

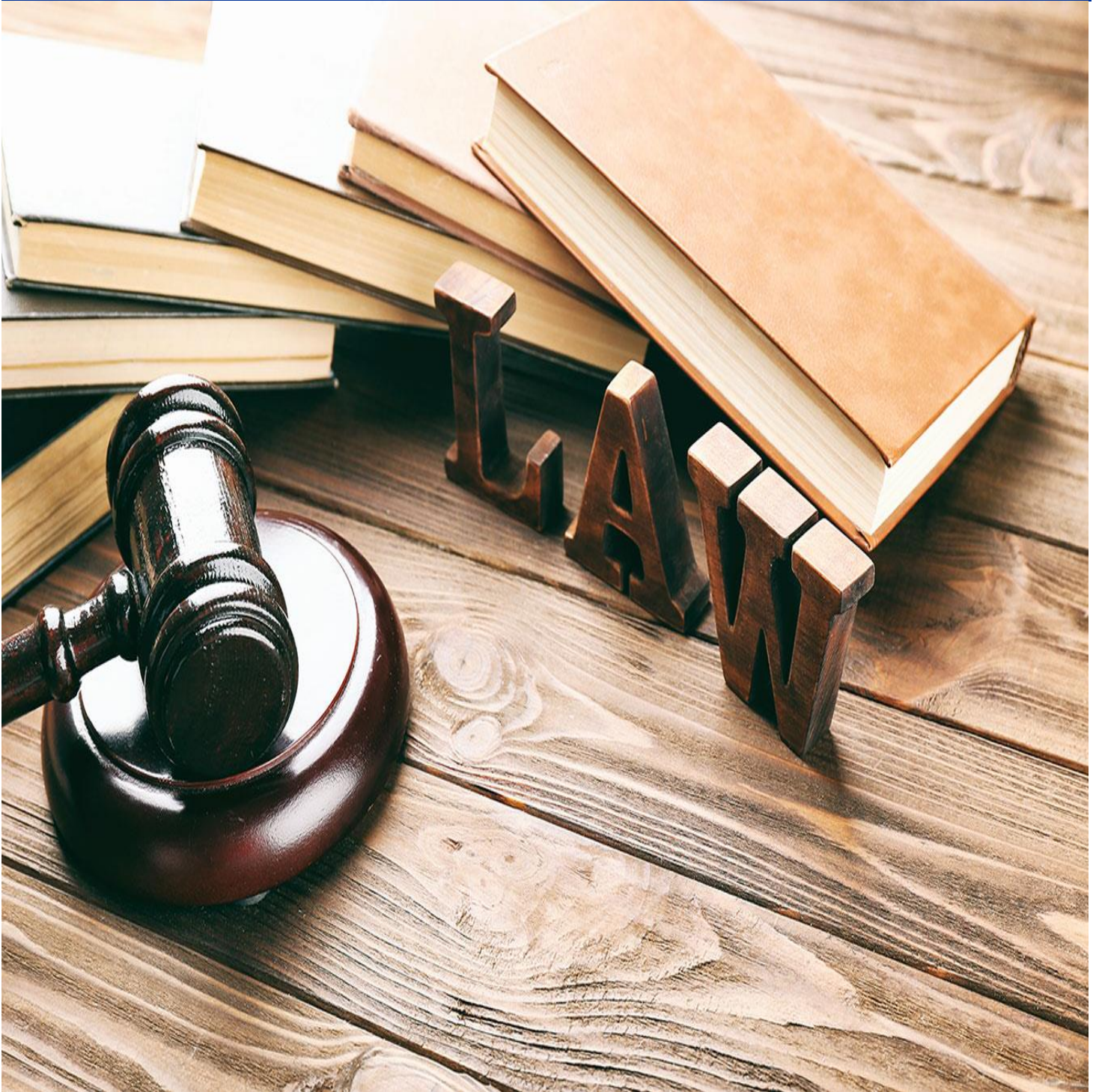


VAIBHAV  
GUPTA ASSOCIATES

# Newsletter

[www.vglaws.com](http://www.vglaws.com)

June, 2020



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[www.vglaws.com](http://www.vglaws.com)

[vaibhavguptaassociates@vglaws.com](mailto:vaibhavguptaassociates@vglaws.com)

+91-9876929371

[facebook.com/vglaws](https://www.facebook.com/vglaws)

[linkedin.com/company/vglaws](https://www.linkedin.com/company/vglaws)

5783, Duplex, MHC, Manimajra,  
Chandigarh-160101

## MESSAGE FROM THE MANAGING PARTNER

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### **SUCCESS IS NOTHING MORE THAN A FEW SIMPLE DISCIPLINES, PRACTICED EVERY DAY.**

Plenty of opinions are what one may get in the lifetime, when one tries to make on its own but what makes difference in the process is who is beside you, affirming your each step with caution and strength. And, here we are to join you in this process with our professional aide. We ensure our presence at each step that you take and every challenge that you undertake or might face, filling you with assurances that this guided platform may lead you towards.

Although the lockdown conditions have been relaxed, but economy has been effected to a greater extent. In order to boost the commercial activities in the country, the much awaited IBC Ordinance has been promogulated by the Hon'ble President of India by suspending the provisions of the IBC post lockdown for a particular period. With this news letter for the month June, 2020. Although the physical courts have not been functioning, but the judiciary has taken the challenge of conducting and delivering justice through video conferences across the country. We have tried to gather all such important case laws in the newsletter. Although all efforts are being made to publish the newsletter, but with the scope of improvement being never ending, your valuable suggestions are always invited.

I am also glad to announce that Vaibhav Gupta Associates has also launched its Blog on its website [www.vglaws.com](http://www.vglaws.com) whereby every endeavor is being made to publish legal updates in a timely manner. We have also started "Articles" column within the Blog. All the viewers all requested to contribute their articles for the blog. The same can be sent on the email id of the firm : [vaibhavguptaassociates@vglaws.com](mailto:vaibhavguptaassociates@vglaws.com)

*Vaibhav Gupta*

VAIBHAV GUPTA, ADVOCATE  
B.COM, ACS, LL.M  
MANAGING PARTNER  
VAIBHAV GUPTA ASSOCIATES

### Insolvency and Bankruptcy Code, 2016

- **IBC (Amendment) Ordinance, 2020- No fresh Insolvency for defaults post lockdown**

By virtue of the said powers vested in him under the Constitution of India, the Hon'ble President of India has promulgated the IBC Ordinance 2020 on 05.06.2020 to effectively suspend the operation of Sections 7, 9 & 10 of the Insolvency and Bankruptcy Code, 2016 with respect to defaults arising on or after 25.03.2020 for a period of six months, extendable up to a maximum of one year from such date as may be notified. The promulgation of this Ordinance has resulted in the insertion of new clauses, i.e., Section 10A and Section 66(3) in to the Insolvency and Bankruptcy Code, 2016.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 5th June, 2020

THE INSOLVENCY AND BANKRUPTCY CODE (AMENDMENT) ORDINANCE, 2020

NO. 9 OF 2020

Promulgated by the President in the Seventy-first Year of the Republic of India.

An ordinance further to amend the Insolvency and Bankruptcy Code, 2016

Whereas the entire ecosystem for implementation of the Insolvency and Bankruptcy Code, 2016 is in place;

AND whereas the provisions relating to corporate insolvency resolution process and liquidation process for corporate persons under the Code are in operation;

AND whereas COVID-19 pandemic has impacted business, financial markets and economy all over the world, including India, and created uncertainty and stress for business for reasons beyond their control;

AND whereas a nationwide lockdown is in force since 25<sup>th</sup> March, 2020 to combat the spread of COVID-19 which has added to disruption of normal business operations;

AND whereas it is difficult to fund adequate number of resolution applicants to rescue the corporate person who may default in discharge of their debt obligation;

AND whereas it is considered expedient to suspend under sections 7,9 and 10 of the Insolvency and Bankruptcy Code, 2016 to prevent corporate persons which are experiencing distress on account of unprecedented situation, being pushed into insolvency proceedings under the said Code for some time;

AND whereas it is considered expedient to exclude the defaults arising on account of unprecedented situation for purposes of insolvency proceeding under this code;

AND whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:-

1. (1) This Ordinance may be called the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2020.  
(2) It shall come into force at once.

2. After section 10 of the principal Act, the following section shall be inserted, namely:-

“10A. Notwithstanding anything contained in sections 7, 9 and 10, no application for initiation of corporate insolvency resolution process of a corporate debtor shall be filed, for any defaulting arising on or after 25<sup>th</sup> March, 2020 for a period of six months or such further period, not exceeding one year from such date, as may be notified in this behalf:

Provided that no application shall ever be filed for initiation of corporate insolvency resolution process of a corporate debtor for the said default occurring during the said period.

Explanation- For the removal of doubts, it is hereby clarified that the provisions of this section shall not apply to any default committed under the said sections before 25<sup>th</sup> March, 2020.”

3. In section 66 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:-

“(3) Notwithstanding anything contained in this section no application shall be filed by a resolution professional under sub-section (2), in respect of such default against which initiation of corporate insolvency resolution process is suspended as per section 10A.”

## Corporate Law-Updates

- **Clarification with regard to creation of deposit repayment reserve of 20 % u/s 73 (2) (C) of the Companies Act, 2013 and to invest or deposit 15 % of amount of debentures under Rule 18 of the Companies(Share Capital and Debentures) Rules 2014**

“

General Circular No. 24/2020

File No.02 /08 I 2020-CL-V

Government of India

Ministry of Corporate Affairs

5<sup>th</sup> Floor, A'Wing, Shastri Bhawan,  
Dr. R. P. Road, New Delhi- 1 10001.

Dated: 19th June,2020

To

All Regional Directors,  
All Registrar of Companies,  
All Stakeholders

Subject: Clarification with regard to creation of deposit repayment reserve of 20./o u/s. 73 (2) (C ) of the companies Act 2013 and to invest or deposit 15% of amount of debentures u/r.18 of Companies (Share capital and Debentures) Rules 2014 - COVID-19 -Extension of time-regarding .

Sir/Madam,

In continuation to General Circular No. 1112020 dated 24th March 2020 and keeping in view the requests received from various stakeholders seeking extension of time for compliance of the subject requirements on account of covid-19, it has been decided to further extend the time in respect of matters referred to in paras V , VI of the aforesaid circular, from 30th June 2020 to 30th September 2020. All other requirements shall remain unchanged.

2. This issues with the approval of the competent authority.

Yours faithfully,

(KMS Naryanan)

Assistant Director (policy) ”

- **Reclassification of MSME- Government of India Notification- 26.06.2020- Ministry of Micro, Small and Medium Enterprises**

In exercise of the powers conferred by Section 7 (9) (1) and Section 8 (2) and (1) of the Micro, Small and Medium Enterprise Development Act, 2006, the Central Government has, vide its notification dated 26.06.2020, notified certain criteria for classifying the enterprises as micro, small and medium enterprises and also specifies the form and procedure for filing the memorandum (Udyam Registration), w.e.f. 01.07.2020.

1. Classification of enterprise

Type	Investment in Plant and Machinery or Equipment	Turnover
Micro Enterprise	Does not exceed one crore rupees	Does not exceed five crore rupees
Small Enterprise	Does not exceed ten crore rupees	Does not exceed fifty crore rupees
Medium Enterprise	Does not exceed fifty crore rupees	Does not exceed two hundred and fifty crore rupees

## 2. Becoming a micro, small or medium enterprise.

Any person who intends to establish a MSME may file 'Udhyam Registration' online in the Udhyam Registration portal, based on self declaration with no requirement to upload documents, papers, certificates or proof. On registration, an enterprise will be assigned a permanent identity number to be known as "Udhyam Registration Number". An E-certification, namely- Udhyam Registration Certificate shall be issued on completing of the registration process.

## 3. Composite criteria of investment and turnover for classification.

If an enterprise crosses the ceiling, as specified above, for its present category in either of the two criteria of investment or turnover, it will cease to exist in that category and be placed in the next higher category. All units with GSTIN listed against the same PAN shall be collectively treated as one enterprise and the turnover and investment figures for all such entitles shall be seen together and only aggregate values will be considered for deciding the category as micro, small or medium enterprise.

## 4. Calculation of investment in Plant & Machinery or Equipment.

The calculation of investment in Plant & Machinery or Equipment would be linked to ITR. In case of a new enterprise, where there is no ITR, the calculation would be made on the basis of the self declaration of the promoter and such relaxation would be available up till 31<sup>st</sup> March of the F.Y. in which it files its first ITR. The expression 'Plant & Machinery or Equipment' of the enterprise, shall have the same meaning as assigned under the Income Tax Rules, 1962. The purchase (invoice) value of Plant & Machinery or equipment, shall be taken into consideration under self disclosure mode. The cost of certain items specified in the Explanation I to Section 7 (1) of the MSMED Act, 2006 shall be excluded from the calculation of the amount of investment in plant and machinery.

## 5. Calculation of turnover.

Exports of goods or services or both, shall be excluded. Information as regards turnover and exports turnover for an enterprise shall be linked to the Income Tax Act or the CGST and the GSTIN. The turnover related figures if such enterprise which do not have PAN will be considered on self declaration basis for a period up to 31.03.2021 and thereafter, PAN and GSTIN shall be mandatory.

## 6. Registration Process.

The form for registration shall be as provided in the Udyam Registration portal. There will be no fee for filing Udyam Registration. Aadhaar number shall be required for Udyam Registration. The Aadhaar number shall be of the proprietor in the case of a proprietorship firm, of the managing partner in the case of a partnership firm and of a karta in the case of a Hindu Undivided Family (HUF). In case of a Company or a Limited Liability Partnership or a Cooperative Society or a Society or a Trust, the organisation or its authorised signatory shall provide its GSTIN and PAN along with its Aadhaar number. In case an enterprise is duly registered as an Udyam with PAN, any deficiency of information for previous years when it did not have PAN shall be filled up on self-declaration basis. No enterprise shall file more than one Udyam Registration: Provided that any number of activities including manufacturing or service or both may be specified or added in one Udyam Registration. Whoever intentionally misrepresents or attempts to suppress the self-declared facts and figures appearing in the Udyam Registration or updation process shall be liable to such penalty as specified under section 27 of the Act.

## 7. Registration of existing enterprises.

All existing enterprises registered under EM-Part-II or UAM shall register again on the Udyam Registration portal on or after the 1<sup>st</sup> day of July, 2020. All enterprises registered till 30th June, 2020, shall be re-classified in accordance with this notification. The existing enterprises registered prior to 30th June, 2020, shall continue to be valid only for a period up to the 31<sup>st</sup> day of March, 2021.

## 8. Updation of information and transition period in classification.

An enterprise having Udyam Registration Number shall update its information online in the Udyam Registration portal, including the details of the ITR and the GST Return for the previous financial year and such other additional information as may be required, on self-declaration basis. Failure to update the relevant information within the period specified in the online Udyam Registration portal will render the enterprise liable for suspension of its status. Based on the information furnished or gathered from Government's sources including ITR or GST return, the classification of the enterprise will be updated. In case of graduation (from a lower to a higher category) or reverse-graduation (sliding down to lower category) of an enterprise, a communication will be sent to the enterprise about the change in the status. In case of an upward change in terms of investment in plant and machinery or equipment or turnover or both, and consequent re-classification, an

enterprise will maintain its prevailing status till expiry of one year from the close of the year of registration. In case of reverse-graduation of an enterprise, whether as a result of re-classification or due to actual changes in investment in plant and machinery or equipment or turnover or both, and whether the enterprise is registered under the Act or not, the enterprise will continue in its present category till the closure of the financial year and it will be given the benefit of the changed status only with effect from 1st April of the financial year following the year in which such change took place.

#### 9. Facilitation and grievance redressal of enterprises.

The Champions Control Rooms functioning in various institutions and offices of the Ministry of Micro, Small and Medium Enterprises including the Development Institutes (MSME-DI) shall act as Single Window Systems for facilitating the registration process and further handholding the micro, small and medium enterprises in all possible manner. The District Industries Centres (DICs) will also act as Single Window facilitation Systems in their Districts. Any person who is not able to file the Udyam Registration for any reason including for lack of Aadhaar number, may approach any of the above Single Window Systems for Udyam Registration purposes with his Aadhaar enrolment identity slip or copy of Aadhaar enrolment request or bank photo pass book or voter identity card or passport or driving licence and the Single Window Systems will facilitate the process including getting an Aadhaar number and thereafter in the further process of Udyam Registration. In case of any discrepancy or complaint, the General Manager of the District Industries Centre of the concerned District shall undertake an enquiry for verification of the details of Udyam Registration submitted by the enterprise and thereafter forward the matter with necessary remarks to the Director or Commissioner or Industry Secretary concerned of the State Government who after issuing a notice to the enterprise and after giving an opportunity to present its case and based on the findings, may amend the details or recommend to the Ministry of Micro, Small or Medium Enterprises, Government of India, for cancellation of the Udyam Registration Certificate.

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## Indian Stamp Act

- **Implementation of Amendments in the Indian Stamp Act, 1899 and Rules made from 1<sup>st</sup> July, 2020 for Rationalized Collection Mechanism of Stamp Duty across India with respect to Securities Market Instruments**

The Amendment in the Indian Stamp Act, 1899 brought through Finance Act 2019 and Rules made thereunder will come into effect from 01.07.2020 vide notification dated 30.03.2020. In order to facilitate ease of doing business and to bring in uniformity of the stamp duty on securities across States and thereby build a pan India securities market, the Central Government has created the legal and institutional mechanism to enable states to collect stamp duty on securities market instruments at one place by one agency (through Stock Exchange or Clearing Corporation authorized by it or by the Depository) on one Instrument.

The stamp-duty on sale, transfer and issue of securities shall be collected on behalf of the State Government by the collecting agents who then shall transfer the collected stamp-duty in the account of the concerned State Government. In order to prevent multiple incidences of taxation, no stamp duty shall be collected by the States on any secondary record of transaction associated with a transaction on which the depository / stock exchange has been authorized to collect the stamp duty. In the extant scenario, stamp duty was payable by both seller and buyer whereas in the new system it is levied only on one side (payable either by the buyer or by the seller but not by both, except in case of certain instrument of exchange where the stamp duty shall be borne by both parties in equal proportion). The collecting agents shall be the Stock Exchanges or authorized Clearing Corporations and the Depositories. For all exchange based secondary market transactions in securities, Stock Exchanges shall collect the stamp duty; and for off-market transactions (which are made for a consideration as disclosed by trading parties) and initial issue of securities happening in demat form, Depositories shall collect the stamp duty. The Central Government has also notified the Clearing Corporation of India Limited (CCIL) under the jurisdiction of RBI and the Registrars to an Issue and/or Share Transfer Agents (RTI/STAs) to act as a collecting agent. The objective is to bring OTC derivative transactions reported to CCIL and physical space (non-demat) transactions in mutual funds handled through RTI/STAs under the ambit of stamp duty regime so as to avoid any tax arbitrage. The collecting agents shall within three weeks of the end of each month transfer the stamp-duty collected to the State Government where the residence of the buyer is located and in case the buyer is located outside India, to the State Government having the registered office of the trading member or broker of such buyer and in case where there is no such trading member of the buyer, to the State Government having the registered office of the participant. The collecting agent shall transfer the collected stamp-duty in the account of concerned State Government with the Reserve Bank of India or any scheduled commercial bank, as informed to the collecting agent by the Reserve Bank of India or the concerned State Government. The collecting agent may deduct 0.2 per cent of the stamp-duty collected on behalf of

the State Government towards facilitation charges before transferring the same to such State Government. For many segments, there is reduction in duty. For example, the rate prescribed is lower for issue of equity/debentures and for transfer of debentures (including re-issue) to aid capital formation and to promote corporate bond market. For equity cash segment trading (both delivery and non-delivery-based transactions) and options, since rates are to be charged only on one side in line with the new scheme, it can be stated that there is an overall reduction in tax burden. Secondary market transfer of instruments which are traded with differences in a few basis points, like interest rate / currency derivatives or corporate bonds are being charged at a very lower rate from the existing rates. For the newly introduced 'repo on corporate bonds', a far lower rate is specified, since similarly positioned repo on Government Securities is not subject to duty. No stamp duty shall be chargeable in respect of the Instruments of transaction in stock exchanges and depositories established in any International Financial Services Centre set up under section 18 of the Special Economic Zones Act, 2005. Tax arbitrage is avoided by providing the same rate of stamp duty for issue or re-issue or sale or transfer of securities happening outside stock exchanges and depositories. Mutual funds, being delivery-based transactions in securities, were supposed to have been paying the duty as per various State Acts. All mutual fund transactions are thus liable for stamp duty and the new system has only standardized the charges across states and the manner of collection of stamp duty.

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## Arbitration Law

- **Hon'ble Delhi High Court lays down Guidelines to avoid multiplicity of Tribunal and inconsistent/contradictory awards under Arbitration.**

While dealing the matter in the case of Gammon India Ltd. & Another vs. National Highways Authority of India, wherein the parties had appointed three Arbitral Tribunals which adjudicated different disputes and claims, the Hon'ble Delhi High Court while referring to the provisions of the Arbitration and Conciliation Act, 1996 and on the issue of multiplicity of arbitral proceedings under the same contract inter se the parties, issued the following guidelines/directions in an attempt to further avoid such long delay multiple proceedings:-

1. In every petition under Section 34 of the Arbitration and Conciliation Act, 1996, the parties approaching the Court ought to disclose whether there are any other proceedings pending or adjudicated in respect of the same contract or series of contracts and if so, what is the stage of the said proceedings and the forum where the said proceedings are pending or have been adjudicated.

2. At the time when a Section 34 petitioner is being heard, parties ought to disclose as to whether any other Section 34 petition in respect of same contract is pending and if so, seek disposal of the said petition together.

3. In petitioner seeking appointment of an Arbitrator/Constitution of an Arbitral Tribunal, parties ought to disclose if any Tribunal already stands constituted for adjudication of the claims of either party arising out of the same contract or the same series of contracts. If such Tribunal has already been constituted, an endeavor can be made by the arbitral institution or the High Court under Section 11, to refer the matter to the same Tribunal in order to avoid conflicting and irreconcilable findings.

4. Appointing authorities under contracts consisting of arbitration clauses ought to avoid appointment or constitution of separate Arbitrators/Arbitral Tribunals for different claims/disputes arising from the same contract, or same series of contracts.

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### TENDER CONTRACTS

#### **RAJASTHAN STATE WAREHOUSING CORPORATIONS VS. STATE AGRIWAREHOUSING AND COLLATERAL MANAGEMENT LIMITED AND OTHERS, CIVIL APPEAL NO. 2651-2656 OF 2020, DoD- 24.06.2020**

Rajasthan Transparency in Public Procurement Rules, 2013, Rule 70(8) - Civil Procedure Code, 1908, Order 39, Rule 1 and 2 - Tender - Grant of interim order - Once bidding process is complete, appellant is entitled to take work from successful bidders rather than taking work from short-term tenderers who were granted contract in exigency of situation - In matters of contract, grant of interim order to restrain successful bidders from executing contract is not in public interest, more so, when tender is for storage of food articles in warehouses of State Government undertaking - Therefore, grant of interim order by Division Bench which impinges upon grant of contract by appellant is not in public interest that too without recording any reasons when Writ Petition was dismissed by Learned Single Judge - Order granting status quo set aside.

### INSOLVENCY AND BANKRUPTCY CODE, 2016

#### **VITAL SA VS. ASIAN NATURAL RESOURCES (INDIA) LIMITED, NCLT**

While a look back period has been provided for undervalued transactions under Section 46, there is no limitation period for fraudulent transactions covered under Section 49 and 66 of the Code. The intent is 'once a fraud' always a fraud. The maxim 'fraud vitiates every transaction into which it enters as well as the contracts and other transactions'.

### ARBITRATION LAW

#### **AGROCORP INTERNATIONAL PRIVATE LIMITED VS. NATIONAL STEEL AND AGRO INDUSTRIES LIMITED-NCLT MUMBAI**

On foreign award not binding upon parties in India issue, NCLT held that the United Kingdom, where the Arbitration Award has been passed, is a reciprocating territory in terms of Section 44A via notification No. 51 dated 01.03.1953 published in the Gazette of India, Extraordinary as SRO 399. Thus, the Award would be capable of execution in India, and the challenge by the Corporate Debtor on this score need to be repelled.

### TAX LAWS

#### **STATE OF ORISSA VS. M/S B. ENGINEERS & BUILDERS LTD., CIVIL APPEAL NO. 2516 OF 2020, DoD 05.06.2020**

Constitution of India, 1950 Article 366(29A) - Orissa Sales Tax Act, 1947, Section 5(2)(AA) - Work contract - Completed items of work - Reimbursement of Tax - Contractor company claimed reimbursement of amount of sales tax levied in respect of works contracts on strength of stipulations contained in Clause 45.2 of General Conditions of Contract of NCB bid documents that any Central or State sales tax on completed items of works as may be levied and paid by contractor should be reimbursed by employer on proof of payment on production of assessment certificate - After amendments were brought about in Act of 1947 for levying sales tax on works contract with effect from 07.04.1984, Circular dated 04.11.1986 was issued by Government of Orissa to effect that in case of works contract executed on or after 07.04.1984, containing specific clause for reimbursement of sales tax, Department of Irrigation and Power would be liable for reimbursement of amount of sales tax actually paid by concerned contractor on production of necessary documentary evidence - Claim for reimbursement was being made of tax that was levied on turnover of works contracts and not of tax paid by contractor on materials procured by it - High Court rightly allowed reimbursement - Appeal dismissed.

#### **RAMNATH & CO. VS. COMMISSIONER OF INCOME TAX, CIVIL APPEAL NO. 2506 OF 2020, DoD- 05.06.2020**

Income Tax Act, 1961 Section 80O - Royalty from foreign enterprises - Deduction - Objective of provisions - With objectives of giving impetus to functioning of Indian industries to provide intellectual property or information concerning industrial, commercial or scientific knowledge to foreign countries so as to augment foreign exchange earnings of our country - Provisions like Section 85C and Section 80O were inserted to Act. Income Tax Act, 1961 Section 80O Tax incentives - Proposition that incentive provisions must receive liberal interpretation or to say, leaning in favour of grant of relief to assessee cannot be countenanced - Law in relation to exemption notification, proprio vigore, would apply to interpretation and application of any akin proposition in taxing statutes for exemption, deduction, rebate et al., which all are essentially form of tax incentives given by Government to incite or encourage or support any particular activity.



Income Tax Act, 1961 Section 80O Royalty from foreign enterprises - Deduction - In case of incentive provisions like those for deduction, burden lies on assessee to prove its applicability to his case - If there be any ambiguity in deduction clause, same is subject to strict interpretation - Benefit of such ambiguity cannot be claimed by assessee, rather it would be interpreted in favour of revenue.

Income Tax Act, 1961 Section 80O Royalty from foreign enterprises - Deduction - For bringing any particular foreign exchange receipt within ambit of Section 80O for deduction, it must be consideration attributable to information and service contemplated therein - In case of contract involving multiple or manifold activities and obligations, every consideration received therein in foreign exchange will not ipso facto fall within ambit provision - Only that part of foreign exchange receipt, which is so attributable to activity contemplated by Section 80O, would qualify for claiming deduction.

Income Tax Act, 1961 Section 80O Royalty from foreign enterprises - Deduction - Assessee was merely marine product procuring agents for foreign enterprises - There was no claim for expertise capable of being used abroad rather than in India - Services rendered by assessee do not qualify as 'services rendered from India', for purpose of Section 80O of Act - No perversity in order of High Court - Appeal dismissed.

## INDIAN STAMP ACT

### INSPECTOR GENERAL OF REGISTRATION VS. S. BASKARAN, CIVIL APPEAL NO. 2586 OF 2020, DoD- 15.06.2020

Indian Stamp Act, 1899, Section 76A - Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, Rule 11A - Inquiry as to deficit stamp duty - Delegation of power to inquire - Statutory functionary exercising power cannot be said to have delegated his functions merely by deputing responsible and competent official to enquire and report - That is ordinary mode of exercise of any administrative power - If statutory authority empowers delegate to undertake preparatory work, and to take initial decision in matters entrusted to it, but retains in its own hands power to approve or disapprove decision after it has been taken, decision will be held to have been validly made if degree of control maintained by authority is close enough for decision to be regarded as authority's own.

Indian Stamp Act, 1899, Section 47A - Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, Rule 7 - Period of inquiry - Whether mandatory - Section 47A by itself does not prescribe any timeline - If stipulation or fixation of period of three months from first notice in terms of Rule 6 or from notice in Form II is taken to be mandatory, it would lead to situation of incongruity - Fixation of timeline of three months is purely directory.

Indian Stamp Act, 1899, Section 47A - Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, Rule 7 - Enhancement of market value - Whether mandatory - For exercising revisional power "suo motu" or "on its motion", concerned authority must be satisfied that order has been passed by authority or officer subordinate to it, which may be prejudicial to interest of revenue - While entertaining appeal, if obvious illegality is noticed by revisional authority, it can certainly exercise suo motu power to undo mistake, or rectify error committed by subordinate officer or authority, subject to such restrictions as are imposed on exercise of the power by the statute - Appellate authority has power Act to enhance market value of property while deciding appeal filed by the registrants.

## RENT LAWS

### SIRI CHAND (DECEASED) THROUGH LRs VS. SURINDER SINGH, CIVIL APPEAL NO. 261 OF 2020, DoD- 17.06.2020

East Punjab Urban Rent Restriction Act, 1949, Section 13 - Registration Act, 1908 Section 17(1)(d) Lease deed - Registration - Rent agreement entered between landlord and tenant - Clauses of rent note makes it clear that there was categorical promise that tenancy is monthly tenancy and rent is paid every month by 5th of every month - Although in clause (9), it was mentioned that tenant will be bound for making rent money by increasing 10% each year - That was promise by tenant to increase rent each year for period of tenancy, though period of tenancy was unspecified - Clause (9) was contingent clause which binds tenant to increase rent each year, which was contingent on tenancy to continue for more than year - Clause, however, cannot be read to mean that tenancy was for period of more than one year - Rent deed did not confer any right to tenant to continue in tenancy for period of more than one year nor it can be said that tenancy was created for period of more than one year - Rent note was not such kind of rent note, which requires compulsory registration.

East Punjab Urban Rent Restriction Act, 1949, Section 13 - Registration Act, 1908 Section 17(1)(d) Lease deed - Registration - Where rent deed does not prescribe any period for which it is executed - When lease deed does not mention period of tenancy, other conditions of rent deed and intention of parties has to be gathered to find out true nature of rent deed.

## CONSUMER LAW

### SURENDRA KUMAR BHIawe VS. THE NEW INDIA ASSURANCE COMPANY LIMITED, CIVIL APPEAL NO. 2632 OF 2020, DoD-18.06.2020

Consumer Protection Act, 1986 23 - Motor Vehicles Act, 1988 Section 2(30), 146 and 150 Contract Act, 1872 Sections 10, 23 and 24 Liability of insurer to pay compensation - Insured claimed compensation for accident of his truck - Claim repudiated on ground that claimant had sold vehicle to another person - Movable property is transferred to buyer at such time as parties to contract intend it to be transferred, provided such immovable property is free to be transferred - There was impediment to transfer, as there was no 'No Objection' of financier bank which was imperative for transfer of said truck - Even if buyer was in possession of said truck at time of

accident, such possession was not under any agreement of lease, hire purchase or hypothecation with Bank - Owner' to mean person in whose name motor vehicle stands registered.

Consumer Protection Act, 1986 23 - Motor Vehicles Act, 1988 Section 2(30), 146 and 150 Contract Act, 1872 Sections 10, 23 and 24 Liability of insurer to pay compensation - Where person, in whose favour certificate of insurance has been issued transfers to another person ownership of motor vehicle - Certificate of insurance and policy described in certificate are to be deemed to have been transferred in favour of person to whom motor vehicle is transferred, with effect from date of its transfer - Judgment and order of National Commission is unsustainable - Insurer directed pay to Appellant sum of Rs. 4,93,500/- as directed by District Forum.

## LABOUR LAWS

### **FICUX PAX PRIVATE LTD. VS. UNION OF INDIA, WRIT PETITION NO. 10983 OF 2020, DoD 12.06.2020**

Disaster Management Act, 2005, Section 10(2)(1) - Full payment of wages to employees during lockdown - Held, interim measures which can be availed by all private establishment, industries, factories and workers Trade Unions/ Employees Associations etc. which may be facilitated by State Authorities :-

i) Private establishment, industries, employers who are willing to enter into negotiation and settlement with workers/employees regarding payment of wages for 50 days or for any other period as applicable in any particular State during which their industrial establishment was closed down due to lockdown, may initiate a process of negotiation with their employees organization and enter into a settlement with them and if they are unable to settle by themselves submit a request to concerned labour authorities who are entrusted with obligation under different statute to conciliate dispute between parties who on receiving such request, may call concerned Employees Trade Union/workers Association/ workers to appear on a date for negotiation, conciliation and settlement. In event a settlement is arrived at, that may be acted upon by the employers and workers irrespective of the order dated 29.03.2020 issued by the Government of India, Ministry of Home Affairs.

ii) Those employers' establishments, industries, factories which were working during the lockdown period although not to their capacity can also take steps as indicated in direction No.(i).

iii) Private establishments, industries, factories shall permit workers/employees to work in their establishment who are willing to work which may be without prejudice to rights of workers/employees regarding unpaid wages of above 50 days. Private establishments, factories who proceed to take steps as per directions (i) and (ii) shall publicise and communicate about their such steps to workers and employees for their response/participation. The settlement, if any, as indicated above shall be without prejudice to the rights of employers and employees which is pending adjudication in these writ petitions.

iv) Central Government, all States/UTs through their Ministry of Labour shall circulate and publicise this order for benefit of all private establishment, employers, factories and workers/employees.

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#### **Approved By:**

**Vaibhav Gupta, Advocate**

**B.Com, ACS, LLM**

**Managing Partner,**

**Vaibhav Gupta Associates**

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