

Info Capsule

Wednesday
November 11, 2020

President : CS Ashish Garg

Vice President : CS Nagendra D. Rao

❖ **Ministry of Corporate Affairs**

- **MCA further extended the tenure of office of NCLT Acting President Shri BSV Prakash Kumar, Member (Judicial) (November 10, 2020)**

The term of office of Shri BSV Prakash Kumar, Member (Judicial), as Acting President, NCLT is further extended for a period of one month with effect from November 5, 2020 or until a regular President is appointed or until further orders, whichever is earliest.

For details :

<http://www.egazette.nic.in/WriteReadData/2020/223027.pdf>

- **The Company Secretaries (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Amendment Rules, 2020 (November 10, 2020)**

MCA has amended the provisions of the Company Secretaries (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. The amendment *inter-alia* inserted the definition of “**electronic mode**” and also included other pertinent provisions w.r.t. electronic mode.

For details:

<http://www.egazette.nic.in/WriteReadData/2020/223030.pdf>



**THE INSTITUTE OF
Company Secretaries of India**

भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE

Statutory body under an Act of Parliament

(Under the jurisdiction of Ministry of Corporate Affairs)

❖ **Securities Laws & Capital Markets**

- **Consultation Paper on the Applicability and role of the Risk Management Committee (November 10, 2020)**

The SEBI has placed the Consultation Paper on the Applicability and role of the Risk Management Committee on its website for public comments. The comments may be sent to SEBI in the prescribed format latest by December 10, 2020.

For details:

https://www.sebi.gov.in/reports-and-statistics/reports/nov-2020/consultation-paper-on-the-applicability-and-role-of-the-risk-management-committee_48142.html

- **Settlement Order in respect of Nishat Shailesh Gupte in the matter of Insider Trading in the scrip of United Spirits Limited ('USL') (November 10, 2020)**

Applicant 'Nishat Shailesh Gupte', has settled his case with Rs 45.23 lakh towards settlement charges to SEBI and agreeing to comply with two "non-monetary terms" in a case related to violation of SEBI (Prohibition of Insider Trading) Regulations, 2015. Certain entities allegedly traded in the scrip of USL on the basis of Unpublished Price Sensitive Information (UPSI) and Nishat Shailesh Gupte, being an insider, had communicated the said UPSI to the said entities. The settlement order comes after Nishat Shailesh Gupte filed an application with the SEBI proposing to settle the matter without admitting and denying the alleged violation of Insider Trading norms.

For details:

https://www.sebi.gov.in/enforcement/orders/nov-2020/settlement-order-in-respect-of-nishat-shailesh-gupte-in-the-matter-of-insider-trading-in-the-scrip-of-united-spirits-limited_48140.html

❖ *Indirect Tax*

Goods and Service Tax

- **CBIC notifies the date of furnishing of returns – Notification No. 81/2020 – Central Tax (November 10, 2020)**

In exercise of the powers conferred by clause (b) of sub-section (2) of section 1 of the Finance (No. 2) Act, 2019, the Central Government appoints November 10, 2020, as the date on which the provisions of section 97 of the Act shall come into force.

For details:

<http://www.egazette.nic.in/WriteReadData/2020/223034.pdf>

- **CGST (Thirteenth Amendment) Rules 2020 – Notification No. 82/2020 – Central Tax (November 10, 2020)**

CBIC notified the Central Goods and Services Tax (Thirteenth Amendment) Rules, 2020. The notification seeks to prescribe the Form and manner of furnishing details of outward supplies. The amendment said that all the registered person except Special provision for payment of tax by supplier of OIDAR required to furnish the details of outward supplies of goods or services or both under section 37, shall furnish such details in FORM GSTR-1 for the month or the quarter, as the case may be, electronically through the common portal, either directly or through a Facilitation Centre as may be notified by the Commissioner. Form and manner of furnishing details of outward supplies will be enforced from January 01, 2021.

For details:

<http://www.egazette.nic.in/WriteReadData/2020/223036.pdf>

Customs

- **ADD on imports of flax fabrics – Notification No. 35/2020 – Customs (ADD) (November 10, 2020)**

This Notification seeks to impose Anti-Dumping Duty on flax fabrics (having flax content of more than 50%) imported from China and Hong Kong for a period of 5 years.

For details:

<https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-add2020/csadd35-2020.pdf>

❖ *Terminology for today*

- **Bootstrapping**

Where a business funds its growth purely through personal finances and revenue from the business.

❖ **Banking and Insurance**

- **Govt okays Rs. 5,500 crore equity infusion into Punjab & Sind Bank (November 10, 2020)**

Public sector Punjab & Sind Bank (PSB) said that the government has okayed infusion of Rs. 5,500 crore capital into the bank in lieu of preferential allotment of shares. The bank is in receipt of letter dated November 10, 2020 from the Ministry of Finance regarding sanction to infuse an amount of Rs.5,500 crore, it said in a regulatory filing.

For details:

<https://www.livemint.com/industry/banking/govt-okays-rs-5-500-crore-equity-infusion-into-punjab-sind-bank-11605025667452.html>

- **FM Sitharaman sets out bank account-Aadhaar linking deadline (November 11, 2020)**

Union Finance Minister Nirmala Sitharaman asked all banks to ensure all bank accounts are Aadhaar-seeded by March 31, 2021 and linked with PAN cards wherever necessary.

For details:

<https://indianexpress.com/article/business/banking-and-finance/fm-sitharaman-sets-out-bank-account-aadhaar-linking-deadline-7046831/>

❖ **Competition Law**

- **Amazon Charged With Antitrust Violations by European Regulators (November 10, 2020)**

European Union regulators brought antitrust charges against Amazon, saying the online retail giant broke competition laws by unfairly using its size and access to data to harm smaller merchants that rely on the company to reach customers.

For details:

<https://www.nytimes.com/2020/11/10/business/amazon-eu-antitrust.html>

- **Google under CCI Lens Yet Again. This Time For Its Payment App (November 10, 2020)**

India's competition regulator has found prima facie merit in allegations made earlier this year that Google is abusing its dominant position in the UPI payments market. The Competition Commission of India has also expressed concern over the pre-installation and prominence of Google Pay on Android smartphones. It has directed its investigation wing to examine Google's conduct in both these market. The informant complained to CCI that Google mandatorily asks developers to use its payment system while charging users for apps and downloads from the Google Play Store. Further, if users buy goods or services via an app on Play Store, developers have to facilitate the transaction via Google Play In-App Billing.

For details:

<https://www.bloombergquint.com/law-and-policy/google-under-cci-lens-yet-again-this-time-for-its-payment-app>

❖ Pronouncements

October 10, 2020	<i>Omega Icehill Pvt. Ltd. & Ors. (Appellants) vs. Anil Agarwal (Respondent)</i>	NCLAT
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Fact of the Case

The Appellant Company was formed as a joint venture company. The Respondent herein, filed Company Petition before the NCLT, New Delhi Bench under Section 241 read with Section 242 of the Companies Act, 2013 against the acts of oppression and mismanagement committed by 2nd to 4th Appellant to oust the Respondent from the position of Managing Director of the 1st appellant company. The Respondent submitted that he is the First Director and Promoter of the Appellant company and it is trite law that removal of the First Director from the management of the company is an act of oppression. Further, it was stated that the Appellants also violated the terms of agreement which states that each group will have two members. After hearing, the NCLT allowed the waiver application and allowed the applicant to file company petitioner under Section 241 read with Section 242 of the Companies Act, 2013 as it requires a detailed enquiry into the matter complained of.

Being aggrieved the Appellants have filed this present appeal. The Appellants stated that the Respondent was acting against the interest of 1st Appellant for quite some time which was adversely affecting the performance of the company.

Judgement

The NCLAT observed that, it is not disputed that the Respondent is member of Appellant No.1 company and holding 0.04% shareholding. It is also not disputed that the consent affidavit of his family were filed with the Rejoinder before the NCLT. Thus, the Respondent's wife and his daughters has given affidavits to the Respondent in order to protect their rights and interest in the company in which they own shares. It is on this basis the affidavits given by the wife of Respondent and his daughters who holds shares in the company is a valid consent within the meaning of Section 244(2) of the Companies Act, 2013. In these circumstances, it is held that this is one of the exceptional and compelling circumstances, which merit the application for waiver. Thus the NCLAT upheld the order of NCLT and dismissed the present appeal.

For details:

<https://nclat.nic.in/Useradmin/upload/14418565745faa59c6a8ae5.pdf>

❖ Market Watch

Capital Market		Reference Rate (https://www.fbil.org.in/#/home)			
		INR / 1 USD	INR / 1 EUR	INR / 1 GBP	INR/ 1 JPY
S & P BSE Sensex	43593.67 (+316.02)				
Nifty 50	12749.15 (+118.05)	74.2116	87.7829	97.8208	.7067

Prepared by Directorate of Academics

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

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