE INACTIVE AND UNCLAIMED MUTUAL FUND FOLIOS- MITRA (MUTUAL FUND INVESTMENT TRACING AND RETRIEVAL ASSISTANT)

The Securities and Exchange Board of India (SEBI) has introduced a new initiative called MITRA—Mutual Fund Investment Tracing and Retrieval Assistant. MITRA is a service platform designed to provide a searchable database of inactive and unclaimed mutual fund folios across the industry. With this platform, investors can now easily trace investments they may have forgotten about or investments made on their behalf, helping reduce the number of unclaimed investments and bringing more transparency to the financial ecosystem.

The MITRA platform will be hosted jointly by the two Qualified RTAs (QRTAs) viz. Computer Age Management Services Limited (CAMS) and KFIN Technologies Limited as agents of AMCs and available through a link on the website of MF Central, AMCs, AMFI, the two QRTAs and SEBI.

AMCs, QRTAs, RIAs, AMFI and Mutual Fund Distributors are advised to create awareness about this initiative amongst the investors.

The QRTAs shall make the MITRA platform operational within 15 working days of issuance of the circular. Beta version shall be launched for 2 months.

SEBI Update – Service platform for investors to trace inactive and unclaimed Mutual Fund folios- MITRA (Mutual Fund Investment Tracing and Retrieval Assistant)

SEBI UPDATE – RELAXATION IN TIMELINES FOR HOLDING AIFS' INVESTMENTS IN DEMATERIALISED FORM

SEBI (Alternative Investment Funds) Regulations, 2012, AIFs were initially required to hold their investments in dematerialized form within a specified timeline. The SEBI Circular of January 12, 2024, later encapsulated this requirement

within Chapter 21 of the Master Circular for AIFs, published on May 7, 2024.

Key Changes in the Relaxed Timelines

Investments After July 1, 2025: From July 1, 2025, all investments made by AIFs, whether directly in the investee company or acquired from another entity, will be required to be held in dematerialized form. This includes any new investments made post this date, ensuring uniformity in the treatment of securities and streamlining the entire investment process.

Investments Made Before July 1, 2025: Investments made by AIFs prior to July 1, 2025, are generally exempt from the requirement to hold investments in dematerialized form. However, there are two important exceptions to this rule:

If the investee company has been mandated by applicable law to facilitate the dematerialization of its securities, the AIF must comply with the dematerialization requirement.
If the AIF (either individually or along with other SEBI-registered intermediaries/entities) exercises control over the investee company, the AIF will also be required to hold its investments in dematerialized form. The term 'control' is defined under Regulation 2(1)(f) of the AIF Regulations.

The trustee or sponsor of an AIF must ensure that the Compliance Test Report prepared by the AIF manager, as outlined in Chapter 15 of the Master Circular for AIFs, includes adherence to the provisions of this new circular. This ensures that AIFs are accountable for their compliance with the updated timeline.

The provisions of this circular shall come into force with immediate effect.

SEBI Update – Relaxation in timelines for holding AIFs' investments in dematerialised form

SEBI UPDATE – REVISED TIMELINES FOR ISSUANCE OF CONSOLIDATED ACCOUNT STATEMENT (CAS) BY DEPOSITORIES

SEBI Master Circular for Depositories, issued on December 3, 2024, outlined the process for generating CAS for securities and assets in investors' accounts. According to the guidelines, CAS was to be generated on a monthly basis, and Asset Management Companies (AMCs) and Mutual Fund Registrar and Transfer Agents (MF-RTAs) were required to share common PAN data with depositories within three days of the month-end. Depositories, in turn, had ten days to consolidate the information and dispatch the CAS.

Revised Timelines: Key Changes

Submission of Data by AMCs/MF-RTAs:It has been decided that AMCs/ MF-RTAs shall send the monthly common PAN data to Depositories on or before the fifth (5th) day from the month end.

The Depositories, in turn, shall consolidate and dispatch the monthly CAS to investors that have opted for delivery via electronic mode (e-CAS) by the twelfth (12th) day from the month end and to investors that have opted for delivery via physical mode by the fifteenth (15th) day from the month end.

Half-Yearly CAS: In addition to monthly CAS, there is a provision for half-yearly CAS. AMCs and MF-RTAs are required to send the common PAN data to depositories by the 8th day of April and October each year. Depositories, in turn, must dispatch:

e-CAS by the 18th day of April and October.

Physical CAS by the 21st day of April and October.

Transactions and No Transactions in Accounts: One of the significant updates is the provision regarding investors' accounts with no transactions. If there are no transactions in either mutual fund or demat accounts, the CAS will still be sent to investors on a half-yearly basis, with withholding details included. If any transaction has taken place, CAS will be generated monthly.
The circular shall be effective from May 14, 2025.

SEBI Update – Revised timelines for issuance of Consolidated Account Statement (CAS) by Depositories

SEBI UPDATE- INDUSTRY STANDARDS ON "MINIMUM INFORMATION TO BE PROVIDED FOR REVIEW OF THE AUDIT COMMITTEE AND SHAREHOLDERS FOR APPROVAL OF A RELATED PARTY TRANSACTION"

Regulation 23(2), (3) and (4) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ("LODR Regulations") require related party transactions ("RPTs") to be approved by the audit committee and by the shareholders, if material. Part A and Part B of Section III-B of SEBI Master Circular dated November 11, 20241 ("Master Circular") specify the information to be placed before the audit committee and shareholders, respectively, for consideration of RPTs.

In order to facilitate a uniform approach and assist listed entities in complying with the above mentioned requirements, the Industry Standards Forum ("ISF") comprising of representatives from three industry associations, viz. ASSOCHAM, CII and FICCI, under the aegis of the Stock Exchanges, has formulated industry standards, in consultation with SEBI.

The listed entity shall provide the audit committee with the information as specified in the Industry Standards on "Minimum information to be provided for review of the audit committee and shareholders for approval of a related party transaction", while placing any proposal for review and approval of an RPT.

The notice being sent to the shareholders seeking approval for any RPT shall, in addition to the requirements under the Companies Act, 2013, include the information as part of the explanatory statement as specified in the Industry Standards on "Minimum information to be provided for review of the audit committee and shareholders for approval of a related party transaction.

This circular shall come into effect from April 1, 2025.

SEBI Update- Industry Standards on "Minimum information to be provided for review of the audit committee and shareholders for approval of a related party transaction"

SEBI UPDATE – MOST IMPORTANT TERMS AND CONDITIONS (MITC) FOR INVESTMENT ADVISERS

SEBI issued the Most Important Terms and Conditions (MITC) for Investment Advisers.

The MITC shall be informed by the IAs to the clients via email or any other suitable mode of communication (which can be preserved) by June 30, 2025.

Most Important Terms and Conditions (MITC)

IA only accepts payments for advisory fees, not funds/securities on behalf of clients.

IA does not assure returns or risk-free investments; all advice is subject to market risks.

Assured/fixed returns schemes are illegal and will not be offered by IA.

IA's advice on securities falls under SEBI; non-SEBI products require client disclosures and acknowledgments.

IA cannot execute trades without the client's explicit consent for each transaction.

The current fee limit under Fixed Fee mode is Rs 1,51,000/- per annum per family of client. Under Assets under Advice (AUA) mode, maximum fee limit is 2.5 per cent of AUA per annum per family of client. The IA may change the fee mode at any time with the client's consent; however, the maximum fee limit in such cases shall be higher of fee limit under the fixed fee mode or 2.5 per cent of AUA per annum per family of client

IA may charge fees in advance with client consent, but not for more than two quarters as per SEBI norms. If IA services are terminated prematurely, the client is entitled to a refund for the unexpired period, minus a maximum breakage fee equal to one-quarter's fee

Fees to IA may be paid by the client through only cheque, bank transfer, UPI, or CeFCoM; no cash payments allowed.

To provide effective services, IA requires the client to share relevant financial details such as income, existing investments, and liabilities.

IA must conduct risk profiling before and during service provision and communicate the assessed risk profile.

IA and related entities cannot provide distribution services; direct plans (non-commission) are preferred.

Grievances:

Step 1: Contact IA (as per Grievance Redressal Matrix).

Step 2: Escalate to SEBI via SCORES (www.scores.sebi.gov.in).

Step 3: Use Online Dispute Resolution (ODR) via https://smartodr.in.

SEBI registration and certifications do not guarantee IA performance or returns.

Clients must keep their contact details up-to-date with IA.

IA will never ask for login credentials or OTPs; do not share these with anyone, including IA.

The provisions of this circular shall come into force with immediate effect.

SEBI Update – Most Important Terms and Conditions (MITC) for Investment Advisers

SEBI UPDATE – CLARIFICATION REGARDING INVESTOR EDUCATION AND AWARENESS INITIATIVES.

SEBI has issued clarification regarding Investor Education and Awareness Initiatives. SEBI has directed AMCs to annually set apart at least 2 basis points on daily net assets within the maximum limit of total expense ratio for investor education and awareness initiatives. In this regard, it is clarified that initiatives under Investor Education and Awareness include financial inclusion initiatives as may be approved by SEBI from time to time.

SEBI Update – Clarification regarding Investor Education and Awareness Initiatives.

SEBI UPDATE – INVESTOR CHARTER FOR STOCK BROKERS

SEBI, through Circular dated December 02, 2021, and Clause 75 of the Master Circular for Stock Brokers dated August 09, 2024, issued an Investor Charter for stock brokers.

To enhance financial consumer protection, financial inclusion, and literacy, considering developments like the Online Dispute Resolution (ODR) platform and SCORES 2.0, SEBI has modified the Investor Charter. The updated charter is provided in Annexure A.

Stock Exchanges must ensure Stock Brokers notify clients (existing and new) by displaying the Investor Charter on websites, offices, and account opening kits, and through emails/letters.

For transparency, Stock Brokers must disclose complaint data and redressal status on their websites by the 7th of each month, as per Annexure B.

The circular is effective immediately.

SEBI Update – Investor Charter for Stock Brokers

RBI UPDATE – LIQUIDITY ADJUSTMENT FACILITY – CHANGE IN RATES

It has been decided by the Monetary Policy Committee (MPC) to reduce the policy repo rate under the Liquidity Adjustment Facility (LAF) by 25 basis points from 6.50 per cent to 6.25 per cent with immediate effect.

RBI Update – Liquidity Adjustment Facility – Change in rates

RBI UPDATE – STANDING LIQUIDITY FACILITY FOR PRIMARY DEALERS

It has been decided by the Monetary Policy Committee (MPC) to reduce the policy repo rate under the Liquidity Adjustment Facility (LAF) by 25 basis points from 6.50 per cent to 6.25 per cent with immediate effect.

RBI Update – Standing Liquidity Facility for Primary Dealers

RBI UPDATE – CHANGE IN BANK RATE

The Bank Rate is revised downwards by 25 basis points from 6.75 per cent to 6.50 per cent with immediate effect.

Penal Interest Rates which are linked to the Bank Rate

Item	Existing Rate	Revised Rate(With immediate effect)
Penal interest rates on shortfalls in reserve requirements (depending on duration of shortfalls).	Bank Rate plus 3.0 percentage points (9.75 per cent) or Bank Rate plus 5.0 percentage points (11.75 per cent).	Bank Rate plus 3.0 percentage points (9.50 per cent) or Bank Rate plus 5.0 percentage points (11.50 per cent).

RBI Update – Change in Bank Rate

RBI UPDATE – ACCESS OF SEBI-REGISTERED NON-BANK BROKERS TO NDS-OM

Master Direction – Reserve Bank of India (Access Criteria for NDS-OM) Directions, 2025.Any person/entity eligible to invest in Government securities in terms of the applicable rules/ guidelines issued by the Government of India / State Governments / the Reserve Bank, as amended from time to time shall be eligible to access NDS-OM either through direct access or through indirect access or through Stock Broker Connect, in terms of these Directions.

Eligible Entities

The following entities shall be eligible for direct access to NDS-OM subject to fulfilment of all requirements and conditions stipulated in these Directions:

- Banks;
- Standalone Primary Dealers;
- Non-Banking Financial Companies including Housing Finance Companies;
- All India Financial Institutions;
- Mutual Funds;
- Provident Funds;
- Pension Funds;
- Insurance Companies;
- Regulated Market Infrastructure Institutions (MIIs) for investing their settlement guarantee fund in Government securities, as the Reserve Bank may specifically permit subject to such terms and conditions that it may prescribe; and
- Any other entity that the Reserve Bank may specifically perm

Requirements for seeking direct access to NDS-OM

Entities that are eligible to seek direct access to NDS-OM shall fulfil the following requirements:

SGL account with the Reserve Bank;
Current account with the Reserve Bank or a Designated Settlement Bank; and
Membership of securities settlement segment of Clearing Corporation of India Limited (CCIL).

RBI Update – Access of SEBI-registered non-bank brokers to NDS-OM

RBI UPDATE – ALL AGENCY BANKS TO REMAIN OPEN FOR PUBLIC ON MARCH 31, 2025 (MONDAY)

The Government of India has made a request to keep all branches of the banks dealing with Government receipts and payments open for transactions on March 31, 2025 (Monday-Public Holiday) so as to account for all the Government transactions relating to receipts and payments in the Financial Year 2024-25 itself. Accordingly, Agency Banks are advised to keep all their branches dealing with government business open on March 31, 2025 (Monday).

RBI Update – All Agency Banks to remain open for public on March 31, 2025 (Monday)

RBI UPDATE -FOREIGN EXCHANGE MANAGEMENT (MANNER OF RECEIPT AND PAYMENT) (AMENDMENT) REGULATIONS, 2025

These regulations shall be called the Foreign Exchange Management (Manner of Receipt and Payment) (Amendment) Regulations, 2025.

Member countries of ACU, other than Nepal and Bhutan – In respect of payments from a resident in the territory of one participant country to a resident in the territory of another participant country, through ACU mechanism, or as per the directions issued by

the Reserve Bank to authorised dealers from time to time.

RBI Update -Foreign Exchange Management (Manner of Receipt and Payment) (Amendment) Regulations, 2025

RBI UPDATE -EXPORT-IMPORT BANK OF INDIA'S GOI-SUPPORTED LINE OF CREDIT OF USD 120 MN TO THE GOVERNMENT OF THE SOCIALIST REPUBLIC OF VIETNAM (GO-VNM) FOR PROCUREMENT OF HIGH-SPEED GUARD BOATS IN THE BORROWER'S COUNTRY

The RBI has notified Export-Import Bank of India's GOI-supported Line of Credit of USD 120 mn to the Government of the Socialist Republic of Vietnam (GO-VNM) for procurement of High-Speed Guard Boats in the Borrower's Country.

The following has been stated Government of India supported Line of Credit (LoC) of USD 120 mn (USD One Hundred Twenty Million Only) for procurement of High-Speed Guard Boats in the Borrower's Country.The Agreement under the LoC is effective from January 20, 2025. Under the LoC, the last date for disbursement will be 60 months after the scheduled completion date of the project.

No agency commission is payable for export under the above LoC. However, if required, the exporter may use his own resources or utilize balances in his Exchange Earners' Foreign Currency Account for payment of commission in free foreign exchange. Authorised Dealer (AD) Category- I banks may allow such remittance after realization of full eligible value of export subject to compliance with the extant instructions for payment of agency commission.

RBI Update -Export-Import Bank of India's GOI-supported Line of Credit of USD 120 mn to the Government of the Socialist Republic of Vietnam (GO-VNM) for procurement of High-Speed Guard Boats in the Borrower's Country

RBI UPDATE – EXPORT-IMPORT BANK OF INDIA'S GOI-SUPPORTED LINE OF CREDIT OF USD 180 MN TO THE GOVERNMENT OF THE SOCIALIST REPUBLIC OF VIETNAM FOR PROCUREMENT OF 4 OFFSHORE PATROL VESSELS (OPV) IN THE BORROWER'S COUNTRY

The Government of India supported Line of Credit (LoC) of USD 180 mn (USD One Hundred Eighty Million Only) for procurement of 4 Offshore Patrol Vessels (OPV) in the Borrower's Country.

The Agreement under the LoC is effective from January 20, 2025. Under the LoC, the last date for disbursement will be 60 months after the scheduled completion date of the project.

No agency commission is payable for export under the above LoC. However, if required, the exporter may use his own resources or utilize balances in his Exchange Earners' Foreign Currency Account for payment of commission in free foreign exchange. Authorised Dealer (AD) Category- I banks may allow such remittance after realization of full eligible value of export subject to compliance with the extant instructions for payment of agency commission.

RBI Update – Export-Import Bank of India's GOI-supported Line of Credit of USD 180 mn to the Government of the Socialist Republic of Vietnam for procurement of 4 Offshore Patrol Vessels (OPV) in the Borrower's Country

RBI UPDATE – GOVERNMENT SECURITIES TRANSACTIONS BETWEEN A PRIMARY MEMBER (PM) OF NDS-OM AND ITS OWN GILT ACCOUNT HOLDER (GAH) OR BETWEEN TWO GAHS OF THE SAME PM

It has been decided to:
Permit matching of transactions between a PM and its own GAH or between two GAHs of the same PM on both the anonymous Order Matching segment and the Request for Quote (RFQ) segment of NDS-OM. Transactions matched on NDS-OM shall be cleared and settled through CCIL.
Extend the facility of clearing and settlement through CCIL to transactions between a PM and its own GAH or between two GAHs of the same PM which are bilaterally negotiated and reported to NDS-OM, on an optional basis.

RBI Update – Government securities transactions between a Primary Member (PM) of NDS-OM and its own Gilt Account Holder (GAH) or between two GAHs of the same PM

RBI UPDATE – EXPOSURES OF SCHEDULED COMMERCIAL BANKS (SCBS) TO NON-BANKING FINANCIAL COMPANIES (NBFCS) – REVIEW OF RISK WEIGHTS

RBI issued a circular on 'Regulatory measures towards consumer credit and bank credit to NBFCs' dated November 16, 2023, as per the risk weight on the exposures of SCBs to NBFCs1 was increased by 25 percentage points (over and above the risk weight associated with the given external rating) in all cases where the extant risk weight as per external rating of NBFCs was below 100 per cent.

On a review, it has been decided to restore the risk weights applicable to such exposures and the same shall be as per the external rating. The instructions shall come into effect from April 01, 2025

RBI Update – Exposures of Scheduled Commercial Banks (SCBs) to Non-Banking Financial Companies (NBFCs) – Review of Risk Weights

RBI UPDATE – RESERVE BANK OF INDIA (PRUDENTIAL REGULATIONS ON BASEL III CAPITAL FRAMEWORK, EXPOSURE NORMS, SIGNIFICANT INVESTMENTS, CLASSIFICATION, VALUATION AND OPERATION OF INVESTMENT PORTFOLIO NORMS AND RESOURCE RAISING NORMS FOR ALL INDIA FINANCIAL INSTITUTIONS) DIRECTIONS, 2023 – AMENDMENT

It has been decided that investments made by All India Financial Institutions (AIFIs), as per their statutory mandates, in long-term bonds and debentures (i.e., having minimum residual maturity of three years at the time of investment) issued by non-financial entities shall not be accounted for the purpose of the ceiling of 25 per cent applicable to investments included under Held to Maturity (HTM) category, specified under the Directions ibid.

Reference Paragraph	Existing	Amendment
34.2.3	Investments as specified in sub-sections (ii) and (iii) above, shall not be accounted for the purpose of ceiling of 25 percent specified under section 34.2.1 of these Directions.	The following investments shall not be accounted for the purpose of ceiling of 25 percent specified under section 34.2.1 of these Directions:(i) investments as specified in sub-sections 34.2.2(ii) and 34.2.2(iii) above; and(ii) investments made by AIFIs, as per their statutory mandates, in long-term bonds and debentures (i.e., having minimum residual maturity of three years at the time of investment) issued by non-financial entities.

This circular shall be applicable to the AIFIs regulated by the Reserve Bank, viz. the Export-Import Bank of India (EXIM Bank), the National Bank for Agriculture and Rural Development (NABARD), the National Bank for Financing Infrastructure and Development (NaBFID), the National Housing Bank (NHB) and the Small Industries Development Bank of India (SIDBI).

These instructions shall come into force with effect from April 1, 2025.

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This circular shall be applicable to the AIFIs regulated by the Reserve Bank, viz. the Export-Import Bank of India (EXIM Bank), the National Bank for Agriculture and Rural Development (NABARD), the National Bank for Financing Infrastructure and Development (NaBFID), the National Housing Bank (NHB) and the Small Industries Development Bank of India (SIDBI).

These instructions shall come into force with effect from April 1, 2025.

RBI Update – Reserve Bank of India (Prudential Regulations on Basel III Capital Framework, Exposure Norms, Significant Investments, Classification, Valuation and Operation of Investment Portfolio Norms and Resource Raising Norms for All India Financial Institutions) Directions, 2023 – Amendment

RBI UPDATE – REVIEW OF RISK WEIGHTS ON MICROFINANCE LOANS

RBI issued the circular regarding review of Risk Weights on Microfinance Loans

Commercial Banks (including Small Finance Banks but excluding Regional Rural Banks and Local Area Banks)

It has been decided that microfinance loans in the nature of consumer credit shall also be excluded from the applicability of higher risk weights specified in the circular ibid and shall accordingly, be subject to a risk weight of 100 per cent.

Regional Rural Banks (RRBs) and Local Area Banks (LABs)

All microfinance loans extended by RRBs and LABs shall attract a risk weight of 100 per cent.

The above instructions shall be applicable from the date of issue of this circular in respect of outstanding as well as new microfinance loans. All other instructions of the circulars ibid remain unchanged.

RBI Update – Review of Risk Weights on Microfinance Loans

RBI UPDATE – REVIEW AND RATIONALIZATION OF PRUDENTIAL NORMS – UCBS

The Reserve Bank has periodically set prudential norms for Urban Co-operative Banks (UCBs) to strengthen their financial stability. To streamline these norms while maintaining regulatory objectives and providing greater operational flexibility, a review has been conducted. The revised guidelines are as follows:

Small Value Loans

It has been decided to revise the definition of small value loans as loans of value not more than ₹25 lakh or 0.4 per cent of their Tier I capital, whichever is higher, subject to a ceiling of ₹3 crore per borrower. All other conditions, as well as the timelines and the intermediate targets remain unchanged. Boards of UCBs, however, shall periodically review the portfolio behaviour and quality under different loan-size categories and where necessary, may consider fixing lower ceilings.

Real Estate Exposure Norms

Under the updated guidelines, the total exposure of UCBs to housing, real estate, and commercial real estate loans is capped at 10% of their total assets, with an additional 5% allowed for housing loans to individuals that qualify under the priority sector.

Further updates specify that housing loans for individuals will be subject to a tiered cap based on the UCB's classification, with Tier 1 UCBs restricted to ₹60 lakh per borrower, Tier 2 to ₹1.4 crore, and so on, up to ₹3 crore for Tier 4 UCBs. Importantly, housing loans to individuals not eligible for priority sector classification will be limited to 25% of total loans, while exposure to the broader real estate sector (excluding housing loans to individuals) will not exceed 5% of total loans.

RBI Update – Review and rationalization of prudential norms – UCBs

MCA UPDATE – COMPANIES (PROSPECTUS AND ALLOTMENT OF SECURITIES) AMENDMENT RULES, 2025

MCA has issued the Companies (Prospectus and Allotment of Securities) Amendment Rules, 2025. As per the amendment, MCA has extended the mandatory DEMAT requirement for Private Companies till 30th June 2025.

The extension shall not apply to Producer companies and Small companies as on 31st March 2023.

MCA Update – Companies (Prospectus and Allotment of Securities) Amendment Rules, 2025

IBBI UPDATE -INSOLVENCY AND BANKRUPTCY BOARD OF INDIA AMENDS THE INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (LIQUIDATION PROCESS) REGULATIONS, 2016 AND INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (VOLUNTARY LIQUIDATION PROCESS) REGULATIONS, 2017

Auction Process

a. Prospective bidders are now given more time to participate in the auction process (from 14 days to about 30 days) by streamlining the verification process thereby facilitating wider participation.

b. The liquidator shall mention in the auction notice that the Earnest Money Deposit (EMD) of the successful bidder shall be forfeited if found ineligible during the auction process.

c. All prospective bidders must submit necessary documents, including a declaration of eligibility under Section 29A, as specified in the auction notice on the electronic auction platform or as mentioned in the auction notice.

d. The liquidator is required to verify the eligibility of the highest bidder (H1) within three days of the auction and consult the Stakeholder Consultation Committee (SCC) on the auction results.

e. If the highest bidder (H1) is found ineligible, the next highest eligible bidder (H2) may be considered, subject to consultation with the Stakeholder Consultation Committee.

Submission of final report:

Liquidators are now mandated to file the final report, including Form H, with the Adjudicating Authority when a scheme of compromise or arrangement under Section 230 of the Companies Act, 2013, is approved. Implementing this measure will improve accountability and regulatory oversight.

Corporate Liquidation Account and Corporate Voluntary Liquidation Account:

The IBBI will continue to manage the Corporate Liquidation Account and Corporate Voluntary Liquidation Account in a separate bank account with a scheduled bank as it has proven to be efficient in expeditious claim processing and overall fund management.

Realisation of uncalled or unpaid capital:

Voluntary Liquidation processes can now be completed even if there is uncalled capital as there are adequate safeguards already in the regulations to protect the creditors and the provisions for realisation of uncalled capital or unpaid capital contribution may only result in avoidable delays.

Filing of forms:

Insolvency Professionals are now required to submit the details related to liquidation and voluntary liquidation processes in the electronic forms available on IBBI's portal. To ensure timely submission it has been notified that filing delays will attract a late fee of ₹500 per form per calendar month from a date to be notified later.

Disclosure of tax deductions:

Regulations now require detailed disclosure of tax deductions by the liquidator before depositing unclaimed dividends and undistributed proceeds into the Corporate Liquidation Account or Corporate Voluntary Liquidation Account. Forms have been updated to include fields for tax deduction confirmation, applicable provisions, and reasons for unclaimed dividends or undistributed proceeds.

IBBI Update -Insolvency and Bankruptcy Board of India amends the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 and Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017

IBBI UPDATE – INSOLVENCY AND BANKRUPTCY BOARD OF INDIA AMENDS THE INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (INSOLVENCY RESOLUTION PROCESS FOR CORPORATE PERSONS) REGULATIONS, 2016 (CIRP REGULATIONS)

The Insolvency and Bankruptcy Board of India (IBBI/Board) has notified the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Amendment) Regulations, 2025 (Amendment Regulations) on 3rd February 2025. The amendments, which come into immediate effect, seek to further streamline the corporate insolvency resolution process with a special focus on real estate projects.

Key highlights of the Amendment Regulations are as follows:

Handing Over Possession: The Resolution Professional, with CoC approval, can transfer possession of properties to homebuyers during the resolution process, reducing delays.

Appointment of Facilitators: Facilitators can be appointed to assist large creditor groups like homebuyers, ensuring effective participation in the resolution process.

Participation of Competent Authority in Real Estate Projects: CoC can invite land authorities (e.g., NOIDA, HUDA) for insights on regulatory and development matters, improving resolution plan feasibility.

Report on Real Estate Development Rights and Permissions: Resolution Professionals must submit a report on project approvals and permissions within 60 days of insolvency commencement for informed decision-making.

Relaxations for Real Estate Allottees: CoC can ease eligibility and financial conditions for homebuyer associations to participate as resolution applicants.
Monitoring Committee: CoC must consider forming a monitoring committee to oversee resolution plan implementation, ensuring accountability and timely execution.

MSME Registration Status: Resolution Professionals must disclose the corporate debtor's MSME registration status, enabling eligible applicants to avail benefits under the Code.

IBBI Update – Insolvency and Bankruptcy Board of India amends the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations)

IBBI UPDATE – INTIMATION TO THE BOARD ON THE APPOINTMENT OF INSOLVENCY PROFESSIONAL UNDER VARIOUS PROCESSES UNDER THE CODE

The IPs are henceforth mandated to add assignments on the IBBI's electronic portal upon their appointment in the following processes and capacities:

a. Interim Resolution Professional (IRP) under the Corporate Insolvency Resolution Process (CIRP).

b. Resolution Professional (RP) under the CIRP.

c. Liquidator under the Liquidation Process.

d. Liquidator under the Voluntary Liquidation Process.

e. Resolution Professional under Insolvency Resolution for Personal Guarantors.

f. Bankruptcy Trustee under the Bankruptcy Process for Personal Guarantors. g. Administrator under Insolvency and Liquidation Proceedings of Financial Service Providers
An IP shall access the portal with the help of a unique username and password provided to him by the IBBI. Once the assignment is added and approved by the IBBI, the IP shall proceed with subsequent compliances,

including reporting requirements such as public announcements, EOIs, and auction notices, as applicable under different processes outlined in the Code

The timelines for filing of assignment shall be as follows:

a. New Assignments: For all cases commencing from the date of issuance of this circular, the IP shall add the assignment to the designated system within three (3) days of his/her appointment.

b. Ongoing Cases: For all ongoing cases (i.e., cases initiated before the issuance of this circular) where the assignment has not already been added, the IP shall add the assignment by 28th February, 2025.

c. Closed Cases: For all closed cases where the assignment has not already been added, the IP shall add the assignment by 31st March, 2025. However, for closed cases relating to Personal Guarantors, the assignments shall be added by 30th April 2025.

IBBI Update – Intimation to the Board on the appointment of insolvency professional under various processes under the Code

IBC CASE LAWS: INTEREST FREE MAINTENANCE SECURITY PAID BY ALLOTTEES FOR THE MAINTENANCE OF COMMON AREAS AND OTHER FACILITIES DOES NOT FALL UNDER THE DEFINITION OF FINANCIAL DEBT, UNDER SECTION 5(8) OF THE IBC – ILD OWNERS WELFARE ASSOCIATION VS. ALM INFOTECH CITY PVT. LTD. – NCLAT NEW DELHI

Brief about the decision:

Facts of the case

- The respondent launched a project by the name ILD Trade Centre in Gurgaon, in which occupancy certificate was received on 19.11.2010.
- Builder Buyers Agreement (BBA) was executed and subsequently Conveyance Deed were also executed in favour of the different unit holders in the year 2015 onwards.
- Under the Conveyance Deed, unitholders were also required to pay a sum of Rs.100 sq. ft. super area of their respective unit to the respondent towards the Interest Free Maintenance Security (IFMS). The IFMS was collected towards maintenance of the common area and other common facilities and common area amenities.
- Completion Certificate was also received on 03.06.2016.
- With regard to maintenance, complaints were filed by the unitholders as well as the appellant.
- On 06.10.2023, appellant sent a demand notice of Rs. 2.95 Crore to the respondent, the project proponent and thereafter in April 2024 filed an application under Section 7 of IBC, claiming default of the financial debt.
- Adjudicating Authority by the impugned order rejected the application under Section 7 holding that the IFMS is not a financial debt, hence the application under Section 7 is not maintainable.
- Aggrieved by the order, rejecting Section 7 application, this appeal has been filed.

Question

Whether the amount which deposited by the Unitholders towards Interest Free Maintenance Security (IFMS) is a Financial Debt which is owed by the corporate debtor to the Unitholder?

Decision of the Appellate Tribunal

- The present is a case where Conveyance Deed has already been executed in favour of the unitholders and the appellant has demanded the amount of IFMS from the corporate debtor, which was to be deposited as per Clause 26 of the Conveyance Deed by the allottees towards maintenance of common area services, installation, common passage, etc. The corporate debtor has been referred as a vendor and the allottee as the vendee and by virtue of the Conveyance Deed, the title of the unit has been transferred to the vendee. From Clauses 26 & 27, it is clear that amount which has been deposited which was asked from the allottees @ Rs.100 per sq. ft. super area towards IFMS was in order to maintain the common area services, installation, common passages, interest corridors staircase and other common facilities and amenities lifts escalators, etc. Clause 27 indicates that the amount maintenance charges shall be payable by the vendee to the vendor or nominated maintenance agency. The amount which is paid by the allottee towards IFMS security is the amount which is paid towards obtaining services and the amount is payable to the vendors/nominated maintenance agencies. The services thus are to be provided by vendor or maintenance agencies.
- From the nature of transaction entered between the corporate debtor and the allottees towards for payment of IFMS, there is no disbursal for time value of money in the transaction. The amount was required to be paid by the allottees towards the services which was to be given towards maintenance of common areas and other facilities as referred to in Clause 26.
- The Hon'ble Supreme Court in *Global Credit Capital Limited & Anr. v. Sach Marketing Pvt. Ltd. & Anr.* reported in (2024) ibclaw.in 125 SC, has laid down that for finding out the character of the debt, nature of the transaction entered between the parties has to be captured and find out and it is only after determining the real nature of transaction, issue can be answered as to whether there is a financial debt or not.
- For being a financial debt within meaning of Section 5(8), the amount needs to be disbursed against the consideration of time value of money and includes thus disbursement for time value of money is a condition precedent for falling any transaction within a definition of financial debt. In all transactions from sub-Clauses (a) to (f) requirement of disbursement for time value of money is must, which has already settled by the Hon'ble Supreme Court in *Pioneer Urban Land and Infrastructure Limited & Anr. v. Union of India & Ors.*
- In *Corab India Pvt. Ltd. v. Birendra Kumar Aggarwal & Anr.,* security deposit was made for obtaining a lease from the corporate debtor. It was held that security deposit was to be treated as payment towards lease rent and never disbursed or deposited against consideration of time value of money. The appellant claimed that the security deposit is a financial debt. In the above context, this Tribunal had occasion to consider the above appeal. This Tribunal noticed the essential elements for proving a financial debt.

- This Tribunal also considered the question as to whether the amount claimed by the appellant fell into the category of operational debt. The said security deposit was held to be deposit advance for use of lease premises and was held to be covered in the provision of services and therefore fell in the purview of operational debt.
- In the present case, it is clear that **IFMS, maintenance security was towards providing services by the vendor/maintenance agencies and the amount was paid by the appellant for obtaining services regarding maintenance and the amount could not be held to be a financial debt.**
- The Hon'ble Appellate Tribunal, thus is of the view that finding of the Adjudicating Authority holding that amount in question i.e., IFMS does not amount to financial debt, suffers from no infirmity. There is no merit in the appeal. Appeal **dismissed**.

IBC CASE LAWS: INSOLVENCY CODE (IBC, 2016) OVERRIDES ELECTRICITY ACT, 2003 | THE ISSUE OF PAYMENT OF PRE-CIRP ELECTRICITY DUES OF CORPORATE DEBTOR BY SUCCESSFUL RESOLUTION APPLICANT (SRA) CAN BE DECIDED BY THE NCLT UNDER SECTION 60(5)(C) OF IBC, 2016 – PUNJAB STATE POWER CORPORATION LTD. VS. AKUMS LIFESCIENCES LTD. – NCLAT NEW DELHI

Brief about the decision:

Facts of the case

- The CIRP was initiated against the Corporate Debtor vide order dated 23.08.2018.
- The Appellant did not file its claim before the Resolution Professional.
- The resolution plan was approved on 12.01.2021. The management and control of the company was transferred to Successful Resolution Applicant (SRA) and the name of the company was changed.
- The SRA subsequent to approval of the resolution plan had already made payment to the Operational Creditors whose claims were admitted by the Resolution Professional.
- The SRA approached the Appellant to restore the electricity connection. However, the Appellant stated that an amount of Rs. 3,87,96,889/- is outstanding on account of non-payment of electricity dues by the Corporate Debtor.

Decision of the Adjudicating Authority

- In the impugned order in IA No. 164/2021 filed by SRA, the NCLT held that the resolution plan is already approved by the Adjudicating Authority and the pre-CIRP dues are treated as settled.
- The approved resolution plan clearly states that the amounts provided in the resolution plan for Operational Creditors is in full and final settlement of their claims.
- It was held that post approval of the resolution plan no claim of the Electricity Company pertaining to the pre-CIRP period subsists.
- The electricity was already restored and the NCLT directed that the outstanding dues of the Corporate Debtor for the period prior to CIRP be nullified.

Issues

- Whether the NCLT has jurisdiction to decide the issue after the approval of the resolution plan?
- Whether the dispute regarding the demand for payment of arrears relating to the Corporate Debtor by the Successful Resolution Applicant, after the approval of the resolution plan, can be dealt only under the Electricity Act, 2003, and the Rules made therein, and cannot be adjudicated under the IBC, 2016?
- Whether the Successful Resolution Applicant is liable to pay the arrears of electricity dues for the pre-CIRP period of the Corporate Debtor, even though no claim is filed by the electricity company in CIRP and no such provision is made in the resolution plan?

Decision of the Appellate Tribunal

A. Whether the NCLT has jurisdiction to decide the issue after the approval of the resolution plan?

- The plain reading of the provisions of Section 60(5)(c) of the IBC clearly indicates that the NCLT is empowered to adjudicate any question of priorities or any question of law or facts arising out of or in relation to the insolvency resolution of the Corporate Debtor.(p7.iii)
- The Hon'ble Supreme Court in Gujarat Urja Vikas Nigam Ltd. v. Mr. Amit Gupta and Ors. had held that NCLT has jurisdiction to adjudicate disputes which arise solely from or which relate to insolvency of the Corporate Debtor. However, the Hon'ble Supreme Court cautioned that there should be a clear nexus with the insolvency of the Corporate Debtor for NCLT and NCLAT to exercise jurisdiction under Section 60(5)(c).
- Once the resolution plan is approved its binding on the Corporate Debtor, its employees, members, creditors including the Central Government, any State Government or any local authority to whom a debt in respect of payment of dues arising under a law for a time

being in force, such authorities to whom statutory dues are owned, guarantors and other stakeholders involved in the resolution plan as per provisions of Section 31(1) of IBC, 2016.

- Whether the SRA is liable to pay past electricity dues of pre-CIRP period of the Corporate Debtor, even after approval of the resolution plan and taking over of the Corporate Debtor, is an issue directly arising from approval of the resolution plan and its successful implementation. The NCLT has jurisdiction to entertain or dispose of any application or proceeding by or against the Corporate Debtor arising out of or in relation to the insolvency resolution. This position has been reiterated in recent judgment in the case of *Damodar Valley Coorporation Vs. Mackeil Ispat & Forging Ltd. & Anr.*
- ***The Hon'ble Appellate Tribunal holds that NCLT has jurisdiction to decide the issue relating to pre-CIRP outstanding electricity dues.***

B. Whether the dispute regarding the demand for payment of arrears relating to the Corporate Debtor by the Successful Resolution Applicant, after the approval of the resolution plan, can be dealt only under the Electricity Act, 2003, and the Rules made therein, and cannot be adjudicated under the IBC, 2016?

- When the issue relates to resolution of insolvency of the Corporate Debtor, it will be relevant here to refer to Section 238 of IBC, 2016.(8.i)
- In the case of Madhya Gujarat Vij Company Ltd. v. Kalptaru Alloys Pvt. Ltd., [2018] ibclaw.in 85 NCLAT, it was held that in view of Section 238 of the IBC, 2016, the provisions of Gujarat Electricity Regulatory Commission (Electricity Supply Code and related matters) Regulations, 2015 cannot override the provisions of IBC, 2016.
- The Hon'ble Supreme Court in the case of Paschimanchal Vidyut Vitran Nigam Ltd. v. Raman Ispat Pvt. Ltd. & Ors., (2023) ibclaw.in 81 SC has held that the provisions of IBC, 2016 override the provisions of the Electricity Act, 2003.
- On the issue whether PSERC has exclusive jurisdiction over the Electricity dues, being statutory in nature under Electricity Act, in the judgment of Meghalaya High Court in Reliance Infratel Ltd. and Anr. v. State of Meghalaya and Ors. (2024) ibclaw.in 492 HC, the Hon'ble Court has affirmed the overriding nature of IBC Code, 2016 over the Electricity Act, 2003 and has held that IBC would prevail over Electricity Act.
- In view of the provisions of Section 238 of IBC, 2016 and the guidelines given in the judicial decisions discussed above, the Hon'ble Appellate Tribunal holds that provisions of the IBC, 2016 override the provisions of Electricity Act, 2003, and the issue of payment of pre-CIRP electricity dues of corporate debtor by the SRA is an issue which can be decided by the NCLT u/s 60(5)(c) of IBC, 2016.

C. Whether the Successful Resolution Applicant is liable to pay the arrears of electricity dues for the pre-CIRP period of the Corporate Debtor, even though no claim is filed by the electricity company in CIRP and no such provision is made in the resolution plan?

- As per scheme of IBC, 2016 the creditors relating to pre-CIRP period are required to file claim before the Resolution Professional (RP) regarding the debt payable by the Corporate Debtor. In the present case, no claim was filed by the Appellant electricity company and there was no commitment in the resolution plan to pay any amount towards pre-CIRP electricity dues.
- Once the resolution plan has been approved, the SRA cannot be foisted with any additional liability of the pre-CIRP period. In the judgments in the case of:
- (a) Tata Power Western Odisha Distribution Ltd. (TPWODL) & Anr. v. Jagannath Sponage Pvt. Ltd. (2023) ibclaw.in 104 SC.
- (b) Southern Power Distribution Company of Andhra Pradesh Ltd. v. Gavi Siddeswara Steels (India) Pvt. Ltd. and Anr. (2023) ibclaw.in 134 SC,
- the Hon'ble Supreme Court has held that power distribution company cannot insist on the payment of arrears for the purpose of the restoration of the electricity connection and such a matter would fall within the ambit of Section 60(5)(c) of the IBC, 2016.

- In the case of Yarn Sales Corporation Vs. Punjab State Power Corporation Ltd., (2024) ibclaw.in 424 NCLAT, it was has held that power distribution company cannot insist on payment of past dues to restore electricity. A similar view was taken by this Tribunal in the case of Twentyone Sugars Ltd. vs. Maharashtra State Electricity Distribution Co. Ltd., (2024) ibclaw.in 738 NCLAT.
- In the present case the Appellant had not even filed its claim before the RP and it cannot be permitted to benefit from of its failure to file the claim and yet be paid pre-CIRP dues for restoring the electricity. The SRA had made payment under protest only under the compulsion to get the electricity restored and to make the Corporate Debtor to restart its business, which is one of the primary aim of the IBC, 2016. The Appellant is barred from seeking arrears of the amount that stands extinguished by operation of law as pre-condition to restoring the electricity connection.

IBC CASE LAWS: AMOUNT INVESTED IN A JOINT VENTURE (JV) PROJECT CANNOT BE CONSTRUED AS FINANCIAL DEBT EVEN UNDER SECTION 5(8)(F) OF THE CODE AS IT DOES NOT HAVE THE COMMERCIAL EFFECT OF A BORROWING – BRIDGE AND BUILDING CONSTRUCTION CO. PVT. LTD. VS. RUNWAL REALTORS PVT. LTD. – NCLT MUMBAI BENCH

Brief about the decision:

Facts of the case

- Runwal Realtors Pvt. Ltd. (Corporate Debtor) and Bridge and Building Construction Co. Pvt. Ltd. (Applicant/Financial Creditor) had entered into a Joint Venture Agreement (JVA) dated 12.01.2017 to develop and construct 'Runwal Manjari Township'.
- Clause 2 of the JVA makes it clear that it constitutes a partnership and not an AoP. Consequently, each party shall be entitled to represent the other as an agent of the other so as to bind the other party. Both parties agreed to share net profit in 51%:49% proportion in the said project.
- The Corporate Debtor proposed the Applicant/Financial Creditor to invest a total amount of Rs.4,85,00,000/- with an advance payment of Rs.2,60,00,000/-to the Corporate Debtor which was to be transferred on execution of JVA and the remaining amount of Rs.2,25,00,000/- was to be paid within a period of six months from the execution of the JVA between the parties or as and when required by the Corporate Debtor.
- The Applicant/Financial Creditor paid an ad hoc amount of Rs.2,59,78,540/- to the Corporate Debtor from 19.05.2017 to 13.06.2017.
- The total amount due from the Corporate Debtor as on 13.06.2017 is claimed at Rs.3,46,04,839/- including the principal amount of Rs.2,59,78,540/- and interest at 12% p.a.
- An Application was filed by Financial Creditor on 03.09.2020 under Section 7 of the Insolvency and Bankruptcy Code, 2016 for initiating CIRP in respect of Runwal Realtors Pvt. Ltd. (Respondent/Corporate Debtor).

Decision of the Adjudicating Authority

- The Applicant and the Corporate Debtor entered into the agreement dated 12.01.2017 for joint development of "Runwal Manjari Township" Project by way of partnership and that the JVA is an agreement of reciprocal rights and obligations where the parties are required to perform their respective part of obligations so as to earn profit jointly. The Applicant was not a financial creditor of the Corporate Debtor within the meaning of Section 5(7) of the Code but both the Corporate Debtor and the Applicant were to share the profit of the joint venture in the ratio of 51%:49%. The amount invested by the Applicant was not disbursed against consideration for the time value of money but represented its joint venture contribution in terms of the JVA for joint development of the land.
- Having regard to the nature of the transaction as evident from analysis of terms and conditions of the JVA, it is crystal clear that the Applicant and Corporate Debtor were joint development partners who entered into the JVA for developing the said project.
- The JVA does not contain any provision for payment of interest to the Applicant @ 12% p.a. as claimed in the Application. Nor does it specify the tenure of the alleged loan, security for loan, repayment terms, events of default and consequences of default which are the essential ingredients or elements of a financial contract. This clearly shows that the JVA embodies a business or joint venture arrangement or agreement rather than a financial arrangement or agreement.
- As held by the Hon'ble Supreme Court in Global Credit Capital Ltd. and Anr. v. Sach Marketing Pvt. Ltd. and Anr. (2024) ibclaw.in 125 SC, the test to determine whether a debt is a financial debt within the meaning of Section 5(8) of the Code is the existence of a debt with interest, if any, which is disbursed against the consideration for the time value of money. The cases covered by sub clauses (a) to (i) of sub-section (8) of Section 5 must satisfy the said test laid down by the earlier part of Section 5(8) of the Code.
- In the present case, the Applicant has failed to discharge the onus of proving that the money invested by him in the joint venture for development of "Runwal Manjari Township" project was disbursed against the consideration for the time value of money. As a matter of fact, the Applicant invested the money for developing the project in its capacity as partner of the Corporate Debtor for sharing profits and hence such investment would not fall within the definition of 'financial debt' under Section 5(8) of the Code. It is well settled that all clauses of an agreement between parties are to be read together in order to ascertain the true nature of the agreement and the intention of the parties. Therefore, the Applicant's plea to treat clause 3 of the JVA as distinct and separate from the remaining part of the Agreement is untenable and unacceptable.

- In view of above, the Hon'ble Tribunal finds that the amount invested by the Applicant in the project, being its joint venture contribution, cannot be construed as 'financial debt' even under Section 5(8)(f) of the Code as it does not have the commercial effect of a borrowing. (p4.8)
- The Hon'ble Tribunal is of the view that the dispute between the parties is a contractual dispute and application under Section 7 of the Code would not be maintainable for any breach of the terms of the JVA.(p4.8)
- It is observed that the Corporate Debtor has placed reliance on the judgment of the Hon'ble NCLAT in Jagbasera Infratech Pvt. Ltd. v. Rawal Variety Construction Ltd. wherein it has been held that the amount invested in the 'Joint Venture Project' by the Appellant in its capacity as a 'Promotor' and 'Investor' does not fall within the ambit of the definition of 'Financial Debt' under Section 5(8) of the Code. It is also noted that in the own case of the Corporate Debtor in Gateway Offshore Pvt. Ltd. and Anr. v. Runwal Realtors Pvt. Ltd. the Hon'ble NCLAT upheld the order of the Adjudicating Authority in rejecting Section 7 Application on the ground that the amount was disbursed not for time value of money but towards the joint venture for development of land and that the financial creditor in that case failed to bring on record any document to substantiate its claim that there was a financial debt and a default of the same.
- As a matter of fact, the Applicant herein is a joint venture partner of the Corporate Debtor and has made its joint venture contribution for the development and construction of the Township Project which can by no stretch of imagination be treated as a 'financial debt' within the meaning of Section 5(8) of the Code.
- Therefore, from the above discussions, it is clear that the Application filed by the Applicant under Section 7 of the Code is not maintainable as the Applicant has failed to establish the existence of a financial debt and default in repayment thereof by the Corporate Debtor. The Applicant has failed to adduce credible evidence to substantiate its claim that the transaction was, in fact, a financial debt owed by the Corporate Debtor to the Applicant and that there was a borrower-lender relationship between the Corporate Debtor and the Applicant which is mandatory for an application under Section 7 of the Code to succeed. In other words, the basic ingredients for invoking the provisions of Section 7 of the Code for triggering CIRP in case of the Corporate Debtor are absent in the present case.
- Hence, the Hon'ble Tribunal is of the considered view that the instant Application is not fit for admission under Section 7 of the Code.

IBC CASE LAWS: WHETHER MONEY DISBURSED BY A CREDITOR TO THE CORPORATE DEBTOR TO OPERATIONALIZE ITS BUSINESS CAN BE TREATED AS A FINANCIAL DEBT? – ADHUNIK CORPORATION LTD. VS. SHIVAM INDIA LTD. – NCLAT NEW DELHI

Brief about the decision:

Facts of the case

- Adhunik Corporation Ltd. (Appellant) was approached by Shivam India Ltd. (Respondent) for financial assistance towards operationalization of their factory which had been shut down for financial constraints and want of working capital.
- The Appellant and the Respondent entered into an agreement dated 18.05.2015 by which the Appellant through one of its sister concerns- Adhunik Industries Ltd. provided financial assistance. Later a fresh Memorandum of Agreement (MoA) was executed on 23.06.2020 for a further period of five years which was entered into between Adhunik Corporation Limited, Shivam India Limited and promoters of Shivam India Limited.
- In terms of the MoA, the Appellant provided a sum of Rs. 27.85 crore to the Respondent out of which Rs.23.49 crore was direct financial assistance and another sum of Rs.4.36 crore was towards raw material. The financial assistance was also secured by depositing 69.42% equity shares of the Respondent with Trans Scan Securities Pvt. Ltd., a depository participant on behalf of the Appellant. The Appellant in return of the financial assistance was to also receive sales commission.
- However, since the Appellant did not receive back the financial assistance given to the Respondent and there was an outstanding amount due in respect of sales commission due from the Respondent, the financial creditor issued a notice dated 11.10.2021 to the Corporate Debtor demanding the return of an amount of Rs. 27.85 crore along with interest @18% per annum effective from 01.03.2021.
- Subsequently, on 30.10.2021, the Appellant filed Section 7 application and the total amount claimed to be in default in the Section 7 application was Rs.42,47,32,067/- (as on 30.09.2021) with the date of default shown as 11.10.2021.
- In the interim, the Respondent had given a notice under Section 21 of the Arbitration and Conciliation Act, 1996 on 09.12.2021 and subsequently filed an arbitration petition No. 360 of 2022 under Section 11 of the Arbitration and Conciliation Act, 1996 before the Hon'ble High Court of Calcutta on 20.05.2022.

IBC CASE LAWS: WHETHER MONEY DISBURSED BY A CREDITOR TO THE CORPORATE DEBTOR TO OPERATIONALIZE ITS BUSINESS CAN BE TREATED AS A FINANCIAL DEBT? – ADHUNIK CORPORATION LTD. VS. SHIVAM INDIA LTD. – NCLAT NEW DELHI

- The Section 7 application was dismissed by the Adjudicating Authority on 11.10.2023 by holding that the purported debt claimed by the Appellant was not a financial debt and that the Appellant was not a financial creditor. It was held that the infusion of fund was not in the nature of financial debt since the infusion was not against any consideration for time value of money.
- Aggrieved by the impugned order, the Appellant has come up in appeal.

Issues

- (a) Whether the infusion of funds by the Appellant in the Corporate Debtor was in the nature of financial debt and, if so, whether the Appellant, being a financial creditor, was entitled to file the Section 7 application.
- (b) Whether in dismissing the Section 7 application of the Appellant, the Adjudicating Authority had committed an error in passing the impugned order.

Decision of the Appellate Tribunal

- The Hon'ble Appellate Tribunal refers:
  - Pioneer Urban Land & Infrastructure Ltd. v. Union of India
  - Jaypee Infratech Ltd. (Interim Resolution Professional) Vs Axis Bank Ltd.
  - Phoenix ARC Pvt. Ltd. Vs Spade Financial Services Ltd.
  - Orator Marketing (P) Ltd. Vs Samtex Desinz (P) Ltd.
- From a reading of the above judgments, broadly speaking, for a debt to be treated as financial debt there has to be an element of disbursal of money and the disbursal must be against the consideration for time value of money. The concept of time value of money has been further explained to also include a transaction which does not necessarily culminate into interest being paid in respect of money that has been borrowed.
- In the present facts of the case, there is sufficient material on record to prove that there was disbursal of funds by the Appellant to the Corporate Debtor in their account. It has also been indicated that an amount of Rs 11.54 lakhs was still due from the Corporate Debtor towards commission. This leaves no doubts in our mind that there was fund infusion into the Corporate Debtor by the Appellant.

- The Appellant for the first time had demanded interest although there was no interest clause in the MoA. Simply because the funds to be infused by the Appellant was fully refundable in terms of Clause 1 of the MoA, it does not establish a case of financial debt.
- Payment of interest against disbursal was not specifically mentioned in the clauses. the IBC does not provide for any prescriptive requirement for the Financial Creditor to place on record formal written agreements/documents between the parties to establish that the disbursal made was in the form of loan with interest. It would be misconceived to hold that the fund infusion did not qualify to be a financial debt merely because loan component was not explicitly mentioned in the MoA. It is a well settled proposition of law that interest on loan is not the only binding criterion for determining time value of money. The question whether a credit facility without charging interest can be considered to be a financial debt in terms of Section 5(8) of the IBC is no longer res integra and has already been decided by the Hon'ble Supreme Court in Orator judgment (supra) to hold that the definition of "financial debt" in Section 5(8) IBC does not expressly exclude an interest free loan.
- As per the Insolvency Law Report, 2018, time value of money means compensation or the price paid for the length of time for which money has been disbursed. Time value of money is not only a regular or timely return received for the duration for which the amount is disbursed as an amount in addition to the principal but also covers any other form of benefit or value accruing to the creditor as a return for providing money for a long duration.
- From the judgment of the Hon'ble Supreme Court in Pioneer judgment (supra) the ratio is clear that even if transactions are not necessarily loan transactions, they still attract Section 5(8) of the IBC as long as the transactions have the commercial effect of a borrowing. The essential condition which needs to be fulfilled is disbursement against the consideration for time value of money.
- Since in the present case, the infusion of funds was a transaction which has direct bearing on the business carried out by the Corporate Debtor, raising of the amount through the above agreement has the commercial effect of borrowing. The clauses of the MoA contain clear indication that the infusion of funds was being done with the intent of earning profits and the investments was therefore for consideration for the time value of money. Therefore, this transaction has the contours of a borrowing as contemplated under Section 5(8) of IBC. The investments made by the Appellant-Financial Creditor was with an eye for consideration for time value of money and therefore the transaction had commercial effect of borrowing.
- The Hon'ble Appellate Tribunal **sets aside** the impugned order and allows the Appeal. Having arrived at our finding that the present is a case where the financial assistance given by the Appellant has a clear

- element of commercial effect of borrowing and therefore qualifies to be treated as financial debt and the Appellant is a financial creditor in terms of the statutory provisions of IBC, the Hon'ble Appellate Tribunal remands the matter to the Adjudicating Authority to exercise its satisfaction as to whether financial debt has crossed the threshold limits and has become due and payable and basis these findings decide to accept or refuse admission of the Section 7 application of the Appellant.

IBC CASE LAWS: IT IS PERMISSIBLE TO FILE ANY DOCUMENT UNTIL A FINAL ORDER EITHER ADMITTING OR DISMISSING THE SECTION 7 APPLICATION UNDER IBC IS PASSED – STATE BANK OF INDIA VS. INDIA POWER CORPORATION LTD. – SUPREME COURT

Brief about the decision:

Facts of the case

- State Bank of India filed an application under Section 7 of the IBC before the NCLT.
- India Power Corporation Limited (IPCL/Respondent) filed its counter affidavit before the NCLT.
- On 13.06.2022, the State Bank of India filed its rejoinder affidavit. However, in filing the rejoinder affidavit, there was a delay as according to the Bank, there was one money suit filed by the Respondent. In such circumstances, the Bank had to file IA No.1547/2022 praying that the delay in filing the rejoinder affidavit may be condoned.
- The NCLT, Hyderabad vide order dated 30.01.2023, reported in condoned the delay with a direction that any factual assertions pleaded in the rejoinder shall not be taken into consideration while deciding the Section 7 application.
- The order passed by the NCLT came to be challenged before the NCLAT. The Appellate Tribunal dismissed the appeal filed by the Bank vide order dated 04.10.2023, reported in State Bank of India v. India Power Corporation Ltd.

Decision of the Supreme Court

- The learned Solicitor General of India invited the attention of this Court to a decision in Dena Bank vs. C. Shivakumar Reddy and Anr., wherein this Court has taken the view that in the absence of any express provision which prohibits or sets a time-line for filing of additional documents, there is no bar to the filing of documents over and above those documents initially filed with Section 7 petition. The Court further clarified that it is permissible to file any document until a final order either admitting or dismissing the Section 7 application is passed.
- The Hon'ble Supreme Court is of the view that the both NCLT and NCLAT committed an egregious error in taking a very technical or rather pedantic view of the matter. Having permitted the Bank to file their rejoinder after condoning the delay, it was too much for the NCLT to say that the Bank shall not be permitted to rely on any assertions made in the rejoinder. It was expected of the NCLAT to correct such an error. Unfortunately, the Appellate Tribunal also fell into the same error.
- In view of the aforesaid, this appeal succeeds and is hereby allowed. The impugned order passed by the NCLAT is set aside. As the order passed by the NCLAT has been set aside, the matter should now go back to the NCLT for fresh consideration of Section 7 application.

ROC PENALIZES DIRECTOR OF THE COMPANY FOR NON-DISCLOSURE OF HIS INTEREST IN OTHER COMPANIES

Background of this case

1. The framework of the Companies Act 2013 lays down that every director of a company must disclose his interest in any company or firm or body corporate or any association of individuals at the first board meeting or when there is any change in the interest of directors. Every director of a company is required to mandatorily disclose his concern or interest, including shareholding interest in any other organisations, by giving a notice in writing in the prescribed form MBP-1 to each such company where he is a director. The disclosure made by the directors in form MBP-1, as received by the company from the directors, is required to be presented at the meeting of the board of directors of the company, and the board takes note of the same.

In this case, one of the directors of M/s Watai Electronics Private Limited failed to disclose his interest in one of the other companies where he was holding the directorship during the financial year 2018-19. As per the provisions of section 184(1) of the Companies Act 2013, every director should at the first meeting of the board in which he participates as a director and thereafter at the first meeting of the board in every financial year or whenever there is any change in the disclosures already made, then at the first board meeting held after such change, disclose his concern or interest in any company or companies or bodies corporate, firms, or other association of individuals which shall include the shareholding, in such manner as may be prescribed. This matter came to the notice of the Registrar of Companies / Adjudication Officer of Kanpur when he conducted an enquiry on the company, and thereafter, the Adjudication Officer followed the procedure of issuing show cause notice and personal hearing. Though the concerned director attributed the omission to oversight and delay in finalizing his appointment with the other company, the Adjudication Officer proceeded with the penal action against the director since the regulator deemed it appropriate to levy the penalty. Accordingly. The Registrar of Companies. Kanpur of Uttar Pradesh imposed a penalty of Rs. 1,00,000 upon the director for failing to disclose his interest in one of the companies as mandated under the provisions of section 184(1) of the Companies Act 2013. Let us go through this case in detail, to understand the related provisions, required compliance, the consequences of non-compliance and the rationale behind imposing the penalty by the regulators.

Relevant Provision relating to this case under the Companies Act 2013.

2. The relevant provisions pertaining to this case is section 184 of the Companies Act 2013, and the extracts of the relevant provisions are given below.

Companies Act 2013 Chapter XII - Meetings of Board and its Powers Section 184 – Disclosure of interest by director	
Section	**Provisions**
184 (1)	Every director shall at the first meeting of the Board in which he participates as a director and thereafter at the first meeting of the Board in every financial year or whenever there is any change in the disclosures already made, then at the first Board meeting held after such change, disclose his concern or interest in any company or companies or bodies corporate, firms, or other association of individuals which shall include the shareholding, in such manner as may be prescribed.
184 (2)	Every director of a company who is in any way, whether directly or indirectly, concerned or interested in a contract or arrangement or proposed contract or arrangement entered into or to be entered into—
184 (2) (a)	with a body corporate in which such director or such director in association with any other director, holds more than two per cent. shareholding of that body corporate, or is a promoter, manager, Chief Executive Officer of that body corporate; or
Proviso	Provided that where any director who is not so concerned or interested at the time of entering into such contract or arrangement, he shall, if he becomes concerned or interested after the contract or arrangement is entered into, disclose his concern or interest forthwith when he becomes concerned or interested or at the first meeting of the Board held after he becomes so concerned or interested.
184 (3)	A contract or arrangement entered into by the company without disclosure under sub-section (2) or with participation by a director who is concerned or interested in any way, directly or indirectly, in the contract or arrangement, shall be voidable at the option of the company.
Penal section for non-compliance / default if any	
184 (4)	If a director of the company contravenes the provisions of sub-section (1) or sub-section (2), such director shall beliable to a penalty of one lakh rupees

Consequences of default/violation

3. To understand the consequences of any default while complying with the provisions of section 184 of the Companies Act 2013 relating to the disclosure of interest by a director under the provisions of the Companies Act 2013, let us go through the decided case law by the Registrar of Companies, Kanpur, Uttar Pradesh dated 26th December 2024 in the matter of M/s. Watai Electronics Private Limited.

The relevant case law on this matter

4. We shall go through the adjudication order passed by the Registrar of Companies, Kanpur, Uttar Pradesh dated 26th December 2024 bearing adjudication order Limited No.07/01/Adj/2024/Watai/5676 to 5077, order of adjudication of penalty under section 454 of the Companies Act 2013 read with Rule 3 of the Companies (Adjudication of Penalties) Rules 2014 for violation of provisions of section 184 of the Companies Act 2013 in the matter of M/s. Watai Electronics Private Limited.

Details of the Company

5. M/s. Watai Electronics Private Limited is in corporated on 23rd October 2018 under the provisions of the Companies Act 2013 and having its registered office is situated at Plot No. B-49, Sector 83, Phase 2, Noida, Gautam Buddha Nagar in the state of Uttar Pradesh. The company falls under the jurisdiction of the Registrar of Companies of Uttar Pradesh. and the office of the Registrar of Companies is situated at Kanpur. The company is having 2 directors on its board as on date as per the details available at the Ministry of Corporate Affairs portal. The authorized capital of the Company is Rs. 20,000,000/- The company is a manufacturer and trader of earbuds, headphones, smart watches, etc.

The facts of the case and the default committed by the company

6. The Registrar of Companies of Kanpur, Uttar Pradesh, had conducted an enquiry upon M/s

Watai Electronics Private Limited and during the course of the enquiry, the inspecting officials had observed that one of the directors of the company had provided incomplete disclosure of his interest in the companies to the board of the company as per the provisions of section 184 (1) of the Companies Act 2013. The concerned director had disclosed his interest in two of the Companies i.e. SZB Machines Private Limited & Chindi Medi43 Consultants Private Limited as on 12th November 2018, and at the same time, the concerned director was also the director in YTL Manufacturing Private Limited with effect from 9th October 2018.

In view of the above observations, the inspecting officials had reason to believe that the concerned director the provisions of section 184 (1) of the Companies Act 2013 and was, therefore, liable for a penalty under section 184(4) of the Companies Act, 2013 for the financial year 2018-19.

Action taken by the Registrar of Companies / Adjudication Officer

7. The Registrar of Companies / Adjudication Officer, based on the observations and findings as stated above, issued a show cause notice to the company and its director-in default under Section 184(1) of the Companies Act2013, read with Companies (Adjudication of Penalties) Rules, 2014 for the non-compliance of the provisions of section 184 of the Companies Act 2013 directing them to show cause as to why penal action could not be taken for the default committed.

Response from the company

8. The Registrar of Companies / Adjudication officer received a reply from the concerned director-in-default of the company vide letter dated 13th July 2024 stating that: -

(a) Due to oversight, the concerned director forgot to mention the name of M/s. YTL Manufacturing Private Limited in the disclosure of interest given to the company under section 184(1) of the Companies Act2013 on 12th November 2018.

(b) The letter also stated further that this was because, at that time, the terms and conditions for appointment as a director with M/s. YTL Manufacturing Private Limited were not settled.

(c) The concerned director further stated that upon finalization of his terms of appointment, M/s. YTL Manufacturing Private Limited appointed him with retrospective effect from 9th October 2018 and

(d) Also further stated that M/s. YTL Manufacturing Private Limited never sent him any notice for a board meeting or for an annual general meeting after his appointment with effect from 9th October 2018.

(e) The letter ended up in stating that due to the above reasons, he resigned from the management of M/s. YTL Manufacturing Private Limited on 7th October 2020**.**

Conclusion reached by the Registrar of Companies / Adjudicating Officer

9. The Registrar of Companies / Adjudicating Officer, based on the documents inspected and verified and also based on the reply submitted by the concerned director, came to the conclusion

that the concerned director had defaulted by not making a disclosure about his directorship with M/s/ YTL Manufacturing Private Limited during the financial year 2018-19 and thereby violated the provisions of section 184(1) of the Companies Act 2013. Therefore, the concerned director was liable for penal action as per the provisions of section 184(4) of the Companies Act 2013 and the Registrar of Companies / Adjudicating Officer decided to adjudicate the matter as per the provisions of the Companies Act 2013.

The order passed by the Registrar of Companies / Adjudicating Officer

10. The Registrar of Companies / Adjudication Officer, in the exercise of the powers conferred upon him vide notification dated 24thMarch 2015 and having considered the facts of the case, imposed the penalty upon the defaulting director of the company for failure to make compliance with section 184(1) of the Companies Act 2013 under section 184 (4) of the Companies Act 2013 as under: -

Nature of default and period from which it started	**Section of the Companies Act 2013**	**Name of the director**	**Penalty Imposed Rupees**
Non-disclosure of interest under section 184(1) of the Companies Act2013	Section 184	-----name---- (Din number)	1,00,000
		Total penalty levied	**1,00,000**

(a) The Registrar of Companies / Adjudication Officer was of the opinion that the penalty was commensurate with the aforesaid failure committed by the concerned director and the order directed that the director should pay the amount of penalty by way of e-payment (available on Ministry website mca.gov.in) under "Pay miscellaneous fees" category in Ministry of Corporate Affairs fee and payment Services within 90 days of receipt of this order and intimation was required to be sent to the office of the Registrar of Companies along with proof of penalty paid.

The order stated that an appeal against this order may be filed in writing with the Regional Director (Northern Region), Ministry of Corporate Affairs, CGO Complex, Lodhi Road, New Delhi, within a period of sixty days from the date of receipt of this order, in Form ADJ setting forth the

grounds of appeal and shall have to be accompanied by a certified copy of this order. [Section 454(5) & 454(6) of the Act, read with Companies (Adjudication of Penalties) Rules, 2014].

(c) The order stated further that in case an appeal is made, the office of the Registrar of Companies, Uttar Pradesh, should be informed along with the penalty imposed & the payments made, (d) The order drew the attention of section 454(8) of the Companies Act 2013 in the event of non-compliance with this order.

Despatch of the order

11. The order was sent by the Registrar of Companies, Kanpur, in terms of the provisions of sub-rule (9) of Rule 3 of Companies (Adjudication of Penalties) Rules 2014 as amended by Companies (Adjudication of Penalties) Amendments Rules 2019 to concerned director in default with a copy to the company i.e. M/s. Watai Electronics Private Limited and to the Regional Director of Northern Region at CGO Complex, Lodhi Road, Delhi, for his information.

The complete order for reading

12. The readers may like to read the complete details of the adjudication order passed by the Registrar of Companies, Kanpur Uttar Pradesh, dated 26th December 2024, bearing adjudication order Limited No.07/01/Adj/2024/Watai/5676 to 5077, order of adjudication of penalty under section 454 of the Companies Act 2013 read with Rule 3 of the Companies (Adjudication of Penalties) Rules 2014 for violation of provisions of section 184 of the Companies Act 2013 in the matter of M/s. Watai Electronics Private Limited and the relevant website is https://www.mca.gov.in/content/ mca/global/en/data-and-reports/ rd-roc-info/rd-adjudication-orders.html(order uploaded under the ROC of Kanpur on 7th January 2025 titled as adjudication order under section 184 (3) of the Companies Act 2013 in the matter of M/s. Watai Electronics Private Limited)

Conclusion

13. The provisions of the Companies Act 2013 make it mandatory for each and every director of a company to make
the disclosure of interest in the specified form MBP-1, and the same is also required to be preserved in the registered
office of the company in the safe custody of the company secretary or any other person authorized by the board of
directors of the company. The disclosure of interest is an important tool in ensuring that the directors, who are the custodians of the company and also working on behalf of the shareholders, are transparent and

accountable to shareholders, stakeholders, regulators, and the public at large. Since the disclosure of the interest is a mandatory requirement, the company directors are required to ensure in making the timely disclosure in the prescribed form, failing which the directors would face penal actions as had happened in this case where the concerned director was penalised to the extent of one lakh rupee for the non-disclosure. In a nutshell, timely compliance must be ensured at any cost, and the company/directors must put a proper compliance management system in place and work through it to achieve absolute compliance. No doubt, this case highlights the importance of accurate and timely disclosure of directors' interests to comply with corporate governance norms under the framework of the Companies Act 2013.

Reference: -

1. Companies Act 2013
2. Companies (Adjudication of Penalties) Rules, 2014
3. Companies (Adjudication of Penalties) Amendment Rules 2019
4. Adjudication order passed by the Registrar of Companies, Kanpur, Uttar Pradesh dated 26th December 2024 bearing adjudication order Limited No.07/01/Adj/2024/Watai/5676 to 5077, order of adjudication of penalty under section 454 of the Companies Act 2013 read with Rule 3 of the Companies (Adjudication of Penalties) Rules 2014 for violation of provisions of section 184 of the Companies Act 2013 in the matter of M/s. Watai Electronics Private Limited

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