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 April 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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Find the latest updates about our Webinars and Circulars, Notifications and Updates published by SEBI, MCA, RBI, IBBI and other official government site.

SEBI UPDATE – EXTENSION OF TIMELINE FOR FORMULATION OF IMPLEMENTATION STANDARDS PERTAINING TO SEBI CIRCULAR ON "SAFER PARTICIPATION OF RETAIL INVESTORS IN ALGORITHMIC TRADING"

SEBI issued Extension of timeline for formulation of implementation standards pertaining to SEBI Circular on "Safer participation of retail investors in Algorithmic trading"
SEBI had issued a circular on "Safer participation of retail investors in Algorithmic trading" on February 04, 2025, with the implementation standards to be finalised by April 01, 2025.However based on the stock exchange request for further deliberation SEBI has extended the timeline.
The implementation standards shall come into effect from May 01, 2025. The provisions of the circular shall be applicable with effect from August 01, 2025.

SEBI Update – Extension of timeline for formulation of implementation standards pertaining to SEBI Circular on "Safer participation of retail investors in Algorithmic trading"

SEBI UPDATE – CLARIFICATION ON THE POSITION OF COMPLIANCE OFFICER IN TERMS OF REGULATION 6 OF THE SEBI (LISTING OBLIGATIONS AND DISCLOSURE REQUIREMENTS) REGULATIONS, 2015 – REG.

SEBI has issued Clarification that the position of Compliance Officer as per the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 shall be one level below the Managing Director or Wholetime Director who are part of the Board of Directors of the listed entity.It is clarified that the term 'level' used in regulation 6(1) refers to the position of the Compliance Officer in the organization structure of the listed entity. Therefore, 'one-level below the board of directors' means one-level below the Managing Director or Whole-time Director(s) who are part of the Board of Directors of the listed entity. This will be in line with regulation 2(1)(o) of the LODR Regulations read with section 2(51) of the Companies Act, 2013.

In case a listed entity does not have a Managing Director or a Whole-Time Director, then the

Compliance Officer cannot be more than one-level below the Chief Executive Officer or Manager or any other person heading the day-day affairs of the listed entity.

SEBI Update – Clarification on the position of Compliance Officer in terms of regulation 6 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 – Reg.

SEBI UPDATE – RELAXATION OF PROVISION OF ADVANCE FEE RESTRICTIONS IN CASE OF INVESTMENT ADVISERS AND RESEARCH ANALYSTS

SEBI issued Relaxation of provision of advance fee restrictions in case of Investment Advisers and Research Analysts.
It has now been decided to relax this particular provision. IAs and RAs shall now ensure compliance with the following fee related provisions
i. If agreed by the client, IAs and RAs may charge fees in advance, however, such advance shall not exceed fees for a period of one year.
ii. The fee related provisions such as fee limit, modes of payment of fees, refund of fees, advance fee, breakage fees shall only be applicable in case of their individual and Hindu Undivided Family (HUF) clients (provided these clients are not accredited investors).

These provisions shall not be applicable in case of non-individual clients, accredited investors, and in case of institutional investors seeking recommendation of proxy adviser.

iii. In case of non-individual clients, accredited investors, and in case of institutional investors seeking recommendation of proxy adviser, fee related terms and conditions shall be governed through bilaterally negotiated contractual terms.

The provisions of this circular shall come into effect from the date of issuance of this circular..

SEBI Update – Relaxation of provision of advance fee restrictions in case of Investment Advisers and Research Analysts

SEBI UPDATE – RECOGNITION AND OPERATIONALIZATION OF PAST RISK AND RETURN VERIFICATION AGENCY (PARRVA)

Securities and Exchange Board of India (SEBI) has issued a circular outlining the framework for the recognition and operationalization of the Past Risk and Return Verification Agency (PaRRVA).

Eligibility Criteria for PaRRVA .

The eligibility criteria for a CRA for recognition as PaRRVA shall be as under (as on the date of application for recognition as PaRRVA): (i) Number of years of existence of the CRA should be minimum 15 years;
(ii) Minimum net worth of the CRA should be INR 100 crores;
(iii) Number of issuers which have obtained ratings of listed or proposed to be listed debt securities from the CRA should be 250 or more; and
(iv) CRA should have Investor grievance redressal mechanism including Online Dispute Resolution ("ODR") Mechanism
Eligibility Criteria for PDC
The eligibility criteria for a SE to act as PaRRVA Data Centre ("PDC") shall be as under (as on the date of agreement with associated CRA for acting as PDC):

(i) Number of years of existence of the SE should be minimum 15 years;
(ii) Minimum net worth of the SE should be INR 200 crores;
(iii) The SE should have nation-wide terminals;
(iv) SE should have Investor grievance redressal mechanism including Online Dispute Resolution ("ODR") Mechanism.
The circular shall come into force with immediate effect.

SEBI Update – Recognition and operationalization of Past Risk and Return Verification Agency (PaRRVA)

SEBI UPDATE – STANDARDIZED FORMAT FOR SYSTEM AND NETWORK AUDIT REPORT OF MARKET INFRASTRUCTURE INSTITUTIONS(MIIS)

SEBI issued a circular regarding Standardized format for System and Network audit report of Market Infrastructure Institutions(MIIs).

It states that all MIIs are required to conduct System and Network audit as per the aforesaid framework and each MII has adopted a different template for System and Network audit report. In view of the same, the format of report adopted by MIIs for System and Network audit was reviewed by SEBI in consultation with the Technology Advisory Committee (TAC) of SEBI. Based on the recommendations of the Committee and in consultation with MIIs, a standardized format for System and Network Audit report for MIIs has been prepared and the same is enclosed as Annexure A.

Further, the standardized format for System and Network Audit report would help to increase the data quality, capture of relevant information as per regulatory requirements in a streamlined and standardized manner across MIIs, monitor compliance requirements in a more focused

manner, ease of traceability of current/historical open observations found during audit at the end of MII and SEBI by assigning a unique ID to each observation.

The Circular shall become applicable for audit period FY 2024-25 or second half of FY 2024-25 as per the frequency of System and Network audit required to be conducted by the MII.

SEBI Update – Standardized format for System and Network audit report of Market Infrastructure Institutions(MIIs)

SEBI UPDATE – AMENDMENT TO CIRCULAR FOR MANDATING ADDITIONAL DISCLOSURES BY FPIS THAT FULFIL CERTAIN OBJECTIVE CRITERIA

SEBI vide "Master Circular for Foreign Portfolio Investors, Designated Depository Participants and Eligible Foreign Investors" dated May 30, 2024, as amended from time to time (hereinafter referred to as the 'FPI Master Circular') has, inter alia, mandated additional disclosures, inter alia, for FPIs that individually, or along with their investor group (in terms of Regulation 22(3) of the FPI Regulations), hold more than INR 25,000 crore of equity AUM in the Indian markets (hereinafter referred to as "size criteria").

Similar requirements were also specified for subscribers of Offshore Derivative Instruments (ODIs) through an SEBI circular dated December 17, 2024.

It has been decided to increase the threshold under size criteria from INR 25,000 crore to INR 50,000 crore.

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

SEBI Update – Amendment to Circular for mandating additional disclosures by FPIs that fulfil certain objective criteria

SEBI UPDATE – CLARIFICATION ON REGULATORY FRAMEWORK FOR SPECIALIZED INVESTMENT FUNDS ('SIF') (APPLICABLE – ALL MUTUAL FUNDS ALL ASSET MANAGEMENT COMPANIES (AMCS) ALL REGISTRAR AND SHARE TRANSFER AGENTS (RTAS) ALL TRUSTEE COMPANIES/ BOARD OF TRUSTEES OF MUTUAL FUNDS, ALL RECOGNIZED STOCK EXCHANGES ,RECOGNIZED CLEARING CORPORATIONS

DEPOSITORIES ASSOCIATION OF MUTUAL FUNDS IN INDIA (AMFI))

SEBI issued Clarification on Regulatory framework for Specialized Investment Funds on Circular dated February 27, 2025 ('SIF Circular')In this regard, based on queries raised by the industry participants and AMFI, the following has been decided:

The provisions under paragraph 12.27.2.4 of the Master Circular for Mutual Funds dated June 27, 2024 ('MF Master Circular'), regarding maturity of securities in interval schemes, shall not be applicable to Interval Investment Strategies under SIF.

The paragraph 4.1.1 of the SIF Circular, regarding minimum investment threshold, shall stand modified as under:

"The AMC shall ensure that an aggregate investment by an investor across all investment strategies offered by the SIF, at the Permanent Account Number ('PAN') level, is not less than INR 10 lakh (hereinafter referred to as the 'Minimum Investment Threshold').

Provided that, the above provisions shall not be applicable for mandatory investments made by AMCs for designated employees under paragraph 6.10 of the Master Circular for Mutual Funds dated June 27, 2024."

The provisions of this circular shall come into force with effect from the date of this circular.

SEBI Update – Clarification on Regulatory framework for Specialized Investment Funds ('SIF') (Applicable – All Mutual Funds All Asset Management Companies (AMCs) All Registrar and Share Transfer Agents (RTAs) All Trustee Companies/ Board of Trustees of Mutual Funds, All Recognized Stock Exchanges ,Recognized Clearing Corporations , Depositories Association of Mutual Funds in India (AMFI))

SEBI UPDATE – CHANGE IN CUT-OFF TIMINGS TO DETERMINE APPLICABLE NAV WITH RESPECT TO REPURCHASE/ REDEMPTION OF UNITS IN OVERNIGHT SCHEMES OF MUTUAL FUNDS

SEBI aims to safeguard clients' funds placed with Stock Brokers (SBs) / Clearing Members (CMs), SEBI vide circular "Upstreaming of clients' funds by Stock Brokers (SBs)/ Clearing Members (CMs) to Clearing Corporations (CCs)" dated December 12, 2023 ("upstreaming circular") has specified the framework requiring SB/CMs to upstream (i.e. place with) all the clients' clear credit balances to CCs on End of Day basis.

The clients' funds shall be upstreamed by SB/ CMs to CCs only in the form of either cash, lien on Fixed Deposit Receipts created out of clients' funds, or pledge of units of Mutual Fund Overnight Schemes (MFOS) created out of clients' funds.

To operationalize the upstreaming of clients' funds in the form of pledge of units of MFOS, a Working Group of industry participants, AMFI and members of the Mutual Funds Advisory Committee (MFAC) recommended a change in cut-off timings to determine applicable NAV with respect to repurchase of units in overnight fund schemes. Thereafter, the proposal was placed for public consultation.

Based on the analysis of public feedback, para 8.4.5.4 of the Master Circular for Mutual Funds dated June 27, 2024 stands modified as under:

Application Time Applicable NAV (MFOS Repurchase)

On or before **3:00 PM** NAV of **day immediately preceding the next business day**

After **3:00 PM** NAV of the **next business day**

Online Mode (till 7:00 PM) shall be applicable for overnight fund schemes.

Explanation: "Business Day" does not include a day on which the Money Markets are closed or otherwise not accessible.

The provisions of this circular shall come into force from June 01, 2025.

<u>SEBI Update – Change in cut-off timings to determine applicable NAV with respect to repurchase/ redemption of units in overnight schemes of Mutual Funds</u>

SEBI UPDATE : TRADING WINDOW CLOSURE PERIOD UNDER CLAUSE 4 OF SCHEDULE B READ WITH REGULATION 9 OF SECURITIES AND EXCHANGE BOARD OF INDIA (PROHIBITION OF INSIDER TRADING) REGULATIONS, 2015 ("PIT REGULATIONS") – EXTENSION OF AUTOMATED IMPLEMENTATION OF TRADING WINDOW CLOSURE TO

IMMEDIATE RELATIVES OF DESIGNATED PERSONS, ON ACCOUNT OF DECLARATION OF FINANCIAL RESULTS

The Securities and Exchange Board of India (SEBI) has released a significant circular on April 21, 2025. This circular introduces a critical amendment to the SEBI (Prohibition of Insider Trading) Regulations, 2015 (PIT Regulations), mandating that the automated implementation of the trading window closure period be extended to immediate relatives of Designated Persons (DPs).

Under Clause 4 of Schedule B and Regulation 9 of the PIT Regulations, trading by DPs is monitored using a concept called a "notional trading window." This window must be closed whenever the Compliance Officer determines that DPs or a class of such persons may have access to Unpublished Price Sensitive Information (UPSI). One of the common instances of trading window closure is around the announcement of financial results — from the end of a financial quarter until 48 hours after the disclosure of results.

Until now, the focus of automated restrictions — including PAN-level trading freezes — was primarily on DPs themselves. However, SEBI's new circular mandates extending this automation to their immediate relatives as well. This is a significant move, considering that trading via family members was a known gray area in insider trading enforcement.
The process will be rolled out in two phases:

Phase 1 (Effective July 1, 2025): Applies to the top 500 listed companies by market capitalization as on March 31, 2025.
Phase 2 (Effective October 1, 2025): Will cover all remaining listed companies

SEBI Update : Trading Window closure period under Clause 4 of Schedule B read with Regulation 9 of Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 2015 ("PIT Regulations") – Extension of automated implementation of trading window closure to Immediate Relatives of Designated Persons, on account of declaration of financial results

SEBI UPDATE : SEBI LAUNCHES "DOCUMENT NUMBER VERIFICATION SYSTEM"

1. Keeping in mind the public interest, transparency in the functioning of the Securities and Exchange Board of India (SEBI) and to ensure verifiability of all documents issued by SEBI, the Document Number Verification System (SEBI-DNVS) has been launched.

2. In terms of the procedure contemplated under the system, any physical communication such as letters, notices, show-cause notices and summons issued by SEBI shall bear an Outward Number, which is unique for every communication issued by SEBI.

The process envisages user verification through authentication of the one-time password (OTP) generated on the mobile number of the recipient(s) or any other person acting on their behalf who may then enter the Outward Number as well as other credentials such as sender's name, date of the communication and the name of the recipient to verify the issuance of such communication by SEBI. The verification process however does not include the verification of contents of the communication.

3. The SEBI-DNVS shall be available on the SEBI website and accessible from the Home page in the path - SEBI website (www.sebi.gov.in)>Home>Authenticate Document Number Issued by SEBI.

RBI UPDATE – MASTER CIRCULAR – DISBURSEMENT OF GOVERNMENT PENSION BY AGENCY BANKS

RBI issued Master Circular – Disbursement of Government Pension by Agency Banks
The following is been stated
In order to obviate the time lag between issue of DR orders and payment of DR to the beneficiary and to render expeditious service to senior citizens, the procedure of forwarding related government orders in respect of dearness relief etc. to pension disbursing agency banks has been discontinued.

All agency banks are advised to scrupulously follow all the guidelines/ instructions contained in various notifications of Government (Central as well as States) and take necessary action immediately without waiting for any further instructions from RBI.The pension paying banks will credit the pension amount in the accounts of the pensioners based on the instructions given by respective Pension Paying Authorities.

Whenever any excess/overpayment is detected, the entire amount thereof should be credited to the Government account in lump sum immediately, when the excess/overpayment is due to an error on the part of the agency bank. If the excess/wrong payment to the pensioner is due to errors committed by the government, banks may take up the matter with the full particulars of the cases with respective Government Department for a quick resolution of the matter.

RBI Update – Master Circular – Disbursement of Government Pension by Agency Banks

RBI UPDATE -MASTER CIRCULAR ON CONDUCT OF GOVERNMENT BUSINESS BY AGENCY BANKS – PAYMENT OF AGENCY COMMISSION

RBI issued the Master Circular on Conduct of Government Business by Agency Banks – Payment of Agency Commission

The following has been stated

The Reserve Bank of India carries out the general banking business of the Central and State Governments through its own offices and through the offices of the agency banks appointed under Section 45 of the RBI Act, 1934, by mutual agreement.

Government transactions eligible for agency commission

transactions relating to the following government business undertaken by agency banks are eligible for agency commission paid by RBI:

1. Revenue receipts and payments on behalf of the Central/State Governments
2. Pension payments in respect of Central / State Governments and
3. Any other item of work specifically advised by Reserve Bank as eligible for agency commission

The Agency banks also undertake the work related to Small Savings Schemes (SSS) the commission for which is borne by Government of India. Though the settlement of commission on such SSS is processed by RBI and settled at Central Accounts Section (CAS), Nagpur, the rates of agency commission related to SSS transactions are decided by Government of India.

Government transactions not eligible for agency commission

The following activities, inter alia, do not come under the purview of agency bank business and are therefore not eligible for payment of agency commission.

1. Furnishing of bank guarantees/security deposits, etc. through agency banks by government contractors/suppliers, which constitute banking transactions undertaken by banks for their customers.

2. The banking business of autonomous/statutory bodies/Municipalities/ companies/ Corporations/Local Bodies.

3. Payments which have been classified as capital in nature by government to cover losses incurred by autonomous/statutory bodies/ Municipalities/ Corporations/Local Bodies etc.

4. Prefunded schemes which may be implemented by a Central Government Ministry/Department (in consultation with CGA) or a State Government Department through any bank.

5. Transactions related to Gold Monetisation Scheme, 2015

6. Transactions arising out of Letters of Credit / Bank Guarantee opened by banks on behalf of Ministries/Departments etc. do not qualify for agency commission as RBI only reimburses the paid amount to the banks based on the mandate received from the governments.

7. Any other item of work specifically advised by Reserve Bank or Central or State Government as ineligible for agency commission.

RBI Update -Master Circular on Conduct of Government Business by Agency Banks – Payment of Agency Commission

RBI UPDATE – MASTER DIRECTION ON COUNTERFEIT NOTES, 2025 – DETECTION, REPORTING AND MONITORING

RBI issued **Master Direction on Counterfeit Notes, 2025 – Detection, Reporting and Monitoring**

The following is been stated

Authority to Impound Counterfeit Notes

The Counterfeit Notes can be impounded by:

1. All banks
2. Issue Offices of RBI

Detection of Counterfeit Notes
Banknotes tendered over the counter shall be examined for authenticity through machines. Similarly, banknotes received directly at the back office / currency chest through bulk tenders shall also be examined through machines.

No credit to customer's account is to be given for Counterfeit Notes, if any, detected in the tender received over the counter or at the back-office / currency chest.
In no case, the Counterfeit Notes shall be returned to the tenderer or destroyed by the bank branches. Failure of the banks to impound Counterfeit Notes detected at their end will be construed as wilful involvement of the bank concerned in circulating Counterfeit Notes and penalty will be imposed.

Impounding of Counterfeit Notes

Notes determined as counterfeit shall be stamped as "COUNTERFEIT NOTE" and impounded in the prescribed format (**Annex I**). Each such impounded note shall be recorded under authentication, in a separate register.

RBI Update – Master Direction on Counterfeit Notes, 2025 – Detection, Reporting and Monitoring

RBI UPDATE – MASTER DIRECTION – FACILITY FOR EXCHANGE OF NOTES AND COINS

RBI issued Master **Direction – Facility for Exchange of Notes and Coins**

The following has been stated

Facility for Exchange of Notes and Coins at Bank Branches

All bank branches in all parts of the country are mandated to provide following customer services, more actively and vigorously to the members of public so that there is no need for them to approach RBI Regional Offices for this purpose:

(i) Issuing fresh / good quality notes and coins of all denominations,

(ii) Exchanging soiled / mutilated / imperfect notes,

and

(iii) Accepting coins and notes either for transactions or exchange.

(b) Banks shall ensure that all their branches provide facility for exchange of notes and coins not only to their customers but also others. Small Finance Banks (up to two years from the commencement of their banking business) and Payment Banks may exchange mutilated and imperfect notes at their option.

(c) Considering that handling coins packed in sachets of 100 pieces each or small value-based sachets would be more convenient for the cashiers as well as the customers, such sachets shall be kept at the counters and made available to the customers.

(d) All branches shall provide the above facilities to members of the public without any discrimination on all working days.

(e) The availability of the above-mentioned facilities at the bank branches shall be given wide publicity for information of the public at large.

(f) None of the bank branches shall refuse to accept small denomination notes and / or coins tendered at their counters. All coins in the denomination of 50 paise, ₹1, ₹2, ₹5, ₹10 and ₹20 of various sizes, themes and design issued from time to time by the Government of India continue to be legal tender.

(g) Uncurrent Coins – The coins of 25 paise and below, issued from time to time have ceased to be legal tender with effect from June 30, 2011 in terms of Gazette Notification No. 2529 dated December 20, 2010 issued by the Government of India.

RBI Update – Master Direction – Facility for Exchange of Notes and Coins

RBI UPDATE – LIMITS FOR INVESTMENT IN DEBT AND SALE OF CREDIT DEFAULT SWAPS BY FOREIGN PORTFOLIO INVESTORS (FPIS)

RBI issued the circular regarding Limits for investment in debt and sale of Credit Default Swaps by Foreign Portfolio Investors (FPIs)

The following has been stated

Investment Limits for the financial year 2025-26:

The limits for FPI investment in Government Securities (G-Secs), State Government Securities (SGSs) and corporate bonds shall remain unchanged at 6 per cent, 2 per cent and 15 per cent respectively, of the outstanding stocks of securities for 2025-26.

The allocation of incremental changes in the G-Sec limit (in absolute terms) over the two sub-categories – ‘General’ and

'Long-term' – shall be retained at 50:50 for 2025-26. The entire increase in limits for SGSs (in absolute terms) has been added to the 'General' sub-category of SGSs.
The revised limits (in absolute terms) for the different categories are as follows

Investment limits for FY 2025-26						
All figures in ₹ Crore						
	G-Sec General	G-Sec Long Term	SGS General	SGS Long Term	Corporate Bonds	Total Debt
Current FPI limits	268,984	137,984	117,752	7,100	763,503	1,295,323
Revised limit for the HY Oct 2025-Mar 2026	279,236	148,236	126,248	7,100	822,169	1,382,989
Revised limit for the HY Oct 2025-Mar 2026	289,488	158,488	134,744	7,100	880,835	1,470,654

The aggregate limit of the notional amount of Credit Default Swaps sold by FPIs shall be 5 per cent of the outstanding stock of corporate bonds. Accordingly, an additional limit of ₹2,93,612 crore is set out for 2025-26.

RBI Update – Limits for investment in debt and sale of Credit Default Swaps by Foreign Portfolio Investors (FPIs)

RBI UPDATE – LIQUIDITY ADJUSTMENT FACILITY – CHANGE IN RATES. (APPLICABLE – ALL LIQUIDITY ADJUSTMENT FACILITY (LAF) PARTICIPANTS)

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 6.25 per cent to 6.00 percent with immediate effect.

The standing deposit facility (SDF) rate and marginal standing facility (MSF) rate stand adjusted to 5.75 per cent and 6.25 percent respectively, with immediate effect.

RBI Update – Liquidity Adjustment Facility – Change in rates. (Applicable – All Liquidity Adjustment Facility (LAF) participants)

RBI UPDATE – PENAL INTEREST ON SHORTFALL IN CRR AND SLR REQUIREMENTS-CHANGE IN BANK RATE. (APPLICABLE – ALL BANKS)

The Bank Rate is revised downwards by 25 basis points from 6.50 per cent to 6.25 percent with immediate effect. Accordingly, all penal interest rates on shortfall in CRR and SLR requirements, which are specifically linked to the Bank Rate, also stand revised as under:

Item	Existing Rate	Revised Rate (With immediate effect)
Penal interest rates on shortfalls in reserve requirements (depending on duration of shortfall).	Bank Rate plus 3.0 percentage points (9.50 per cent) or Bank Rate plus 5.0 percentage points (11.50 per cent).	Bank Rate plus 3.0 percentage points (9.25 per cent) or Bank Rate plus 5.0 percentage points (11.25 per cent).

RBI Update – Penal Interest on shortfall in CRR and SLR requirements-Change in Bank Rate. (Applicable – All banks)

RBI UPDATE – STANDING LIQUIDITY FACILITY FOR PRIMARY DEALERS. (APPLICABLE- ALL PRIMARY DEALERS)

The Monetary Policy Committee (MPC) has decided to reduce the policy repo rate under the Liquidity Adjustment Facility (LAF) by 25 basis points from 6.25 per cent to 6.00 percent, with immediate effect.

The Standing Liquidity Facility provided to Primary Dealers (PDs) (collateralised liquidity support) from the Reserve Bank would be available at the revised repo rate of 6.00 per cent, with immediate effect.

RBI Update – Standing Liquidity Facility for Primary Dealers. (Applicable- All Primary Dealers)

RBI UPDATE – BASEL III FRAMEWORK ON LIQUIDITY STANDARDS – LIQUIDITY COVERAGE RATIO (LCR) – REVIEW OF HAIRCUTS ON HIGH QUALITY LIQUID ASSETS (HQLA) AND REVIEW OF COMPOSITION AND RUN-OFF RATES ON CERTAIN CATEGORIES OF DEPOSITS-(APPLICABLE - COMMERCIAL BANKS)

In continuation of the guidelines issued under the Basel III Framework on Liquidity Standards – Liquidity Coverage Ratio (LCR), Liquidity Risk Monitoring Tools, and LCR Disclosure Standards, and pursuant to the draft circular dated July 25, 2024, feedback from stakeholders has been duly examined. Based on the review and analysis, the following final guidelines are issued:

1. Run-Off Factors for Retail Deposits with Internet and Mobile Banking (IMB) Facilities

Retail deposits enabled with internet and mobile banking (IMB) facilities shall attract an additional run-off factor of 2.5 per cent:

Stable deposits with IMB: 7.5% run-off (previously 5%)

Less stable deposits with IMB: 12.5% run-off (previously 10%)

2. Unsecured Wholesale Funding from Non-Financial Small Business Customers (SBCs)

Unsecured wholesale funding provided by non-financial SBCs shall be treated in line with the treatment of retail deposits specified in paragraph 1 above.

3. Valuation of Level 1 High Quality Liquid Assets (HQLA)

Level 1 HQLA in the form of Government securities shall be valued at no more than their current market value, after applying applicable haircuts in accordance with margin requirements prescribed under the Liquidity Adjustment Facility (LAF) and Marginal Standing Facility (MSF), as outlined in RBI circular FMOD.MAOG No.125/01.01.001/2017-18 dated June 06, 2018, and subsequent amendments.

4. Treatment of Pledged Deposits

Where a deposit—previously excluded from LCR computation (e.g., non-callable fixed deposit)—is contractually pledged as collateral for a credit facility or loan, it shall be treated as callable for LCR purposes. In such cases, the provisions under Sl. No. 9 of the annexure to circular dated March 23, 2016, shall apply.

5. Reclassification of Funding from Certain Entities

In modification of Sl. No. 10 of the annexure to the circular dated March 23, 2016, the following revised classification shall apply:

The **'Other Legal Entities' (OLE)** category shall include all deposits and other funding from:

Banks

Insurance companies

Financial institutions

Entities engaged in the **business of financial services**

Funding from **non-financial entities**—including trusts (educational/religious/charitable), Associations of Persons (AoPs), partnerships, proprietorships,

Limited Liability Partnerships (LLPs), and other incorporated entities—shall be classified as der the LCR framework.

6. Rationale and Objective

These amendments are aimed at strengthening the liquidity resilience of banks in India while aligning domestic standards with global best practices. The transition is structured to ensure minimal disruption to existing systems and operations.

7. Applicability

These revised guidelines shall apply to all Commercial Banks, excluding:
Payments Banks
Regional Rural Banks (RRBs)
Local Area Banks
8. Effective Date
The provisions of this circular shall come into effect from April 01, 2026.

RBI Update – Basel III Framework on Liquidity Standards – Liquidity Coverage Ratio (LCR) – Review of haircuts on High Quality Liquid Assets (HQLA) and review of composition and run-off rates on certain categories of deposits- (Applicable -Commercial Banks)

RBI UPDATE – CIRCULAR – MIGRATION TO '.BANK.IN' DOMAIN (APPLICABLE – ALL COMMERCIAL BANKS ALL PRIMARY (URBAN) CO-OPERATIVE BANKS ALL STATE CO-OPERATIVE BANKS AND DISTRICT CENTRAL CO-OPERATIVE BANKS)

It has now been decided to operationalise the '. bank.in' domain for banks through the Institute for Development and Research in Banking Technology (IDRBT), which has been authorised by National Internet Exchange of India (NIXI), under the aegis of the Ministry of Electronics and Information Technology (MeitY), to serve as the exclusive registrar for this domain. Banks may contact IDRBT at sahyog@idrbt.ac.in to initiate the registration process. IDRBT shall guide the banks on various aspects related to application process and migration to new domain.

All banks are advised to commence the migration of their existing domains to the '.bank.in' domain and complete the process at the earliest and in any case, not later than October 31, 2025.

RBI Update – Circular – Migration to '.bank.in' domain (Applicable – All Commercial Banks All Primary (Urban) Co-operative Banks All State Co-operative Banks and District Central Co-operative Banks)

RBI UPDATE – AMENDMENTS TO DIRECTIONS – COMPOUNDING OF CONTRAVENTIONS UNDER FEMA, 1999 (APPLICABLE – ALL AUTHORISED DEALER CATEGORY-I BANKS AND AUTHORISED BANKS)

RBI has issued the notification regarding Amendments to Directions – Compounding of Contraventions under FEMA, 1999.

Attention of Authorised Dealer (AD) Category – I banks is invited to the Guidelines for compounding of contraventions under FEMA, 1999, issued vide Circular dated October 1, 2024.

The provision contained at Paragraph 5.4.II.v of the aforesaid Circular, to link the Sum for which contravention is compounded ('compounding amount') payable to earlier compounding order, has been reviewed. In such cases, the applicant shall be deemed to have made a fresh application, and the compounding amount payable shall not be linked to the earlier compounding order. Accordingly, Paragraph 5.4.II.v of the A.P. (DIR Series) Circular dated October 1, 2024, stands deleted.

Further, as per the instructions laid down in Part B f Annexure I to the aforesaid Circular, when making payment through electronic mode, applicants are required to send an email communication to the concerned office of the Reserve Bank to reconcile the application fee/compounding amount received against the compounding applications submitted.

However, it has been observed that in some cases applicants do not make payment to the correct office of the Reserve Bank, and/or there is a delay in submitting the compounding application after making the application fee payment. These issues create difficulties in reconciling the received amounts and lead to delays in processing compounding applications. To address these challenges and improve turnaround time for processing compounding applications, it has been decided to include the following additional details in Part B of Annexure I of the above-referred circular:

- Mobile number of the applicant/ authorised representative.
- Office of the Reserve Bank (i.e., Central Office, Regional Office or FED CO Cell) to which the payment was made.
- Mode of submission of application (through PRAVAAH/ Physical).

RBI Update – Amendments to Directions – Compounding of Contraventions under FEMA, 1999 (Applicable – All Authorised Dealer Category-I banks and Authorised banks)

RBI UPDATE – EXPORTS THROUGH WAREHOUSES IN 'BHARAT MART' IN UAE – RELAXATIONS (APPLICABLE- ALL AUTHORISED DEALER CATEGORY-I BANKS)

RBI issued the notification regarding Exports through warehouses in 'Bharat Mart' in UAE – relaxation

The following is been stated

To facilitate export through warehouses in 'Bharat Mart', a multimodal logistics network based marketplace in United Arab Emirates (UAE) that will provide Indian traders, exporters, and manufacturers access to the markets in UAE as well as worldwide, it has been decided to provide the following relaxations:

a) AD banks may allow exporters to realise and repatriate full export value of goods exported to 'Bharat Mart' within nine months from the date of sale of the goods from the warehouse.

b) AD banks may allow the following without any pre-conditions, after verifying the reasonableness of the same:

Opening/hiring of a warehouse in 'Bharat Mart' by an Indian exporter with a valid Importer Exporter Code.

Remittances by the Indian exporter for initial as well as recurring expenses for setup and continuing business operations of its offices.

These shall come into force with immediate effect

RBI Update – Exports through warehouses in 'Bharat Mart' in UAE – relaxations (Applicable- All Authorised Dealer Category-I banks)

RBI UPDATE – AMENDMENTS TO DIRECTIONS – COMPOUNDING OF CONTRAVENTIONS UNDER FEMA, 1999 (APPLICABLE – ALL AUTHORISED DEALER CATEGORY-I BANKS AND AUTHORISED BANKS)

RBI issued the notification regarding Amendments to Directions – Compounding of Contraventions under FEMA, 1999
The following has been stated

It is decided that the following clause shall be inserted as Para 5.4.II.vi in Directions for compounding of contraventions under FEMA, 1999, and Master

Directions on compounding of contraventions under FEMA, 1999, dated April 22, 2025

Subject to satisfaction of the compounding authority, based on the nature of contravention, exceptional circumstances/ facts involved in case, and in wider public interest, the maximum compounding amount imposed may be capped at INR 2,00,000/- for contravention of each regulation/ rule (applied in a compounding application) with respect to contraventions under row 5 of the above computation matrix.

RBI Update – Amendments to Directions – Compounding of Contraventions under FEMA, 1999 (Applicable – All Authorised Dealer Category-I banks and Authorised banks)

भारतीय रिज़र्व बैंक
RESERVE BANK OF INDIA

IBBI UPDATE – IBBI (INSOLVENCY RESOLUTION PROCESS FOR CORPORATE PERSONS) REGULATIONS, 2016 ("CIRP REGULATIONS")

All Insolvency Professional aspirants shall take note of the revised eligibility timeline for enrolment with an Insolvency Professional Agency.
IBBI has amended the Insolvency Professionals Regulations, 2016 on 3rd April 2025, increasing the permitted time gap between passing the Limited Insolvency Examination and applying for enrolment as a professional member with an Insolvency Professional Agency (IPA). The revised regulation now prescribes that:
a) The application for enrolment with an IPA must be made within 24 months from the date of passing the examination;
b) This is an increase from the previous limit of 12 months;
c) Applications submitted beyond this new time frame will not be considered valid under the regulations.
Aspirants and eligible professionals must plan their registration and compliance timelines accordingly to ensure uninterrupted progression towards becoming a registered Insolvency Professional.

IBBI Update – IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ("CIRP Regulations")

IBBI UPDATE – IBBI (INSOLVENCY PROFESSIONALS) REGULATIONS, 2016 ("IP REGULATIONS")

All Insolvency Professionals shall submit the revised Compliance Certificate (Form H) along with the resolution plan to the Adjudicating Authority.
IBBI has amended the Insolvency Resolution Process for Corporate Persons Regulations, 2016, on 3rd April 2025, by substituting a new Form H under Schedule-I. The revised Compliance Certificate (Form H) requires resolution professionals to provide comprehensive details of the resolution plan process, including:
a) Confirmation of compliance with all provisions of the Code and Regulations;
b) Chronology of key milestones and actions during the CIRP;
c) Evidence of receipt of performance security under Regulation 36B(4A); and
d) Structured disclosures to assist the Adjudicating Authority in expediting decision-making.
All resolution professionals are advised to ensure accurate and timely submission of the revised Form H, as it plays a crucial role in facilitating the approval of resolution plans.

Link to the Amendment

THE MINISTRY OF CORPORATE AFFAIRS (MCA) HAS ISSUED A PUBLIC NOTICE DATED 4TH APRIL 2025, PROPOSING AMENDMENTS TO THE COMPANIES (COMPROMISES, ARRANGEMENTS AND AMALGAMATIONS) RULES, 2016, TO EXPAND THE SCOPE OF FAST TRACK MERGERS UNDER SECTION 233 OF THE COMPANIES ACT, 2013.

MCA vide its notice dated 4th April, 2025 has proposed for inclusion of more classes of companies for Fast Track Merger under Section 233 of Companies Act, 2013.

Section 233 provides a simplified, fast-track merger process for certain types of companies. Unlike regular mergers under Sections 230–232 which require NCLT approval, Section 233 allows for mergers with the approval of the Central Government (through Regional Directors).

Currently, the fast-track route is available for:

- Two or more small companies;
- A holding company and its wholly-owned subsidiary;
- Start-up companies.

1. Merger Between one or more Unlisted Companies (other than Section 8 company) where every company involved in the merger meets the following criteria not more than 30 days before the date of notice:

- All companies involved must be unlisted.
- Borrowings < ₹50 crore from banks /Financial Institutions/ others and
- No default in repayment of borrowings.
- Auditor's certificate required to confirm the above.

This category allows financially stable unlisted companies to use the fast-track route, as long as their debt levels are in limits provided and they haven't defaulted.

2. Merger Between a Holding Company (Listed or Unlisted) and its Unlisted Subsidiary:

Current position: Only merger of a wholly-owned subsidiary ("WOS") into its holding company is allowed under fast-track. Proposed change: Subsidiaries other than WOS can now be merged into the holding

company using Section 233

➢ Enables group restructuring without NCLT even when the subsidiary isn't wholly owned, reducing compliance burden and time.

3. Merger Between Fellow Subsidiaries (Unlisted) Under the Same Holding Company

Current position: Not allowed under Section 233.
Proposed change: Allowing two or more fellow unlisted subsidiaries having the same holding company to merge using the fast-track route.

➢ Encourages internal group consolidations without having to go through the lengthy NCLT process.

4. Inclusion of Cross-Border Merger (Transferor: Foreign Holding Company) Already in Rule 25A(5)

Currently allowed under **Rule 25A(5)**: Foreign holding company (outside India) merges into its Indian wholly-owned subsidiary.
Proposal: Also include this under **Rule 25**, to make Rule 25 **self-contained.**

➢ Brings clarity and completeness to Rule 25 by consolidating provisions for cross-border fast-track mergers.

DEMAND NOTICE ISSUED BY OPERATIONAL CREDITOR TO KEY MANAGERIAL PERSONNEL (KMP) OF CORPORATE DEBTOR AND DELIVERED AT CORPORATE DEBTOR'S REGISTERED OFFICE, CAN BE CONSTRUED AS A DEEMED SERVICE OF DEMAND NOTICE AS REQUIRED UNDER SECTION 8 OF THE IBC | ISSUE RELATING TO DATE OF DEFAULT AND NOVATION OF CONTRACT, IF ANY, IS TO BE DECIDED BY THE NCLT AT THE TIME OF FINAL DISPOSAL OF THE SECTION 9 PETITION – VISA COKE LTD. VS. MESCO KALINGA STEEL LTD. – SUPREME COURT

Brief about the decision:

Facts of the case

- On 11.10.2019, Visa Coke Ltd. (Appellant/Operational Creditor/Seller) and Mesco Kalinga Steel Ltd. (Respondent/Corporate Debtor/Buyer) entered into a contract for sale and purchase of LAM Coke and accordingly, the Operational Creditor supplied LAM Coke to the Corporate Debtor and payment was made.
- While so, the Corporate Debtor sent emails dated 12.11.2019 and 16.11.2019 to the Operational Creditor, requesting delivery of 1700 MT of LAM Coke, with an assurance that LoC would be opened shortly. Based on the same, the Operational Creditor issued delivery orders for 1700 MT of LAM Coke on credit basis, but payment was not made, and the same remained due and payable by the Corporate Debtor.
- The Operational Creditor issued a demand notice in Form 3 on 31.03.2021 in compliance with section 8 of the IBC.
- The Operational Creditor served the demand notice under Section 8 of the Code in Form- 3 addressed to Director, Chief Financial Officer and Manager Commercial of the Corporate Debtor. The said notice was addressed to all the three Key Managerial Personnel (KMP) of the Corporate Debtor at their official address.
- Though the Corporate Debtor did not send any reply.
- The Operational Creditor filed an application before the NCLT under Section 9 of the IBC.
- The Corporate Debtor filed their reply on 24.09.2022.
- By order dated 24.01.2023, the NCLT dismissed the application observing that notice dated 31.03.2021 was sent to three managerial persons and no notice was sent/addressed to the Corporate Debtor and hence, the question whether service is valid or not, does not arise at all.
- Challenging the aforesaid order of the NCLT, the Operational Creditor preferred an appeal before the NCLAT under Section 61 of

the IBC. The NCLAT by order dated 03.10.2024, reported at Visa Coke Ltd. v. Mesco Kalinga Steel Ltd., (2024) ibclaw.in 674 NCLAT, dismissed the appeal, observing that no notice has been addressed to the Corporate Debtor through its managing director etc., and therefore, it cannot be termed to have been delivered to the Corporate Debtor and cannot be taken to be a notice issued under section 8 of the IBC.

the IBC. The NCLAT by order dated 03.10.2024, reported at Visa Coke Ltd. v. Mesco Kalinga Steel Ltd., (2024) ibclaw.in 674 NCLAT, dismissed the appeal, observing that no notice has been addressed to the Corporate Debtor through its managing director etc., and therefore, it cannot be termed to have been delivered to the Corporate Debtor and cannot be taken to be a notice issued under section 8 of the IBC.

Question

Whether the demand notice under Section Section 8 of IBC served by the Operational Creditor upon the Key Managerial Personnel (KMP) of the Corporate Debtor at their registered office constitutes valid service of the statutory demand notice under Section 8 of the IBC, so as to maintain a section 9 petition for initiation of CIRP against the Corporate Debtor?

Decision of the Supreme Court

A. Statutory requirements under Section 8 and Section 9 of IBC

- It is well settled law that an Operational Creditor must send a demand notice of unpaid operational debt to the Corporate Debtor as mandated under section 8 of the IBC, before initiating the proceedings under section 9 for CIRP and the failure to issue a proper demand notice can render the section 9 petition invalid.(p8)
- A section 9 petition can be filed only against the Corporate Debtor after giving prior notice under section 8 of the IBC to the Corporate Debtor; and the key requirements for filing the same are
  - (i) demand notice under section 8 must be served on the Corporate Debtor;
  - (ii) after 10 days, if the payment is not made or if there is no valid dispute, the application can be filed;
  - (iii) application must be filed in Form 5 as prescribed by the Adjudicating Authority Rules, 2016; and
  - (iv) supporting evidence such as invoices, bank statements, or written contracts must be attached.
- Further, a conjoint reading of section 8 of the IBC r/w Rule 5(2)(a) and (b) of the Adjudicating Authority Rules, 2016 would reveal that a demand notice under section 8 can be addressed and delivered to the Corporate Debtor through its Key Managerial Personnel (KMP).

- The Operational Creditor is required to send the demand notice in Form 3, which is the prescribed format used to comply with Section 8(1) of the IBC. The statutory Form 3 itself mentions “Name and address of the registered office of the Corporate Debtor” and “Madam/Sir”. It requires the Operational Creditor to state the name and address of the registered office. Further, in the ‘subject’ heading, the Operational Creditor is required to state clearly the demand notice/ invoice demanding payment of money against unpaid operational debt from the Corporate Debtor.
- Undoubtedly, the purpose of sending a demand notice is to give the Corporate Debtor an opportunity to either repay the outstanding debt, or dispute the debt if there are genuine reasons.
- Yet another mandatory requirement to admit the section 9 petition is the occurrence of a ‘default’. It cannot be disputed that the trigger to initiate CIRP under section 9 of the IBC is occurrence of a “default” and not “mere existence of debt”. In other words, the Operational Creditor has to establish as to what is the actual date of default, failing which, the application filed under section 9 of the IBC is incomplete.

B. Judicial Precedents

- In Rajneesh Aggarwal Vs. Amit J. Bhalla, (2017) ibclaw.in 1007 SC, the Hon’ble Court while dealing with requirement of notice under Section 138 of the Negotiable Instruments Act, 1881, held that a notice issued upon the Director of the Company amounts to notice to the Company. It was further held that the object of issuance of notice must be kept in mind and that the same cannot be construed in a narrow and technical manner without examining its substance.
- In the decision in K.B. Polychem (India) Ltd. v. Kaygee Shoetech Pvt. Ltd. (2020) ibclaw.in 193 NCLAT, the issue that arose for consideration was ‘whether deemed service of demand notice under Section 8 of the IBC is sufficient, to trigger the process under section 9 of the IBC’, the NCLAT, Principal Bench, New Delhi, after examining the relevant provisions of the IBC and the Adjudicating Authority Rules, 2016 and Rule 38 of the NCLT Rules, 2016, held that the Adjudicating Authority erred in rejecting the application filed under section 9 of the IBC.
- Following the above decision, the NCLAT, Principal Bench, New Delhi, in Shubham Jain v. Gagan Ferrotech Ltd. and Anr. (2021) ibclaw.in 40 NCLAT, wherein, the issue that fell for consideration was ‘whether service of Demand Notice u/s 8 of the Code on a Director of the Corporate Debtor can be construed as deemed delivery or not for Initiation of CIRP under Section 9 of the IBC’, held that service of notice on the Director must be held to be good service.

C. A substantive right should not be allowed to be defeated merely on technicality

- The Hon'ble Court in Sardar Amarjit Singh Kalra (Dead) by LRs & Ors. v. Pramod Gupta (Dead) by LRs & Ors., [Appeal (Civil) 1027-1028 of 1992], categorically observed that 'laws of procedure are meant to regulate effectively, assist and aid the object of doing substantial and real justice and not to foreclose even an adjudication on merits of substantial rights of citizen under personal, property and other laws. Procedure has always been viewed as the handmaid of justice and not meant to hamper the cause of justice or sanctify miscarriage of justice'.
- It is also a trite law that 'the procedural defect may fall within the purview of irregularity, but it should not be allowed to defeat the substantive right accrued to the litigant without affording reasonable opportunity' (Ramnath Exports (P) Ltd. v. Vinita Mehta, Civil Appeal No. 4639 of 2022). In other words, a substantive right should not be allowed to be defeated merely on technicality.

D. Issue relating to date of default and novation of contract, if any, is to be decided by the NCLT at the time of final disposal of the section 9 petition

- In this case, the Operational Creditor mentioned the date of default as 19.11.2019, in terms of the contract dated 11.10.2019. Subsequently, the contract was amended on various occasions, relating to lifting and delivery of LAM Coke. On this basis, the Corporate Debtor contended that the contract dated 11.10.2019 is novated and the default date mentioned in the petition is incorrect. However, the NCLT declined to decide this question as the Corporate Debtor raised the plea of novation of contract to nullify the occurrence of default without pleading the same, and that, the question of novation of contract is a mixed question of law and fact. The NCLAT also, did not delve into this aspect, as the same was not a subject matter of the appeal before it.
- In the given factual matrix, the Hon'ble Supreme Court is of the view that the issue relating to the date of default by the Corporate Debtor and novation of contract, if any, being a mixed question of law and fact, requiring detailed analysis based on the materials adduced by the parties, is to be decided by the NCLT at the time of final disposal of the section 9 petition, on merits.

E. Present case

- On a perusal of Form 3 notice dated 31.03.2021 issued by the Operational Creditor, it is revealed that the same was addressed to the names of the KMP and delivered to the registered office of the Corporate Debtor. Even the 'subject' and paragraph 1 of the notice clearly demonstrate that as per the IBC, demand notice / invoice

- demanding payment in respect of unpaid operational debt due from the corporate debtor was issued and thereby, the Operational Creditor called upon the Corporate Debtor to pay the operational debt within a period of ten days from the date of receipt of the notice, failing which, CIRP be initiated in respect of the Corporate Debtor. (p10.1)
- Notably, the said notice dated 31.03.2021 was served on the KMP in their official capacities at the registered office address of the Corporate Debtor.(p10.1)
- The contents of the notice clearly establish that the same was issued to the Corporate Debtor in respect of the operational debt due and payable by them. As such, it cannot be said that the Operational Creditor did not comply with the statutory requirement of sending demand notice in Form 3 to the Corporate Debtor as provided under section 8 of the IBC, before filing the section 9 petition seeking initiation of CIRP against the Corporate Debtor in respect of the unpaid operational debt.(p10.1)
- In the present case, the notice dated 31.03.2021 sent by the Operational Creditor to the KMP of the Corporate Debtor at the registered office address in the capacity of their official position, explicitly demonstrates that the same was issued to the Corporate Debtor demanding the operational debt due and payable by them. However, it is not the case of the Corporate Debtor that no notice was sent by the Operational Creditor calling upon the Corporate Debtor to pay the operational debt. Further, it is pertinent to point out that during the pendency of the section 9 petition, the Corporate Debtor approached the Operational Creditor for settlement, which was not fructified.(p14)
- In the instant case, the Corporate Debtor was unable to show any substantial prejudice being caused to them on account of such procedural irregularity. Therefore, in the Hon'ble Court opinion, the notice dated 31.03.2021 issued by the Operational Creditor to the KMP of the Corporate Debtor and delivered at the registered office of the Corporate Debtor, can be construed as a deemed service of demand notice as required under section 8 of the IBC.(p14.1)

F. Disposed of

- This appeal stands allowed by setting aside the orders impugned herein and the matter is remanded to the NCLT, which shall entertain the section 9 petition and decide the same afresh, on merits, after providing reasonable opportunity to the parties by letting in oral and documentary evidence. Needless to state that the NCLT shall pass orders without being influenced by any observations made in its earlier order. No order as to costs.
- Connected miscellaneous application(s), if any, shall stand disposed of.

CAN A SECTION 9 APPLICATION UNDER THE IBC BE ADMITTED IF PERSONAL AND MATRIMONIAL DISPUTES ARE BEING SETTLED BY CREATING A SITUATION WHEREIN INSOLVENCY IS BEING MANUFACTURED AGAINST CORPORATE DEBTOR? – OM SAI MOULDS AND PLACTICS VS. PLLASTOMAX ENGINEERING PVT. LTD. ANR. NCLAT NEW DELHI

Brief about the decision:

- OM Sai Moulds and Plactics (Operational Creditor/Appellant) has filed an Appeal against the dismissal of Section 9 Application 9 filed before the Adjudicating Authority.
- There is a close nexus between the parties. OM Sai Moulds and Plactics (Operational Creditor/Appellant) and Pllastomax Engineering Pvt. Ltd. (Corporate Debtor/Respondent Company) are interrelated as the Operational Creditor has the husband as its Director [Mr. Nilesh] and his wife [Sheetal] is the Director of Corporate Debtor. Furthermore, Mr Nilesh is also the Secretary of the Corporate Debtor.
- Nilesh had plenty of access not only to the Corporate Debtor (given the ownership cum governing structure) but also Operational Creditor as well as the documentation pertaining to the business relationship/transactions between the Operational Creditor and the Corporate Debtor. Furthermore, Nilesh had access to registered office of the Corporate Debtor and to Corporate Debtor's seal, stamp and letterheads and he also had access to Corporate Debtor's Director- Mrs. Sheetal Dahanukar's digital signature which was kept in registered office of the Corporate Debtor.
- Both husband and wife were having matrimonial disputes and have filed criminal complaints and counter complaints against each other. Also, a case of forgery has been filed by Respondent No. 2 [Sheetal Dahanukar] against Operational Creditor's Director Mr. Nilesh and proceedings are underway. Since the Director of the Operational Creditor had full access to the management and the governance of the Corporate Debtor, such a situation is not possible without him creating it. Mr Nilesh has created a situation in which insolvency has been manufactured to make sure that the Corporate Debtor suffers and in turn her wife also suffers. There is 3rd entity also namely M/s. Pan Products whose Director's [Mr Ghodi] wife Mrs. Ashwini is the Director of the Corporate Debtor. This third entity is also having strong control in the day to day working and affairs of the Corporate Debtor.
- From the materials placed on record, the Hon'ble Appellate Tribunal finds that the intervener namely Mrs Sheetal Dahunker – the Director of the Corporate Debtor is not having any say in the working of the Corporate Debtor. It finds that the personal disputes between

Nilesh and Ms Sheetal have reached such extreme that Mr Nilesh is using the insolvency proceedings through Appellant to settle personal score and take revenge.

- Mr Nilesh and Ms Sheetal have reached such extreme that Mr Nilesh is using the insolvency proceedings through Appellant to settle personal score and take revenge.
- It is argued by the Appellant that the debt is clearly an operational debt arising from the supply of goods to the respondent, invoices raised and issued and demand notice issued and the demand was never disputed and therefore there is a debt and a default and which was admitted also. Thus, the Appellant qualifies as an operational creditor and argues that the personal and matrimonial disputes raised by the director of the respondent do not constitute a dispute as per Section 5(6) of the code. Therefore, the Adjudicating Authority should have admitted the application under Section 9 of the Code. This argument presumes that all that which has been produced before the adjudicating authority is correct and believable and not manufactured and fabricated.
- From the materials placed on record and also the sequence of events, the Hon'ble Appellate Tribunal finds that personal disputes are being settled by creating a situation wherein insolvency is being manufactured against the Corporate Debtor. In such a background, it does not have any hesitation in concluding that the issue of admission under Section 9 does not arise.
- The Hon'ble Appellate Tribunal also agrees with the intervener that these are not insolvency proceedings but revenge litigation. The claim of operational debt was motivated by personal disputes between the parties, specifically the matrimonial dispute between Mr Nilesh Dahanukar (Partner of the Appellant/Operational Creditor) and Mrs Sheetal Dahanukar (Director of the Respondent/Corporate Debtor), and allegations of oppression and mismanagement by minority shareholders.
- The Hon'ble Appellate Tribunal, thus, finds that the company petition has not been filed for insolvency proceedings but is for ulterior motives. It does not find any infirmity in the findings of the adjudicating authority that the Section 9 application has been filed to settle personal disputes and such an act is reprehensible. In this background, it also agrees with the finding of the adjudicating authority for imposition of a cost of Rs. 10 lakhs on the petitioner for filing frivolous and motivated petition.
- Accordingly, the appeal is dismissed. All IAs are also disposed of accordingly. No orders as to costs.

CAN SUCCESSFUL RESOLUTION APPLICANT (SRA), AFTER APPROVAL OF RESOLUTION PLAN, ASK FOR REFUND OF LIQUIDATED DAMAGES DEDUCTED FROM INVOICES DURING THE CURRENCY OF THE CONTRACT AS PER THE TERMS AND CONDITIONS OF THE CONTRACT? – FABTECH PROJECTS AND ENGINEERS PVT. LTD. (FORMERLY FABTECH PROJECTS AND ENGINEERS LTD.) VS. HINDUSTAN PETROLEUM CORPORATION LTD. – NCLAT NEW DELHI

Brief about the decision:

Facts of the case

- Various Purchase Orders were issued by Hindustan Petroleum Corporation Ltd. (Respondent) to Fabtech Projects and Engineers Ltd. (Corporate Debtor) between 31.07.2018 to 09.07.2019 for construction of mounded storage vessels.
- The terms and conditions of the Purchase Order provided for deduction of liquidated damages from the invoices on account of the delay as per the terms and conditions.
- On Section 7 application filed by the Bank of Maharashtra, CIRP against the Corporate Debtor commenced on 24.09.2019.
- Resolution Professional after commencement of the CIRP had approached the Respondent with intent to carry out the contract work on the same terms and conditions.
- In the continuation of the CIRP period, invoices were issued by the Respondent in which liquidated damages were deducted as per the terms and conditions which were part of the running contract.
- In the CIRP of the Corporate Debtor, a Resolution Plan submitted by Manjeet Cotton Pvt. Ltd. and Parason Machinery (India) Pvt. Ltd. was approved by the Committee of Creditors (CoC) and thereafter by Adjudicating Authority on 16.11.2021.
- Resolution Plan contemplated extension of 12 months' period for completion of the contract.
- IA No.712 of 2022 was filed by the Applicant/Appellant (Successful Resolution Applicant) praying for various reliefs. The application was resisted by the Hindustan Petroleum Corporation Limited on the ground that 12 months' period was granted for completion i.e. 12 months from 16.11.2021 and extension of 12 months' period for completion of the contract does not have any effect on the liquidated damages which were deducted from the invoices as per the terms and conditions of the Purchase Order.
- Adjudicating Authority by the impugned order has rejected the application.

Decision of the Appellate Tribunal

- The reliance on the approved Resolution Plan regarding extinguishment of the claim has no effect on the liquidated damages which were already deducted by Hindustan Petroleum Corporation Ltd. from the invoices as per the terms and conditions of the Purchase Order. When the Resolution Professional was allowed to carry on the contract work after initiation of the CIRP, the said contract has to be carried out as per the terms and conditions and deduction of the liquidated damages from the invoices being part of the terms and conditions for carrying out the contract that cannot be faulted nor any direction after approval of the Resolution Plan can be issued for refund of such liquidated damages. Extension of 12 months is extension for completion of the work and liquidated damages deducted after 16.11.2021 has already been refunded. The Hon'ble Appellate Tribunal, thus, is of the view that the Adjudicating Authority did not commit any error in rejecting the application filed by the Appellant.
- What was held in Indian Oil Corporation Ltd. Vs. Manjeet Cotton Pvt. Ltd. & Ors., (2022) ibclaw.in 468 NCLAT was that all claims, liquidated damages, advances stands extinguished.
- The present is a case where it is not the case of the Hindustan Petroleum Corporation Ltd. that any claim towards liquidated damages is due on the corporate debtor nor any claim prior to CIRP or during the CIRP was filed. The present is a case where Successful Resolution Applicant after approval of the plan was asking for refund of deducted liquidated damages which deduction was made from invoices during the currency of the contract as per the terms and conditions of the contract. Thus, extinguishment of the claims, liquidated damages on account of approval of the resolution plan has no effect on the liquidated damages already deducted as per terms and conditions of the contract.
- It is true that any claim which was not filed or not part of the Resolution Plan shall stand extinguished on the approval of the Resolution Plan but that does not mean that any liquidated damages deducted during currency of the contract should be allowed to be refunded to the Successful Resolution Applicant.
- The Hon'ble Appellate Tribunal, thus, does not find any error in the order of the Adjudicating Authority dismissing the Application filed by the Appellant. There is no merit in the Appeal. The Appeal is dismissed.

SECTION 29 OF IBC R/W CIRP REGULATION 36(2) CANNOT BE INTERPRETED TO MEAN THAT THE TRANSACTION AUDIT REPORT HAS TO BE INCLUDED IN THE INFORMATION MEMORANDUM AND SHARED WITH THE SRA | PBG GIVEN BY SRA CANNOT BE TREATED AS EQUITY INFUSION AS PER THE RESOLUTION PLAN – BANK OF BARODA VS. FORMATION TEXTILE LLC AND ORS. – NCLAT NEW DELHI

Brief about the decision:

A. Whether PBG and earnest money (EMD) has to be adjusted in the equity infusion, which is required to be made by the SRA under the Resolution Plan, has the PBG lost its nature and character to enable the CoC to invoke the PBG after the RP's treated it towards equity infusion?

- The judgment of the Hon'ble Supreme Court in State Bank of India and Ors. v. The Consortium of Mr. Murari Lal Jalan and Mr. Florian Fritsch and Anr., (2024) ibclaw.in 14 SC has clearly laid down that Clauses of RFRP, which required PBG be kept alive till complete implementation of Resolution Plan and shall not be set-off against any payment to be made by SRA. The Clauses of RFRP are binding on the SRA. In view of the aforesaid Clause, no submission on behalf of the Appellant that the amount of PBG should be treated towards equity infusion can be accepted.
- The submission of the Appellant that the PBG having been accepted towards equity infusion, the PBG lying with the CoC has lost its character and could not have been invoked, cannot be accepted.
- The Hon'ble Appellate Tribunal holds that PBG given by the Appellant – SRA was as per the RFRP had to continue till 100% implementation of the Resolution Plan and the said PBG cannot be treated as equity infusion as per the Resolution Plan.

B. Whether the RP is obliged under Section 29 read with CIRP Regulation 36(2) to include the Transaction Audit Report in the Information Memorandum and share the same to SRA, failure of which makes the implementation of the Resolution Plan voidable?

CIRP Regulation 36(2)(h) is confined to litigation and ongoing investigation or proceeding initiated by government or statutory authorities. The said clause obviously cannot relate to transaction audit report which has been directed by the RP for identification by the RP of the avoidance transaction. The provisions of Section 29 explanation as well as Regulation 36(2) thus cannot read to mean, as it existed at the relevant time, that transaction audit report was contemplated as an information which was required to be included in the information memorandum.

- The Hon'ble Appellate Tribunal, thus is of the view that Formation (SRA) cannot raise any issue regarding non-sharing of transaction audit report or not including the transaction audit report in the information memorandum for wriggling out from its obligation in the resolution plan, which had approved by the adjudicating authority on 30.11.2018. Non-sharing of transaction audit report in no manner can affect implementation of the resolution plan and it is far fetched to hold that due to not sharing of the said transaction audit report, the performance of the resolution plan became voidable.(p54)

C. SRA can be allowed to wriggle out from its obligation on the exclusion and pretext

- When the plan is approved by the adjudicating authority, obligations on the SRA to implement the plan becomes obligation which are to be statutorily enforced. Thus, on the said ground, the judgment of the Hon'ble Supreme Court in Ebix Singapore Pvt. Ltd. v. CoC of Educomp Solutions Ltd. and Anr. (2021) ibclaw.in 153 SC, cannot be distinguished nor SRA can be allowed to wriggle out from its obligation on the exclusion and pretext as was raised before the adjudicating authority.
- Adjudicating Authority committed an error in holding that due to not providing correct financial provisions of the corporate debtor to resolution applicant performance of the resolution plan became voidable. The said findings are incorrect findings and has been recorded without correct appreciation of facts and law.

D. Section 42 of the Companies Act, 2013 cannot be pressed into service where equity is required to be provided under the Resolution Plan

- The Section 42 of the Companies Act, 2013 was with respect to provisions in the Companies Act pertaining to share on a private placement basis. The above provision cannot be pressed into service where equity is required to be provided under the Resolution Plan.
- The consequence of providing or not providing the equity has to be read from Resolution Plan itself. Hence, the provision of Section 42(6), cannot be pressed by the Formation (SRA).(p94)

E. Breach of any undertaking or Clauses of the Resolution Plan

The law is well settled that insofar as breach of any undertaking or Clauses, which provide for forfeiture of any amount, there is no question of referring to Section 74 of the Indian Contract Act, 1872 and the said amount can be awarded. However, when damages or loss is difficult to prove, Court is empowered to award liquidated amount. The Hon'ble Supreme Court inKailash Nath Associates vs. Delhi Development Authority and Anr. (Civil Appeal 193 of 2015) has clarified the law.

- The Adjudicating Authority on breach of any terms and conditions by the SRA could very well have directed for payment of amount, which is contemplated in the Process Memorandum, under which the Resolution Plan is submitted.
- The Hon'ble Appellate Tribunal, however, is of the view that Adjudicating Authority could not have proceeded to adjudicate about the compensation or damages, which are not liquidated damages in exercise of jurisdiction under Section 60(5)(c) of the IBC.

F. Interim Trade Creditor [supply during CD in the hand of Formation (SRA)]

- After Formation (SRA) took over the CD certain interim trade creditors made certain supplies and were not paid. Subsequently CIRP was restored and the SRA in the second round paid some token money to them.
- The application by Interim Trade Creditors were filed before the adjudicating authority in the same CIRP proceedings where the Interim Trade Creditors has supplied goods and services to the corporate debtor at the time when it was in the control and management of Formation. Adjudicating authority noticed the earlier observation that Formation has failed in implementing the resolution plan and has also created liability to the extent of Rs.22.53 Crore out of which Rs.20.9 Crore still remains unpaid to the operational creditor.
- The Hon'ble Appellate Tribunal, thus is of the view that Interim Trade Creditors were entitled for payment of their balance dues of Rs.20.9 Crore and the said debts could have been very well discharged from fixed deposit of Rs.42.99 Crore which was kept in the fixed deposit under the orders of the adjudicating authority dated 19.02.2021.
- Formation has infused Rs.38 Crore in addition to amount of Rs.55 Crores, Rs.50 Crore of PBG and Rs.5 Crore of EMD, which Rs.38 Crore were towards the equity infusion. It is undisputed that no equity share could be allotted to the Formation. After discharging the dues of Interim Trade Creditors of Rs.20.9 Crores along with the interest earned on it, the balance amount of Rs.42.99 Crore which was kept in the fixed deposit towards amount infused by the Formation, thus rest of the amount along with interest earned on it need to be refunded to the Formation, i.e., amount of Rs.22.09 Crore with interest earned on it.

ONCE A DOCKET ORDER IS BROUGHT INTO THE PUBLIC DOMAIN THROUGH UPLOADING, NO SUBSEQUENT AMENDMENT SHOULD BE PERMITTED UNLESS ALL PARTIES TO THE PROCEEDINGS WHO ARE LIKELY TO BE AFFECTED ARE NOTIFIED | ANY RECTIFICATION APPLICATION UNDER NCLT RULE 154 FILED SUBSEQUENT TO THE FILING OF AN APPEAL WOULD NOT BE ENTERTAINABLE IN VIEW OF THE FIRST PROVISO TO SECTION 420(2) OF THE COMPANIES ACT, 2013 – DECCAN ADVANCED SCIENCES PVT. LTD. VS. ESCIENTIA BIOPHARMA PVT. LTD. AND ORS. – NCLAT CHENNAI

Brief about the decision:

- The provision of Rule 154 of the NCLT Rules, provides power with the Tribunal of 'rectification'. The rectification herein would mean only making any clerical or arithmetical mistakes in the order within the scope contemplated under it, arising out of an accidental slip or omission, which could only be corrected by the Tribunal, "on its own motion" or on an application preferred under Rule 154(2), which prescribes the format i.e., NCLT-9, under which the application contemplated under Rule 154(1), is to be preferred.
- At the stage of passing of the order on 10.03.2025, or even prior to it no notice of any nature whatsoever was ever issued to any of the parties to the proceedings. Hence, even if the orders of 10.03.2025, is taken as to be an order passed in the exercise of suo motu powers, it would be bad, suffering from derogation of the principles of natural justice, as prior to passing of an order, on much less substantial changes such as arithmetical corrections, the parties are required to be heard, which apparently was not done nor does it reflect that the said power was exercised by the Tribunal in the exercise of suo motu powers.
- When the docket order was published, it would be deemed to have been brought into public domain and since it contained an interim arrangement, it would have an effect that once it is uploaded on 07.03.2025, no subsequent alterations could have been permitted without a prior notice.
- Hence, as far as the order, dated 10.03.2025 as rendered in CP No. 44/241/HDB/2023, is concerned, being in violation of the uploading of the docket order of 07.03.2025, coupled with the fact, that, as per available records, no prior notice was issued by the Tribunal even while taking a suo motu cognizance, while passing the order of 10.03.2025, the order would be bad in the eyes of law. Hence, the order of 10.03.2025 deserves to be quashed, and is hereby quashed. The Company Appeal (AT) (CH) No.44/2025 would stand allowed.

- Any application for rectification which is filed subsequent to the filing of an appeal would not be entertainable in the light of the embargo created by the first proviso to Section 420 (2). Accordingly, the impugned order dated 25.03.2025 too cannot be made sustainable. Thirdly and most importantly, once the principal docket order was brought into the public domain on 07.03.2025, through uploading, no subsequent amendment could have been permitted in that order, until and unless all the parties to the proceedings who are likely to be affected are noticed. In that view of the matter the order dated 25.03.2025 too cannot be sustained, and the same is quashed. The Company Appeal (AT) (CH) No.43/2025, would stand allowed.
- The quashing of the impugned orders, as it had been put to challenge in the two connected appeals decided by this judgment, will not prevent the Respondents from filing a fresh application under Rule 154 of the NCLT Rules for seeking a rectification of the order which has to be decided exclusively on its merit taking into consideration the legal consequences flowing from Section 420 of the Companies Act, 2013, as dealt above.
- As a consequence of, allowing of the above appeals, all Interlocutory Application would stand ‘closed’.

RD REDUCES PENALTY FOR DELAY IN INTERNAL AUDITOR APPOINTMENT DUE TO DELISTING OF COMPANY AND INTERNAL CHALLENGES FACED

Background of the case

1. M/s KonoriaPlaschem Limited – a listed company situated in Bangalore, failed to appoint an internal auditor from April 1st, 2014, to December 30th, 2020, causing a delay of 2,466 days. On 31st December 2020, the company appointed an internal auditor and set things right regarding the non-compliance. The non-compliance was observed by the Registrar of Companies of Bangalore when he undertook an enquiry under the provisions of section 206 of the Companies Act 2013 that the company did not appoint the internal auditor from the financial year 2014-15 onwards and thereby violated the provisions of section 138 of the Companies Act 2013 read with Rule 13 of the Companies (Accounts) Rules 2014. After following the due procedure of law, the Registrar of Companies passed an order against the company and its managing director by levying a total penalty of Rs. 2,50,000 for the above violation.

M/s. KonoriaPlaschem Limited and its Managing Director filed an appeal under section 454(5) of the Companies Act,2013, challenging penalties imposed by the Registrar of Companies (ROC), Karnataka, for non-compliance with Section 138 for the delayed appointment of the internal auditor. The company attributed the reason for the delayed appointment of the internal auditor to internal challenges related to its delisting process from the Bombay Stock Exchange, which began in the year 2018 and also stated that the delay was unintentional and did not harm public interest, creditors, or stakeholders. After his review, the Regional Director accepted the arguments the company and its managing director put forward, reduced the penalty from Rs. 2,00,000 to Rs. 85,000, and disposed of the appeal. Let us go through this case in detail to understand the reasoning for the non-compliance, the stand taken by the company, and the rationale behind the reduction of the penalties.

Details of the company

2. M/s. KonoriaPlaschem Limited was incorporated on 23rd December 1993 under the provisions of the Companies Act 1956. The company's registered office is situated at No. 21A Bommasanra Industrial Area, Hebbagodi, Bangalore in the state of Karnataka. The office of the Registrar of Companies is situated in Bangalore. The company, per the details shown at the MCA portal, has four directors on its board, and one is designated as managing director. The company also have a chief financial officer and a company secretary in whole time employment.

M/s. Kanoria Plaschem Limited is a manufacturing company in plastic injection moulding and mould development, serving industries like automotive, furniture, consumer durables, and electronics.

Default/violations committed by the company.

3. The Registrar of Companies in his order of adjudication had stated during the course of inquiry under section 206 of the Companies Act 2013, it was observed that the company did not appoint internal auditor from 2014-15 onwards and violated the provisions of section 138 of the Companies Act 2013 read with Rule 13 of the Companies (Accounts) Rules, 2014. The company and the respective officers in default had violated the provisions of section 138 of the Companies Act 2013 for non-appointment of an internal auditor from 1st April 2014 to 30th December 2020 for a period of 2466 days, and the internal auditor was appointed by the company only on 31st December 2020.

Penalty levied by Registrar of Companies / Adjudication Officer

4. The Registrar of Companies / Adjudicating Officer, having considered the facts and circumstances of the case and after having heard the submissions made by the authorised representative on behalf of the company and its directors, passed an adjudication order on 22nd May 2024 via his order bearing no.F.No. ROC(B)/Adj.Ord .454-138/Kanoria Plaschem/ Co.No.014461/2024/859-860 under section 454 of the Companies Act 2013, for violation of provisions of section 138 of the Companies Act 2013 for the non-appointment of internal auditors for a period of 2466 days. The details of the penalty imposed on the company and directors in default were shown in the table below:

Sr. No	Violation Section	Nature of violation	Period of violation	Penalty levied upon	Penalty imposed Rs.
1	Section 138 of the Companies Act 2013	Delayed appointment of internal auditor for 2466 days	1/4/2014 to 30/12/2020	Company	2,00,000
2				Managing Director	50,000
				Total Penalty	**2,50,000**

Appeal filed by the company.

5. The appeal was filed by the company and its managing director of the company on 21st July 2024 by aggrieved by theadjudication order passed by theRegistrar of Companies, Bangalore of Karnataka on 22nd May 2024 on this matter vide File No. F No. ROC(B) /Adj. Ord. 454-138 /Kanoria Plaschem/Co. No 014461/2024/859-860 under section 454of the Companies Act 2013, for default in compliance with the requirements of section 138 of the Companies Act, 2013.

Contents of the appeal

6. The company stated in the appeal petition that: -

(a) The company was listed with the Bombay Stock Exchange, and the Bombay Stock Exchange had issued a notice to the company for compulsory delisting of its equity shares due to its failure to meet the listing requirements, coupled with financial distress.
(b) The company stated in its appeal petition that the company was in the process of delisting, and the company finally got delisted from the Bombay Stock Exchange on 4th July 2018 (as per the SEBI website)
(c) While admitting the non-compliance for failing to appoint the internal auditor from 1 April 2014 to 30 December 2018, the appeal petition stated that the non-compliance was unintentional and due to internal challenges related to its delisting process from the Bombay Stock Exchange.
(d) The appeal petition also stated that the non-compliance did not harm the company's public interest, creditors or stakeholders.
(e) The appeal petition ended with a prayer to consider the above factor and take a lenient view. Accordingly, it sought relief from the quantum of penalty levied by the Registrar of Companies.

Action taken by the Regional Director of SER – issue of personal hearing notice.

7. The Regional Director noted that the adjudication order was passed on 20th May 2024, and the appeal was filed on 21st July 2024 in form ADJ, and the appeal was under section 454 (5) of the Companies Act 2013. On examination of the application/appeal, it was seen that the appeal was filed within the time limit from the date of passing the adjudication order by the Registrar of Companies, Bangalore, in terms of provisions of section 454(6) of the Companies Act 2013. Upon verification of the appeal petition, the Regional Director granted an opportunity to be heard
and accordingly issued a personal hearing notice fixing the hearing date as on 11th December 2024.

On the day of the personal hearing

8. M/s KonoriaPlaschem Limited and its Managing Director had appointed an authorised representative – a practising company secretary - who had appeared on behalf of the company and its directors and represented the matter and made the submissions on the day of personal hearing, i.e. on 11th December 2024.

(a) During the hearing, the learned practising company secretary on behalf of the company and its managing director reiterated the submissions made in the appeal petition once again.
(b) The learned practicing company secretary submitted that the company, being a listed company, was required to appoint an internal auditor and further submitted that due to the delisting process based on the delisting order issued by the Bombay Stock Exchange sometime, the company had been trying to delist itself based on the delisting order received from the Bombay Stock Exchange.
(c) The learned practicing company secretary attributed the reason for the non-appointment of an internal auditor to Internal turmoil caused by the company's delisting from the Bombay Stock Exchange until 2020.
(d) The learned practicing company secretary also brought to the notice of the Regional Director that the appointment of an internal auditor, was done at the 27th Annual General Meeting held on 31st December 2020
(e) The learned practising company secretary further submitted that the default was not intentional and was not of such a nature as would prejudice the interests of the members or creditors or others dealing with the company.
(f) The company and its managing director had also unequivocally submitted a declaration stating that the default would not affect the public interest in any way and that no harm would be caused to the public interest.

Conclusions reached by the Regional Director

9. After taking considerations of the facts of the appeal and the submissions made by the authorised representative on
behalf of the company and its managing director the Regional Director deemed fit in the interest to meet the end of
justice, decided to reduce the penalty imposed by the Registrar of Companies and accordingly he passed the following
order as stated below by granting relief in the quantum of penalty levied by the Registrar of Companies.

The Regional Director passed the order

10. The Regional Director, in view of the above and after taking into

consideration the fact of the appeal and the submissions made by the authorised representative, allowed the appeal and granted relief to the company and its directors and reduced the penalties imposed by the Registrar of Companies, Karnataka, at Bangalore on this matter, to meet the end of justice. The revised order passed by the Regional Director was as follows.

Sr. No	**Violation section of the Companies Act and the nature of the violation committed by the company**	**Penalty levied upon the Company/directors**	**The order passed by the**	
			Registrar of Companies	Regional Director
			Rupees	Rupees
1	Section 138 of the Companies Act, 2013 - delayed appointment of internal auditor by 2466 days	Company	2,00,000	50,000
2		Managing Director	50,000	35,000
		Total Penalty	**2,50,000**	**85,000**

The order directed the company and its managing director to comply with it. They were also reminded about the provisions of section 454(8) of the Companies Act 2013 in case of failure to comply.

Compliance with the order issued by the Regional Director

11. The company and its Managing Director complied with the order issued by the Regional Director, made the payment as per the details furnished below for the default relating to the delayed appointment of an internal auditor, and communicated the same to the office of the Regional Director by providing the necessary details.

Sr. No	**Company/ Directors**	**Date of payment**	**SRN details**	**Amount of penalty (Rs)**
1	Company	13/12/2024	X88779012	50,000
2	Managing Director	13/12/2024	X88780127	35,000
			Total amount of Penalty	**85,000**

Issue of the order

13. The readers may like to read the complete details of the order in the

appeal passed by the Regional Director (Southern Eastern Region), Hyderabad, on 31st January 2025, order bearing no. F.no:9/29/adj/sec.138 CA. of 2013/Karnataka/ RD(SER)/2024 before the Regional Director, South East Region, Ministry of Corporate Affairs, Hyderabad, in the matter of Companies Act, 2013 / 6171 in the matter of M/s. KonoriaPlaschem 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 (the order uploaded under RD of South East on17th March 2025 titled as adjudication order for violation of section 138 of the Companies Act 2013 in the matter of M/s. KonoriaPlaschem Limited)

Conclusion

14. Under the framework of the Companies Act 2013, an appeal against the adjudication order passed by the Registrar of Companies could be made by any of the aggrieved personsunder the provisions of section 454 (5) of the Companies Act 2013 within a period of 60 days to the concerned Regional Director. The Regional Director would consider the merits of the appeal based on the grounds taken in the appeal petition and the submissions made at the time of the personal hearing. Depending upon the merit of the case, the Regional Director would grant the necessary relief either by way of setting aside the order or modifying the order or reducing the quantum of penalty levied by the Registrar of Companies. The relief granted by the Appellate Authority would purely depend upon a case-by-case basis and also based on the merit of the case.

In this case, the Regional Director of the South East Region, Hyderabad, decided the appeal and reduced the penalties imposed by the Registrar of Companies of Bangalore after considering the grounds taken by the company and its managing director. The company and its managing director put forward that the failure to comply with the law, i.e. failure to appoint an internal auditor for a considerable time, was due to internal challenges related to its delisting process from the Bombay Stock Exchange, which began in 2018. The company and its managing director also stated that the delay was unintentional and did not harm public interest, creditors, or stakeholders. The Regional Director, upon review of the appeal petition and the arguments put forward by the company, reduced the penalties from Rs. 2.50 lakh to Rs. 0.85 lakh

From this case, we could conclude that the company could appeal against the adjudication order based on genuine
grounds and seek relief from the Appellate Authority, which would be granted purely on merit. The company should, at
the first instance, ensure compliance, and in case any non-compliance has occurred, based on the merits, taking the necessary grounds, the

the appeal could be made, and relief could be sought. This particular case is one such case where the company got the relief based on merits, which the Regional Director had considered had occurred beyond the control of the managing director in this case.

Reference: -

1. Companies Act 2013
2. Companies (Accounts) Rules 2014
3. Companies (Adjudication of Penalties) Rules 2014
4. Companies (Adjudication of Penalties) Amendment Rules 2019
5. The Regional Director (South East Region), Hyderabad, passed the appeal order on 31st January 2025, with order bearing no. F.no:9/29/adj/sec.138 CA. of 2013/ Karnataka/ RD(SER)/2024 before the Regional Director, South East Region, Ministry of Corporate Affairs, Hyderabad, in the matter of Companies Act, 2013 / 6172 in the matter of M/s. KonoriaPlaschem Limited

SECTION 135- CSR COMPLIANCES

As we embark on the financial year 2025-26, we have compiled a list of compliances to guide you in meeting CSR compliance requirements as outlined in Section 135 of the Companies Act 2013.

The Companies Act, 2013 has introduced the concept of CSR in India to the forefront. It's a legal responsibility that casts upon a corporate body to address the socio-economic-environmental issues being faced by the nation.

Here are the **Important Definitions:**
As per Rule 2 of The Companies (Corporate Social Responsibility Policy) Rules, 2014:

"**Corporate Social Responsibility (CSR)**" means the activities undertaken by a Company in pursuance of its statutory obligation laid down in section 135 of the Act in accordance with the provisions contained in these rules, but shall not include the following, namely:-
(i) activities undertaken in pursuance of normal course of business of the company: Provided that any company engaged in research and development activity of new vaccine, drugs and medical devices in their normal course of business may undertake research and development activity of new vaccine, drugs and medical devices related to COVID-19 for financial years 2020-21, 2021-22, 2022-23 subject to the conditions that-
(a) such research and development activities shall be carried out in collaboration with any of the institutes or organisations mentioned in item (ix) of Schedule VII to the Act
(b) details of such activity shall be disclosed separately in the Annual report on CSR included in the Board's Report
(ii) any activity undertaken by the company outside India except for training of Indian sports personnel representing any State or Union territory at national level or India at international level
(iii) contribution of any amount directly or indirectly to any political party under section 182 of the Act
(iv) activities benefitting employees of the company as defined in clause (k) of section 2 of the Code on Wages, 2019 (29 of 2019);
(v) activities supported by the companies on sponsorship basis for deriving marketing benefits for its products or services
(vi) activities carried out for fulfilment of any other statutory obligations under any law in force in India.

"CSR Policy" means a statement containing the approach and direction given by the board of a company, taking into account the recommendations of its CSR Committee, and includes guiding principles

for selection, implementation and monitoring of activities as well as formulation of the annual action plan.

"CSR Committee" means the Corporate Social Responsibility Committee of the Board referred to in section 135 of the Act.

"Net Profit" means the net profit of a company as per its financial statement prepared in accordance with the applicable provisions of the Act, but shall not include the following, namely: -
(i) any profit arising from any overseas branch or branches of the company, whether operated as a separate company or otherwise; and
(ii) any dividend received from other companies in India, which are covered under and complying with the provisions of section 135 of the Act: Provided that in case of a foreign company covered under these rules, net profit means the net profit of such company as per profit and loss account prepared in terms of clause (a) of sub-section (1) of *section* 381, read with section 198 of the Act.

"Administrative overheads" means the expenses incurred by the company for 'general management and administration' of Corporate Social Responsibility functions in the company but shall not include the expenses directly incurred for the designing, implementation, monitoring, and evaluation of a particular Corporate Social Responsibility project or programmer.

"Ongoing Project" means a multi-year project undertaken by a Company in fulfilment of its CSR obligation having timelines not exceeding three years excluding the financial year in which it was commenced, and shall include such project that was initially not approved as a multi-year project but whose duration has been extended beyond one year by the board based on reasonable justification.

Compliances as per Section 135 & The Companies (Corporate Social Responsibility Policy) Rules, 2014

CSR Applicability	Every company including its holding or subsidiary, and a foreign company having its branch office or project office in India having: (i) a net worth of Rupees 500 crore or more; or (ii) a turnover of Rupees 1000 crore or more; or (iii) a net profit of Rupees 5 crore or more, in the immediately preceding financial year is required to comply with the CSR provisions.
What is CSR Responsibility?	The obligated companies are obligated to spend at least 2% of their average net profit of the immediately preceding three financial years on CSR activities given under Schedule VII of the Companies Act, 2013.

CSR Committee	Every company including its holding or subsidiary, and a foreign company having its branch office or project office in India having: (i) a net worth of Rupees 500 crore or more; or (ii) a turnover of Rupees 1000 crore or more; or (iii) a net profit of Rupees 5 crore or more, in the immediately preceding financial year is required to comply with the CSR provisions.
What is CSR Responsibility?	If CSR is applicable to company, it requires to constitute a Corporate Social Responsibility Committee of the Board consisting of three or more Directors, out of which at least one director shall be an independent director. Where a company is not required to appoint an independent director under sub-section (4) of section 149, it shall have in its Corporate Social Responsibility Committee two or more Directors. With respect to a foreign company covered, the CSR Committee shall comprise of at least two persons of which one person shall be as specified under clause (d) of sub-section (1) of section 380 of the Act and another person shall be nominated by the foreign company. Where the **amount spent by the Company on CSR does not exceed Rs. 50 lakhs, CSR Committee need not be constituted.** Company having any amount in its Unspent Corporate Social Responsibility Account shall constitute a CSR Committee and comply with the provisions of section 135.
Formulation of CSR Policy	CSR Committee shall formulate and recommend to the Board an annual action plan in pursuance of its CSR policy which shall include the following, namely:- (a) the list of CSR projects or programmes that are approved to be undertaken in areas or subjects specified in Schedule VII of the Act (b) the manner of execution of such projects or programmes as specified in sub-rule (1) of rule 4 (c) the modalities of utilisation of funds and implementation schedules for the projects or programmes (d) monitoring and reporting mechanism for the projects or programmes (e) details of need and impact assessment, if any, for the projects undertaken by the company. Board may alter such plan at any time during the financial year, as per the recommendation of its CSR Committee with reasonable justification.
Role of Board of Directors	The **role of the Board of Directors in implementing CSR** is as follows: • After considering the recommendations made by the CSR Committee, approve the CSR policy for the Company and disclose the contents of the Policy on its website.

	• The Board must ensure only those activities must be undertaken which are mentioned in the policy.
	• The Board of Directors shall make sure that the company spends every financial year, a **minimum of 2% of the average net profits made during the three immediately preceding financial years as per CSR policy**.
	• In case a company has not completed three financial years since its incorporation, the average net profits shall be calculated for the financial years since its incorporation.
	• The Board's Report shall disclose:
	  ◦ CSR Committee's composition
	  ◦ The contents of CSR Policy
	  ◦ In case company fails to spend its obligation of 2% as per CSR Policy, specify the reasons for not spending the amount
	  ◦ Transfer of the unspent amount for ongoing and other than ongoing project within timeline with details

Certification from CFO	The Chief Financial Officer or the person responsible for financial management shall certify about the funds so disbursed have been utilized for the purposes approved by the Board.
CSR Expenditure	The board should ensure that the **administrative overheads** shall not exceed five percent of total CSR expenditure of the company for the financial year. **Any surplus** arising out of the CSR activities shall be ploughed back into the same project or shall be transferred to the Unspent CSR Account. It should be spent in pursuance of CSR policy and annual action plan of the company or transfer such surplus amount to a Fund specified in Schedule VII, within a period of six months of the expiry of the financial year. Any surplus arising out of the CSR activities shall not form part of the business profit of a company. Where a company **spends an amount in excess of requirement** provided in section 135, such excess amount may be set off against the requirement to spend under section 135 up to immediate succeeding three financial years subject to the conditions that - (i) the excess amount available for set off shall not include the surplus arising out of the CSR activities, if any (ii) the Board of the company shall pass a resolution The CSR amount may be spent by a company for creation or acquisition of a capital asset, which shall be held by- (a) a company established under section 8 of the Act, or a Registered Public Trust or Registered Society, having charitable objects and CSR Registration Number or (b) beneficiaries of the said CSR project, in the form of self-help groups, collectives, entities or (c) a public authority

Display of CSR activities on its website	The Board of Directors of the Company shall mandatorily disclose the on their Website, if any, for public access- a) CSR Policy b) Composition of the CSR Committee c) Projects approved by the Board
Impact Assessment	Impact Assessment is applicable to company having **average CSR obligation of ten crore rupees or more in the three immediately preceding financial years.** It shall undertake impact assessment through an independent agency of their **CSR projects having outlays of one crore rupees or more.** The company must undertake impact study after at least one year of the completion of the project. Impact Assessment Report shall be placed before the Board and shall be annexed to the Annual Report on CSR. A Company undertaking impact assessment may book the expenditure towards Corporate Social Responsibility for that financial year, which shall not exceed 2% of the total CSR expenditure for that financial year or fifty lakh rupees, whichever is higher.
Implementing Agency	If a company wants to appoint implementing agency for executing or implementing its CSR activity, in that case the Board shall ensure that the CSR activities are undertaken by the company itself or through, – 1. a company established under section 8 of the Act, or a registered public trust or a registered society, exempted under sub-clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 or registered under section 12A and approved under 80 G of the Income Tax Act, 1961 (43 of 1961), **established by the company, either singly or along with any other company** **or** b) a company established under section 8 of the Act or a registered trust or a registered society, **established by the Central Government or State Government** **or** c) any entity **established under an Act of Parliament or a State legislature** **or** d) a company established under section 8 of the Act, or a registered public trust or a registered society, exempted under sub-clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 or registered under section 12A and approved under 80 G of the Income Tax Act, 1961, **and having an established track record of at least three years in undertaking similar activities.** A **company may engage international organizations** for designing, monitoring and evaluation of the CSR projects or programmes as per its CSR policy as well as for capacity building of their own personnel for CSR.

	A company may also collaborate with other companies to undertake projects or programmes or CSR activities in such a manner that the CSR committees of respective companies are in a position to report separately on such projects or programmes in accordance with these rules. • Transfer of unspent amount of CSR to specified funds In case of any CSR money which was obligated to spend in a financial year could not be spent such funds are to be transferred as provided under section 135. For ongoing projects- within 30 days from the financial year end, open a special account in any scheduled Bank named as "Unspent CSR account" and transfer such amount. The Company shall spend such transferred funds within a period of three financial years from the date of such transfer in the Scheduled Bank account. After three financial years, if anything remains unspent the same need to be transferred to a Fund specified in Schedule VII, within a period of 30 days from the date of completion of the third financial year. For activities / programs other than ongoing projects - within 6 months from financial year end, Transfer the unspent amount to a fund specified under Schedule VII- Prime Minister's National Relief Fund, PM CARES Fund, Clean Ganga Fund set up by Central Government for rejuvenation of river Ganga, Swachh Bharat Kosh set up by Central Government for promotion of sanitation are such specified funds.
CSR reporting & forms	Form CSR-2 Report on CSR Companies will have to provide the following: The details of the CSR amount spent in the three preceding financial years and details of all ongoing projects. Details of CSR Committee Details of CSR disclosed on the website Net Profit & other details of the company for the preceding financial years If any capital assets have been created or acquired through CSR spending Amount transferred to unspent account, etc. Form CSR-1 Every entity who intends to undertake any CSR activity shall register with the Central Government by filing the form CSR-1 electronically with necessary documents w.e.f. 1st April 2021. Form CSR-1 shall be signed and shall be verified digitally by a Chartered Accountant in practice or a Company Secretary in practice or a Cost Accountant in practice. On the submission of the Form CSR-1 on the portal, a unique CSR Registration Number shall be generated by the system automatically.
Schedule VII	*Activities which may be included by companies in their Corporate Social Responsibility Policies Activities- Link provide below the table

What is the Penalty for Non-Compliance of CSR provision?	For non-compliance with the provisions relating to undertaking of CSR expenditure and transfer to Unspent CSR Account/Schedule VII fund (as applicable). A defaulting company is now liable for the lesser of ₹ 1,00,00,000 (Rupees One Crore only) or twice the amount that should have been transferred to the Unspent CSR Account or the Schedule VII specified fund (as applicable). Additionally, a defaulting officer is now liable for the lesser of ₹ 2,00,000 (Rupees Two Lakhs only) or one-tenth of the amount that should have been transferred to the Unspent CSR Account or the Schedule VII specified fund (as applicable). In case of non-compliance with any other provisions of the section or rules, the provisions of section 134(8) or general penalty under section 450 of the Act will be applicable. Further, in case of non-payment of penalty within the stipulated period, the provisions of section 454(8) would be applicable.

LINK

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