

Info Capsule

Thursday
February 11, 2021

President : CS Nagendra D. Rao

Vice President : CS Devendra V. Deshpande

❖ Direct Tax

Income Tax Department conducts searches in Kolkata [PIB Dated Feb 10, 2021]

Income Tax Department carried out search and seizure action on 05.02.2021 on various groups based in Kolkata, engaged in the business of Pharmaceutical manufacturing, diagnostic services and hospitals. Search and seizure action was carried out at more than 17 premises at Kolkata, Haridwar and Bhubaneswar and resulted in unearthing of incriminating evidence revealing various shell entities being used for raising bogus share capital/unsecured loans, expenditure incurred in renovation of property in cash etc.

A total concealment of income amounting to Rs. 300 crore has been detected so far. Cash amounting to Rs. 87 lakh and Jewellery worth Rs. 61 lakh has been seized. 8 Bank lockers have been put under restraint. The assessee has made an admission of undisclosed income amounting to Rs. 50 crore. Further investigations are in progress.

For details:

<https://www.pib.gov.in/PressReleasePage.aspx?PRID=1696888>



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भारतीय कम्पनी सचिव संस्थान

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(Under the jurisdiction of Ministry of Corporate Affairs)

❖ Securities Laws and Capital Markets

SEBI Orders

- **Adjudication Order in respect of three entities in the matter of NSE Co-location (February 10, 2021)**

SEBI imposed a penalty of Rs 1 crore on National Stock Exchange (NSE) for its alleged failure to comply with the Stock Exchange and Clearing Corporation Regulations in the co-location case. SEBI has also imposed a penalty of Rs 25 lakh each on its two former MD and CEO, as it held that they were vicariously liable for the acts committed by the stock exchange.

For details:

https://www.sebi.gov.in/enforcement/orders/feb-2021/adjudication-order-in-respect-of-three-entities-in-the-matter-of-nse-co-location_49079.html

- **Adjudication Order in the matter of Birla Pacific Medspa Ltd. in respect of four entities (February 10, 2021)**

SEBI imposed a penalty of Rs. 20 lakh each on four entities for allegedly transferring IPO funds from Birla Pacific Medspa Ltd. to various entities for siphoning off and therefore violated Regulations 3(a), (b), (c), (d) and 4(1) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003.

For details:

https://www.sebi.gov.in/enforcement/orders/feb-2021/adjudication-order-in-the-matter-of-birla-pacific-medspa-ltd-in-respect-of-four-entities_49083.html

SEBI News

- **SEBI plans to introduce framework to compensate investors for technical glitches (February 10, 2021)**

SEBI is considering a proposal to introduce a framework to ascertain the incidents of technical glitches whereby compensation would be given to investors. Besides, the regulator is also looking to devise a methodology and calculation of compensation.

For details:

<https://economictimes.indiatimes.com/markets/stocks/news/sebi-plans-to-introduce-framework-to-compensate-investors-for-technical-glitches/articleshow/80789204.cms>

❖ Terminology for today

Adoption Curve

A graph showing the rate at which a new piece of technology is bought by people for the first time. It is based on the idea that certain people are more open for adaptation than others.

❖ Market Watch

Stock Market Indices as on 11.02.2021	
S & P BSE Sensex	51531.52 (+222.13)
Nifty 50	15173.30 (+66.80)

Foreign Exchange Rates as on 10.02.2021 <i>(https://www.fbil.org.in/#/home)</i>			
INR / 1 USD	INR / 1 GBP	INR / 1 EUR	INR / 1 JPY
72.8458	100.6821	88.327	.6966

❖ **Pronouncement**

January 12, 2021	M/s Podaran Foods India (P) Ltd. (Appellant) vs. State of Kerala (Respondent)	Kerala High Court
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The Kerala High Court explained the modalities of detention of vehicles and seizure of goods in transit under GST

Facts of the case:

The Appellant filed the writ petitions challenging detention orders passed under the CGST Act when the scheme of the Act clearly indicated that the writ court was not to be ordinarily approached in detention cases where effective alternative remedies by way of provisional clearance, and appeal thereafter, were provided against alleged arbitrary/illegal detention orders.

The goods and the vehicles were detained by the respondents on the ground that there was only one common invoice (for 22 packages) that was generated in respect of the two consignments, and when compared with the number of packages that were contained in each of the vehicles, there was a shortage of packages in both the vehicles. It was also found that the petitioner had not complied with the procedure prescribed under Rule 55 (5) of the CGST Rules while transporting goods in semi-knocked down (SKD) or completely knocked down (CKD) condition or in batches or lots.

Judgment:

Kerala High Court explained the provision when the seizure of the goods or the vehicle can be exercised in a case where there seems a doubt of evasion in taxes. The consignee can choose to make the stipulated payments as per the notice, after which the notice would be concretized in the form of another order and the proceedings closed. But if the consignee wishes to challenge the detention/seizure, he can furnish security in the form of a bank guarantee covering the prescribed sum and get his goods/vehicle released provisionally, and then make his representation. Further, when it comes to making an appeal in the High Court, it was clearly specified that only after the consignee is given an opportunity to be heard and his objections considered can the concerned authority issue an order. If aggrieved, the consignee can approach the relevant authority under the legislation in appeal, but cannot approach the High Court at this stage.

Hence, it was decided that detention and seizure of goods and vehicles is a *reasonable restriction on the exercise of free trade and movement, but shouldn't be exercised strictly only in order to prevent possible tax evasion*. The Court opined that the need for strict construction of detention laws was "*what is at stake is a constitutional right, fundamental or otherwise, of a citizen*".

For details:

https://services.ecourts.gov.in/ecourtindiaHC/cases/s_orderdate.php?state_cd=4&dist_cd=1&court_code=1&stateNm=Kerala

Prepared by Directorate of Academics

For any suggestions, please write to academics@icsi.edu, or call at 01204082269

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