

Info Capsule

Friday
January 21, 2022

President : CS Devendra V. Deshpande

Vice President : CS Manish Gupta

❖ **Securities Laws & Capital Markets**

SEBI News

Finance ministry mulls time limit on SEBI show-cause notices (January 21, 2022)

The finance ministry is considering a proposal to fix a time limit for show-cause notices by the Securities and Exchange Board of India (SEBI) to ensure proceedings are time-barred and cases aren't initiated beyond a certain period. SEBI's inputs have been sought and an amendment to this effect could be included in the February 1, 2022 finance bill, a government official said. The capital market regulator will be restricted from initiating proceedings or sending notices in old, pending matters, according to the plan. Currently, the SEBI Act doesn't specify a time limit.

For details:

<https://economictimes.indiatimes.com/markets/stocks/news/finance-ministry-mulls-time-limit-on-sebi-show-cause-notices/articleshow/89029047.cms>



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❖ **Banking and Insurance**

RBI issues regulations under the amended Factoring Regulation Act, 2011 (January 20, 2022)

Government of India has recently amended the Factoring Regulation Act, 2011 ("the Act") which widens the scope of companies that can undertake factoring business. The Act permits Trade Receivables Discounting System (TReDS) to file the particulars of assignment of receivables transactions with the Central Registry on behalf of the Factors for operational efficiency. Further, the Act empowers the Reserve Bank of India to make regulations prescribing the manner of grant of certificate of registration and for prescribing the manner of filing of assignment of receivables transactions by TReDS on behalf of the Factors.

In exercise of the powers conferred under the Act, the Bank has issued the following regulations:

- a. Registration of Factors (Reserve Bank) Regulations, 2022 issued vide Notification No. DOR.FIN.080/CGM (JPS) – 2022 dated January 14, 2022 (published in Official Gazette – Extraordinary – Part-III, Section 4 dated January 17, 2022).
- b. Registration of Assignment of Receivables (Reserve Bank) Regulations, 2022 issued vide Notification No. DOR.FIN.081/CGM (JPS) – 2022 dated January 14, 2022 (published in Official Gazette – Extraordinary – Part-III, Section 4 dated January 17, 2022).

Under the provisions of the regulations mentioned above, all existing non-deposit taking NBFC-Investment and Credit Companies (NBFC-ICCs) with asset size of ₹1,000 crore & above will be permitted to undertake factoring business subject to satisfaction of certain conditions. This will increase the number of NBFCs eligible to undertake factoring business significantly from 7 to 182. Other NBFC-ICCs can also undertake factoring business by registering as NBFC-Factor. Eligible companies may apply to the Reserve Bank for seeking registration under the Act. Further, in respect of trade receivables financed through a Trade Receivables Discounting System (TReDS), the particulars of assignment of receivables shall be filed with the Central Registry on behalf of the Factors by the TReDS concerned within 10 days.

For details:

https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=53131

❖ *Insolvency and Bankruptcy*

Income tax cannot raise fresh claims after resolution plan approved under IBC : Bombay High Court (January 20, 2022)

Bombay High Court has ruled that the tax department cannot raise fresh claims after a resolution plan is approved. The tax department had issued fresh notices to the corporate debtor after a resolution plan was approved. There is still ambiguity over what would happen to pending tax demand for the company under IBC. And what would happen if the company were to get a refund from the tax department after the new buyers take over, say industry trackers.

For details:

<https://economictimes.indiatimes.com/news/economy/policy/income-tax-cannot-raise-fresh-claims-after-resolution-plan-approved-under-ibc-bombay-high-court/articleshow/89019195.cms>

❖ *Market Watch*

Stock Market Indices as on 21.01.2022	
S & P BSE Sensex	59037.18 (-427.44)
Nifty 50	17617.15 (-139.85)

Foreign Exchange Rates as on 20.01.2022 (https://www.fbil.org.in/#/home)			
INR / 1 USD	INR / 1 EUR	INR / 1 GBP	INR / 1 JPY
74.30	84.25	101.21	0.65

❖ ***Business and Economic News***

• **Issue of commemorative Coin Rs. 150 (January 19, 2022)**

The Central Government notified the Coinage (Issue of Commemorative Coin on the occasion of 150TH BIRTH ANNIVERSARY OF KAVI MUDDANA) Rules, 2022. According to the notification the coin of One Hundred Fifty Rupees denomination shall only be coined at the Mint for issue under the authority of the Central Government on the occasion of “150TH BIRTH ANNIVERSARY OF KAVI MUDDANA”.

For details:

<https://egazette.nic.in/WriteReadData/2022/232762.pdf>

• **NCLAT issues stay order on insolvency proceedings against HCL Tech (January 19, 2022)**

The National Company Law Appellate Tribunal (NCLAT) has put a stay on the insolvency proceedings against India’s third largest IT services player HCL Technologies. The National Company Law Tribunal (NCLT) had on January 17, 2022 had initiated for insolvency proceedings against the company.

The stay order has been received after C Vijayakumar, MD & CEO filed an application in the NCLAT. A senior spokesperson only stated that a stay order has been obtained against the insolvency proceedings.

For details:

https://www.business-standard.com/article/companies/nclat-issues-stay-order-on-insolvency-proceedings-against-hcl-tech-122011901494_1.html

❖ ***Terminology for today***

Barbell

The barbell is an investment strategy applicable primarily to a fixed income portfolio. Following a barbell method, half the portfolio contains long-term bonds and the other half holds short-term bonds. The “barbell” gets its name because the investment strategy looks like a barbell with bonds heavily weighted at both ends of the maturity timeline.

❖ Pronouncements

19/01/2022.	Competition Commission of India (Appellant) vs. State of Mizoram & Ors (Respondent)	Supreme Court of India Civil Appeal No. 10820-10822 of 2014
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The lottery business can continue to be regulated by the Regulation Act. However, if in the tendering process there is an element of anti-competition which would require investigation by the Competition Commission of India.

Brief Facts:

A complaint received by the Competition Commission of India (for short 'Appellant/CCI') seeking investigation under the Competition Act, 2002 (hereinafter referred to as the 'Competition Act') in respect of State Lottery run by the State of Mizoram (Respondent No.1) has given rise to the present dispute. The jurisdiction of CCI to inquire into allegations of bid rigging, collusive bidding, and cartelisation in the tender process for appointment of selling agents and distributors for lotteries organised in the State of Mizoram has been challenged in the present proceedings by the successful bidders, and to a much lesser extent, by the State of Mizoram.

Judgement:

Hon'ble Supreme Court took note of the expansive definition of 'Service' under Section 2(u) of the Competition Act. It means "service of any description", which is to be made available to potential users. The purchaser of a lottery ticket is a potential user and a service is being made available by the selling agents in the context of the Competition Act. Suffice for us to say the inclusive mentioning does not inhibit the larger expansive definition. The lottery business can continue to be regulated by the Regulation Act. However, if in the tendering process there is an element of anti-competition which would require investigation by the CCI, that cannot be prevented under the pretext of the lottery business being res extra commercium, more so when the State Government decides to deal in lotteries.

For details:

https://main.sci.gov.in/supremecourt/2014/31973/31973_2014_36_1501_32612_Judgement_19-Jan-2022.pdf

Prepared by Directorate of Academics

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

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