

CHARTERED SECRETARY

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**THE INSTITUTE OF
Company Secretaries of India**
IN PURSUIT OF PROFESSIONAL EXCELLENCE
Statutory body under an Act of Parliament

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GGDSD COLLEGE v. ASHISH GARG [CHANDIGARH STATE COMMISSION] Appeal No. 249 of 2010 S. Jagroop Singh Mahal (P) & Mrs. Neena Sandhu (M). [Decided on 16/12/2010] – <i>Consumer Protection Act, 1986 – Section 14 – Complainant took admission on OP’s college and subsequently in another college – Fees paid to the OP- OP kept a seat vacant throughout the year- Complainant joined the other college and demanded the refund of fee from the OP – Whether OP is liable to refund the fee – Held, No.</i>	64	RUBI (CHANDRA) DUTTA v. UNITED INDIA INSURANCE CO. LTD. [SC] Civil Appeal No. 2588 of 2011 Dalveer Bhandari & Deepak Verma, JJ. [Decided on 18/03/2011] – <i>Consumer Protection Act, 1986 – Damages to insured bus- claim rejected on the ground that driver was not having valid licence – District Forum found that he was having duplicate licence – Compensation allowed with interest – State Commission reduced the quantum but agreed with the finding – National commission set aside the orders – Whether Correct – Held, No. Whether interest can be allowed – Held, Yes.</i>	635
IDEA CELLULAR LTD. v. P.P.PAULOSE [Kerala State Commission] First Appeal No. A/10/690 K.R.Udayabhanu (P) & S. Chandramohan Nair (M) [Decided on 22/01/2011] – <i>Telegraph Act – Section 7-B read with Consumer Protection Act, 1986 – Disconnection of mobile connection – Whether covered under the arbitration provision contained in the Telegraph Act – Held, No.</i>	206	SAYEDABAD TEA COMPANY LTD. & ANR v. UNION OF INDIA & ORS [Cal] Rvw No. 93 of 2007 with Can No. 9721 of 2010 Kalidas Mukherjee & Raghunath Bhattacharyya, JJ. [Decided on 17/05/2011] – <i>Employees Provident Funds and Miscellaneous Provisions Act, 1952 – Section 7A – Assessment as to contribution was determined – Company filed appeal – Directions to make payment in instalments given – Company did not</i>	

make the payments- Company preferred review of this order – Whether allowable – Held, No.

STOCK HOLDING CORPORATION OF INDIA LTD. v. VIMAL RAOSAHEB CHOUGULE & ORS [MAHARASHTRA STATE COMMISSION] First Appeal No. A/07/1622 (Arisen out of Order Dated 20/10/2007 in Case No. 277/06 of District Sangli) and First Appeal No. A/07/1623 (Arisen out of Order Dated 23/10/2007 in Case No. 278/06 of District Sangli) and First Appeal No. A/07/1624 (Arisen out of Order Dated 23/10/2007 in Case No. 279/06 of District Sangli) and First Appeal No. A/07/1625 (Arisen out of Order Dated 23/10/2007 in Case No. 280/06 of District Sangli) and First Appeal No. A/07/1626 (Arisen out of Order Dated 23/10/2007 in Case No. 282/06 of District Sangli) S.R. Khanzode Presiding Member & S.P.Lale Member [Decided on 06/06/2011] – Consumer Protection Act, 1986 – Dematted shares – Fraudulent transfer of shares – Whether depository participant is liable – Held, No.

SUSHIL KUMAR PATHAK v. THE SECRETARY, DEVELOPMENT OF LABOUR & ORS.[CAL] W.P. No.1089 (W) of 2011 Debasish Kar Gupta, J.[Decided on 04/05/2011] – Industrial Disputes Act, 1947 – Section 10(1B)(d) – Conciliation proceedings – No settlement could be reached – Workman filed reference before the labour court – Labour court dismissed the application as time barred – Whether the court was correct – Held, No.

TRANS MEDITERRANEAN AIRWAYS v. M/S UNIVERSAL EXPORTS & ANR[SC] Civil Appeal No. 1909 of 2004 G.S. Singhvi & H.L. Dattu, JJ.[Decided on 15/09/2011] – Consumer Protection Act, 1986 – Non delivery of consignment by foreign airliner – Complaint entertained by National Commission and compensation granted – Whether foreign airliner amenable to the jurisdiction of national Commission – Held, Yes.

CORPORATE LAWS

ALL INDIA GARMENT EXPORTERS COMMON CAUSE GUILD & ORS. v. UOI & ANR [Del] W.P.(C) 5093/1998 & CM APPL 10101/1998, 10199/99, 1698/02 S. Muralidhar, J. [Decided on 18/01/2011] – Companies Act, 1956 – Sections 25, 111 read with Constitution of India – Articles 14, 19 (1) (g), 32, 226 and Foreign Trade Development and Regulation Act – Section 5 – AEPC – Classifying its member in two categories – Whether tenable – Held, No.

ASHWIN S. MEHTA & ANR v. UNION OF INDIA & OTHERS [SC] Civil Appeal No. 4263 of 2003 D.K. Jain & Asok Kumar Ganguly, JJ.[Decided on 08/11/2011] – Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992 – Sale of attached shares by custodian-Conditions of the approved scheme of sale of shares not complied with – Special court over looked the conditions of the scheme – Whether the sale of shares is valid – Held, No.

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ASHOK KUMAR MISHRA v. SECURITIES AND EXCHANGE BOARD OF INDIA [SAT] Miscellaneous Application No.100 of 2010 and Appeal No.253 of 2009 N.K. Sodhi, PO; Samar Ray& P.K. Malhotra (MM) [Decided on 15/11/2010] – Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 1995 – Regulations 3, 4 (b), 6(a) – False advertisements as to the issue of bonus shares- No issue of bonus shares – Managing director of the company penalized- Claim of the MD that(i) he did not attend 3 consecutive Board meetings of the company and that he ceased to be a director and (ii) he resigned from the Board – Whether tenable – Held, No.

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BHUSHAN ENERGY LTD & ORS v. SECURITIES AND EXCHANGE BOARD OF INDIA & ANR [SAT] Appeal No.65 of 2010 N.K. Sodhi (P), Samar Ray& P.K. Malhotra (M) [Decided on 28/12/2010] – Companies Act, 1956 – Section 108(1) – Transfer of shares – Transfer recorded in the books of the company – Consideration paid later date – SEBI considered the date of payment as the material date of transfer and held the appellants guilty of violating the Takeover rules – Whether correct – Held, No.

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CHATTERJEE PETROCHEM (I) PVT LTD v. HALDIA PETROCHEMICALS LTD. & ORS. [SC] Civil Appeal Nos.5416-5419 of 2008 with Civil Appeal Nos.5420, 5437-5440 of 2008 Altamas Kabir & Cyriac Joseph, JJ.[Decided on 30/09/2011] – Companies Act, 1956 – Sections 397, 398 and 402 – Private agreements between parties to invest in the company which included transfer shares by one party to another – Non lodging of share certificates by transferor with the company – CLB directing the performance of the agreements by the parties – Whether tenable – Held, No.

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CUSTODIAN OF TEXTILES UNDERTAKING v. HALL AND ANDERSON LTD. & ORS [SC] Civil Appeal Arising Out of SLP(C) No. 11162 of 2008 P. Sathasivam & B.S. Chauhan, JJ. [Decided on 17/01/2011] – Indian Companies Act, 1913 read with Textile Undertakings (Taking Over of Management) Act, 1983 and Textile Undertaking Nationalisation Act, 1995 – Company having non-textile premises at Calcutta and textile business in Bombay – Textile business was taken over by the Government – Whether the Calcutta premises is also said to have been taken over – Held, No.

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ELECTRONICS CORPORATION OF INDIA LTD v. UNION OF INDIA & ORS [SC] Civil Appeal No.1883 of 2011 (arising out of S.L.P. (C) No. 2538 of 2009) with Civil Appeal No. 1903 of 2008 S.H. Kapadia, Mukundakam Sharma, Radhakrishnan, Swatanter Kumar & Anil R. Dave, JJ. [Decided on 17/02/2011] – Government companies and instrumentalities of state – Inter se litigation – CoD to accord permission to commence litigation on court as per the directions issued by SC – CoD granted permission in one case and refused in

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another – whether the mechanism suggested by SC is workable under the present conditions – Held, No. Whether SC orders to be recalled – Held, yes.

EMPLOYEES PROVIDENT FUND COMMISSIONER v. O.L. OF ESKAY PHARMACEUTICALS LIMITED [SC] Civil Appeal No. 9630 of 2011 (Arising out of Special Leave Petition (Civil) No. 7642 of 2011) With Civil Appeal No. 9633 of 2011 (Arising Out Of Special Leave Petition (Civil) No.7644 of 2011) Civil Appeal No. 9632 of 2011 (Arising Out Of Special Leave Petition (Civil) No.7645 of 2011) Civil Appeal No. 9 631 of 2011 (Arising Out Of Special Leave Petition (Civil) No.7646 Of 2011) G. S. Singhvi & H. L. Dattu, JJ. [Decided on 08/11/2011] – Sections 529A and 530 of the Companies Act, 1956 read with section 11 of Employees' Provident Funds and Miscellaneous Provisions Act, 1952 – Sections 2(e), 7(A), 8(F), 11, 11(2) – Company under liquidation failed to deposit the EPF dues with the PF commissioner – During the recovery period the company was wound up – PF commissioner's plea to include the PF dues in the priority list was rejected by the company court – Whether correct – Held, No.

GUPTA REFRACTORIES v. CONSOLIDATED STEELS & ALLOYS LTD [DEL] Co. APP. 21/2009 Vikramajit Sen & Siddharth Mridul, JJ. [Decided on 05/09/2011] – Sick Industrial Companies Act – Sections 15(1), 16, 20; Madhya Pradesh Land Revenue (Code), 1959 – Section 147(C) – Sick company under winding up-Sale of immovable property by auction- Purchaser of movable property claimed that plant and machinery were also purchased by him – Whether plant and machinery can be excluded from immovable property – Held, No.

HUSSNAIN INTERNATIONAL v. UNION OF INDIA & ORS [SC] Civil Appeal Nos. 1980-1981 of 2011 R. V. Raveendran & A. K. Patnaik, JJ. [Decided on 21/02/2011] – Foreign Trade (Development and Regulation) Act, 1992 – Sections 11(2) and 15(1) – Failure to discharge export obligation – Adjudication resulting in imposition of penalty – Appellate Authority directs pre-deposit of Rs.5 lakhs – High Court, on appeal, enhances the pre-deposit to Rs.20 lakhs – Whether permissible – Held, No.

IFCI LTD v. TFCI LTD [Del] CO.A (SB) 13/2011 & CO. APPLS. 538/2011, 564/2011, 764/2011 Manmohan, J. [Decided on 16/05/2011] – Companies Act, 1956 – Sections 169, 398, 402 – Applicant company's request to convene a EOGM was rejected by the respondent company on the ground that company secretary is not authorized to sign the request – CLB upholding the ground – Whether CLB is correct – Held, No.

In Re: M/s. Vodafone Essar Limited, M/s. Vodafone Essar Mobile Services Limited, M/s. Vodafone Essar Gujarat Limited, M/s. Vodafone Essar South Limited, M/s. Vodafone Essar Digilink Limited, M/s.

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Vodafone Essar Cellular Limited, M/s. Vodafone Essar Infrastructure Limited [Del] Company Petition No. 334/2009 Sudershan Kumar Misra, J. [Decided on 29/03/2011] – Companies Act, 1956 – Sections 391 to 394 – Amalgamation – Tax issues – Safeguarding the revenue's interest – Delhi High court sanctions the scheme.

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IN RE: RECKITT BENCKISER (INDIA) LTD [DEL] C.P. 228/2010 & C. A. 1008/2010 & 2486/2010 Manmohan, J. [Decided on 03/10/2011] – Companies Act, 1956 – Sections 100, 101, 102, 103, 104, 105 – Reduction of capital – Objections on policy of the Government etc. – Whether tenable – Held, No.

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INDUSTRIAL DEVELOPMENT BANK OF INDIA v. THAPAR AGRO MILLS LTD [DEL] CO. A. (SB) 47/2006 Manmohan, J. [Decided on 17/03/2011] – Companies Act, 1956 – Sections 125 and 460(6) – Creditor obtaining decree from DRT – No charge has been registered under section 125 by the creditor – Whether the decree creates a charge in the assets of the company – Held, No.

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KANAIYALAL LALCHAND SACHDEV & ORS. v. STATE OF MAHARASHTRA & ORS. [SC] Criminal Appeal Nos. 338-340 of 2011 (Arising Out Of S.L.P. (Crl.) Nos.4436-4438 of 2009) D.K. Jain & H.L. Dattu, JJ. [Decided on 07/02/2011] – Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 – Sections 13(2), 13(3-A), 13(4), 13(10), 13(12), 14, 17, 17(1) – Secured creditor took action against the borrower and attached the secured property – Borrower challenged the action through writ – High court dismissed the writ stating that the borrower can appeal under the Act to DRT – Whether correct proposition of law – Held, Yes.

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NARAYAN CHANDRA GHOSH v. UCO BANK & ORS. [SC] Civil Appeal No. 2681 of 2011 D.K. Jain & H.L. Dattu, JJ. [Decided on 18/03/2011] – Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 – Sections 13(2), 17, 18, 18(1) – Appeal by the borrower – Condition of pre-deposit waived by the Appellate Tribunal – High Court set aside the order of the Tribunal- Whether correct – Held, Yes.

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PIRAMAL GLASS LIMITED v. UNION OF INDIA & ORS [Bom] Writ Petition No. 10079 of 2010 J.P. Devadhar & Mridula Bhatkar, JJ. [Decided on 03/03/2011] – Foreign Trade (Development & Regulation) Act, 1992 – Export promotion incentives – DFRC scheme – Import of formers under DFRC – Revenue demanding Duty on such import – Whether tenable – Held, No.

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PRADESHIYA INDUSTRIAL INVESTMENT CORPORATION OF U.P. LTD. & ANR v. OFFICIAL LIQUIDATOR, UTTAR PRADESH & UTTARAKHAND & ORS.[UK] Company Appeal No. 1 and 2 of 2008 Prafulla C. Pant, J. & Sudhanshu Dhulia, J.[Decided on 26/11/2010] – Section 483 of the Companies Act, 1956 read with Rules 7, 8, 9 of the Companies (Court) Rules, 1959 – Sick company under liquidation – Assets sold on

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	<i>public auction – Highest bidder sought extension of time to make payment – Secured creditor as well as the company under liquidation opposing the extension of time- Whether tenable – Held, No. – Whether a company under liquidation file an appeal independently when represented by OL – Held, No.</i>		
54	PRICE WATERHOUSE v. SEBI [SAT] Appeal No. 8 of 2011 N.K. Sodhi (PO), P. K. Malhotra & S.S.N. Moorthy (M). [Decided on 01/06/2011] – Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 – Satyam fraud – Show cause notice issued to auditors – they demanded the documents and statements on which the SCN was based and also wanted to cross examine certain persons – Board rejected their request – Whether correct – Held, No.		
923	R.G. SALES PVT. LTD & ANR v. GIRDHARILAL PARASRAMPURIA & ANR [Cal] APO No. 149 of 2011 with CP No. 448 of 2010 Kalyan Jyoti Sengupta & Syamal Kanti Chakrabarti, J. [Decided on 15/06/2011] – Companies Act – Section 560(6) – Company was struck of the register by ROC – An eviction suit was pending against the company – Trial court trying the suit set aside by the order of the ROC – Landlord appealed contending that with the striking of the company the suit abated – Whether tenable – Held, No.		
923	S. E. INVESTMENTS LTD. V. UNION OF INDIA & ORS [Del] W.P.(C) 2393/2010 S. MURALIDHAR [Decided on 21.04.2011] – Indian Stamp Act, 1899 (as applicable to Delhi) read with the Companies Act, 1956 – Increase in authorized share capital – Whether stamp duty is payable on the increased quantum – Held, No.		
625	SEA POLY PLAST INDIA PVT LTD & ORS v. UNION OF INDIA & ORS. [BOM] Writ Petition No. 1956 of 2011 D.Y. Chandrachud, J. & A.A. Sayed, J. [Decided on 14/11/2011] – Security Interest (Enforcement) Rules, 2002 – Rule 8(5) – No provision to consult with the borrower as to the valuation of the property – Whether renders the provision ultra vires –Held, No.		
1775	SESA INDUSTRIES LTD. v. KRISHNA H. BAJAJ & ORS. [SC] Civil Appeal Nos. 1430-1431 Of 2011 (Arising Out Of S.L.P (C) Nos. 8497-8498 Of 2009) D.K. Jain & H.L. Dattu, JJ. [Decided on 07/02/2011] – Companies Act, 1956 – Sections 209(A), 235, 391, and 394 – Amalgamation of companies – Objections as to non disclosure of inspection – OL filing reports on behalf of himself and Regional director – Single Judge sanctioned the scheme – Division bench set aside the sanction – Appeal to Supreme Court – Whether the setting aside of sanction order was valid – Held, No.		
350	SHIN SATELLITE PUBLIC COMPANY LIMITED v. ATN INTERNATIONAL LIMITED [Cal] C. P. No.99 of 2004 Patherya, J. [Decided on 29/07/2011] – Companies Act 1956 – Sections 433, 434, 439 – Winding up of company – Payment of security deposit and rent – Arrears of rent – Company		
	<i>admitted the rent arrears – Security deposit forfeited – forfeiture of security deposit disputed – Court admitted the petition qua admitted debt and relegated the parties to civil court of the disputed sum.</i>		1237
	SOCIETE GENERAL v. DAEWOO MOTORS INDIA LTD[Del] C.A.No. 227/2011 in C.P. No.66/2003 P.K. Bhasin, J. [Decided on 15/07/2011] – Companies Act,1956 – Company in liquidation – Assets of the company sold by DRT and part of the sale proceeds earmarked for workers due – Sale of the asset is under challenge – Workers sought release of some payment from the sale proceeds – Whether allowable-Held, No.		1081
	SOUTH ASIAN PETROCHEM LIMITED & ORS v. THE REGISTRAR OF COMPANIES [Cal] C.A. 387 of 2009 and C.P. 229 of 2009 I.P. Mukerji, J. [Decided on 05/04/2011] – Companies Act, 1956 – Sections 209(A), 211(1) (2), 217(1)(a), and 633(2) – Inspection of accounts of the company – Eight show cause notices initiating criminal proceedings – Company and directors/officers sought relief from the High Court – Whether relief could be granted – Held, yes.		627
	SRM ENERGY LIMITED v. SEBI & ANR [SAT] Appeal No. 34 of 2011 N. K. Sodhi (PO), P. K. Malhotra & S. S. N. Moorthy (M). [Decided on 06/06/2011] – Companies Act, 1956 – Sections 81(1) & 81(3) – further issue of capital – rights issue – Promoter company adjusted loans advanced by it against the share money – SEBI objected to this – Whether objection valid – Held, No.		922
	T.NARAYANAN v. OFFICIAL LIQUIDATOR & ANR [MAD] O.S.A.No.155 of 2011 & M.P.Nos.1 to 3 of 2011 R.Banumathi & B.Rajendran, JJ. [Decided on 19/10/2011] – Companies Act – Sections 439(1) – Companies Court Rules – Rule 9 – Son of the MD claiming to be a contributory challenged the winding up order based on two irregularities in the publication of advertisement – Whether tenable – Held, No.		1773
	T.V. VENUGOPAL v. USHODAYA ENTERPRISES LTD. & ANR [SC] Civil Appeal Nos.6314-15 of 2001 Dalveer Bhandari & Radhakrishnan, JJ. [Decided on 03/03/2011] – Copyright Act, 1957 and Trade Marks Act, 1999 – Passing off and dilution of trademark- Trademark ‘Eenadu’ – Used by appellant for agarbati and Respondent for its news paper and TV channel- Stay against appellant to use the name in Andhra Pradesh for his agarbatti – Whether tenable- Held, yes.		487
	THE PEERLESS GENERAL FINANCE & INVESTMENT CO. LTD. v. UCO BANK [CAL] GA No. 324 of 2011 CS No. 316 of 2010 Sanjib Banerjee, J. [Decided on 15/06/2011] – Companies Act – Section 205(C) – Unclaimed deposits – Banker’s cheques in favour of depositors not encashed – Plaintiff wants refund – Bank refuses to do so and suggests the amount to be claimed by the depositors – Whether correct – Held, No.		921

THE SARASWAT CO-OPERATIVE BANK LIMITED v. THE STATE OF MAHARASHTRA AND ANR [Bom] Writ Petition No. 4344 of 2011 D.Y. Chandrachud & Anoop V.Mohta, JJ.[Decided on 28/07/2011] – *Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 – Section 14 – Enforcement of security interest – District Magistrate sitting over the applications filed by the Secured creditor – Entering into merits of the case- whether tenable under the Act- Held, No.*

1237

UNION OF INDIA v. ASHOK J. RAMSINGHANI [Bom] Civil Application No. 176 of 2010 in First Appeal (ST) No. 27028 of 2010 J Devadhar & A Sayed, JJ. [Decided on 04/05/2011] – Sections 52, 50, 54 of Foreign Exchange Regulation Act, 1973 read with sections 13(1), 49(5) (c), 35 Foreign Exchange Management Act, 1999 – Adjudication under FERA imposing penalty – Appellate Tribunal set aside the demand under FERA – Second appeal to High Court was delayed by 291 days – Whether the second appeal is under FERA or FEMA – Held, second appeal was under FEMA – Whether delay can be condoned – Held, No.

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VIJAY SEKHRI & ORS. v. UNION OF INDIA & ORS. [DEL] W.P.(C) No. 7558 of 2010 CM No. 19670 of 2010 and W.P.(C) No. 7559 of 2010 CM No. 19672 of 2010 S. Muralidhar, J. [Decided on 29/11/2010] – Sections 397, 398, 402, 409 of the Companies Act, 1956 read with Section 45 of the Arbitration & Conciliation Act, 1996 – Shareholders agreement provided for arbitration – Dispute among shareholders – CLB referred the dispute to arbitration – Whether CLB was wrong – Held, No.

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GENERAL LAWS

ARTI JETHANI v. DAEHSAN TRADING (INDIA) PVT LTD & ORS [Del] CS (OS) No. 1296/2010 V.K. Jain, J.[Decided on 16/05/2011] – Arbitration and Conciliation Act – Section 8 – Agreement contained arbitration clause – Plaintiff filed the civil suit – Defendant moved an application for referring the disputes to arbitration after filing the written statement – Whether maintainable – Held, No.

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ASHRAF KHAN v. STATE & ANR [DEL] Crl.M.A.No. 18486/2010 in Crl. Rev. P. No.81/2010 Shiv Narayan Dhingra, J. [Decided on 20/12/2010] – Negotiable Instruments Act, 1881 – Section 138 – Dishonour of cheque – Offence upheld by trial court and sessions court – High Court admitted revision on the condition of deposit of Rs.20 lakhs – Payee withdrew the amount with the permission of the court – Drawer applied for the recall of the order allowing withdrawal of the money alleging black money transaction – Whether order to be recalled – Held, No.

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BAYER CROP SCIENCE LTD. v. HPM INDUSTRIES LTD & ORS [Del] CS (OS) No. 1106/2010 V.K. Jain, J.[Decided on 11/05/2011] – Suit for recovery against the company and directors – Admission of debt in criminal proceedings by the directors – Whether such

admission is acknowledgement of debt – Held, Yes – Whether directors are liable for the debt of the company – Held, No.

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BHARAT RASIKLAL ASHRA v. GAUTAM RASIKLAL ASHRA & ANR [SC] Civil Appeal No.7334 of 2011 [Arising out of SLP [C] No.15286/2011] R. V. Raveendran & A K Patnaik, JJ. [Decided on 25/08/2011] – Arbitration and Conciliation Act, 1996 – Section 11 – Arbitrator appointed under partnership deed of 1998 in the first arbitration application-Application for appointment of arbitrator under the partnership deed 2000 was objected to on the ground of fabrication of deed – Court appoints the arbitrator of 1998 deed to decide the issue of the validity of the 2000 partnership deed – Whether valid – Held, No.

1426

BHILWARA SPINNERS LTD v. UNION OF INDIA & ORS [Bom] Writ Petition No. 9259 of 2010 J.P. Devadhar & R.S, Dalvi, JJ. [Decided on 16/03/2011] – Foreign Trade (Regulation) Rules, 1993 – Rule 8 – EPCG licence – Conversion of licence – Import could not be made to the value of Rs.20 crore – Authorities initiated adjudication – To avoid penalty and duty licence converted after the expiry period and initiation of adjudication – Whether licence can be converted with retrospective effect – Held, Yes. Whether imposition of duty and penalty sustainable – Held, No.

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CROWN BUILDTECH PVT. LTD v. BHUPINDER LAL GHAI [DEL] FAO (OS) No. 385-386/2011 Dipak Misra, CJ & Sanjiv Khanna, J. [Decided on 05/09/2011] – Arbitration and Conciliation Act, 1996 – Sections 11 and 37 – Resignation of arbitrator and appointment of new arbitrator – Whether appeal lies against this latter appointment – Held, No.

1429

FUERST DAY LAWSON LTD & ORS v. JINDAL EXPORTS LTD & ORS [SC] Special Leave Petition (Civil) No.11945 of 2010 with Special Leave Petition (Civil) No.13625 of 2010, Special Leave Petition (Civil) Nos.13626-13629 of 2010, Special Leave Petition (Civil) Nos. 22318-22321 of 2010, Civil Appeal No.5156 of 2011 [Arising Out of SLP (Civil) No.31068 of 2009], Civil Appeal No.5157 of 2011 [Arising Out of SLP (Civil) No.4648 of 2010] and Civil Appeal No.36 of 2010. Aftab Alam & R.M. Lodha, JJ.[Decided on 08/07/2011] – Section 50 of Arbitration and Conciliation Act, 1996 read with Delhi High Court Act, 1996 – Appeal dismissed by single judge of the High Court – Orders not falling under section 50 of the 1996 Act – Whether appealable under Letters Patent – Held, No.

1081

GODREJ & BOYCE MANUFACTURING CO.LTD & ANR v. THE MUNICIPAL CORPORATION OF GR.MUMBAI & ORS [BOM] Writ Petition No. 2058 of 2010 D.K. Deshmukh & Rajesh G. Ketkar, JJ. [Decided on 08/08/2011] – Development Control Regulations for Greater Mumbai, 1991 – Regulation 34 – Appendix VII – Development of public amenities – Grant of Transferable

Development Rights – Petitioners alleged to have developed recreational ground – Respondent refused to grant TDR – Whether denial of TDR is correct – Held, Yes.

GREAVES COTTON LIMITED v. MOHAMMAD RAFI & ORS. [Del] CS (OS) No. 395/2008 V.K. Jain, J. [Decided on 03/06/2011] – Trade Marks Act, 1999 – Sections 28, 29(1) – Infringement of trademark “GREAVES” by defendant by using the trademark “GREAVES INDIA” – Whether plaintiff entitled to permanent injunction – Held, yes.

HARDEEP SINGH NAGRA v. STATE & ANR [P&H] CrI. M.A. No.2039/2010 in CrI. M.C. No.3200/2009 CrI. M.A. No.1965/2010 in CrI. M.C. No.3678/2009 CrI. M.A. No.2037/2010 in CrI. M.C. No.3693/2009 CrI. M.A. No.1963/2010 in CrI. M.C. No.3694/2009 V.K. Jain, J. [04/03/2011] – Negotiable Instruments Act – Sections 138, 141 – Vicarious liability of director – No allegations in the complaint that the director was incharge of the affairs of the company – That director stood only as guarantor – Whether vicariously liable for the offence of cheque dishonour – Held, No.

HARSHENDRA KUMAR v. REBATILATA KOLEY [SC] Criminal Appeal Nos.360-377 of 2011 (Arising out of SLP (Criminal) Nos. 3008-3025 of 2008) Aftab Alam & R.M. Lodha, JJ. [Decided on 08/02/2011] – Negotiable Instruments Act, 1881 – Sections 138, 141 – Criminal Procedure Code, 1973 - Sections 397, 401, 482 – Cheque dishonor – Petition to quash the proceedings – Director of the company pleading his resignation before the issue of the dishonored cheque - High Court holding that this fact of resignation has to be proved in the trial refused to quash the proceedings – Whether the High Court was correct in holding so – Held, No.

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