



Vision

"To be a global leader in promoting good corporate governance"

Motto

सत्यं वद। धर्मं चर। इष्टार्थं कुरु। तृप्तये शक्यते तु ते। इत्येव।

Mission

"To develop high calibre professionals facilitating good corporate governance"

Monday, February 12, 2024

Info Capsule

President

CS B Narasimhan

Vice President

CS Dhananjay Shukla

❖ **Business and Economics News**

Fewer listed firms failing to get women directors, shows government data (February 09, 2024)

The number of listed companies which have failed to appoint a single woman director on their board has been on a declining trend since 2018-19, data shared by the Ministry of Corporate Affairs in response to a Lok Sabha question showed. SEBI had fined 20 companies till September for FY 2023-24 against 64 in 2019-20. In the pandemic years FY21 and FY22 the number of such listed companies which could not appoint at least one women director had also hit a high of 57 and 62 respectively.

For details:

https://www.business-standard.com/companies/news/less-20-listed-companies-failing-to-get-women-directors-on-board-shows-data-124020901231_1.html

❖ **Ministry of Consumer Affairs, Food & Public Distribution**

Centre committed towards consumer protection and empowering consumers (February 09, 2024)

The Department of Consumer Affairs is continuously working for consumer protection and empowerment of consumers by enactment of progressive legislations. With a view to modernize the framework governing the consumer protection in the new era of globalization, technologies, e-commerce markets etc Consumer Protection Act, 1986 was repealed and Consumer Protection Act 2019 was enacted.

The Department has notified the Consumer Protection (E-commerce) Rules, 2020 under the provisions of the Consumer Protection Act, 2019 to safeguard consumers from unfair trade practices in e-commerce. A Consumer Commission online application portal named "edaakhil.nic.in" has been developed to facilitate the consumers/advocates to file consumer complaints online. The Central Consumer Protection Authority (CCPA) has notified the Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022 on 9th June, 2022. The CCPA, in exercise of the powers conferred by Section 18 of the Consumer Protection Act, 2019, has issued "Guidelines for Prevention and Regulation of Dark Patterns, 2023" on 30th November, 2023 for prevention and regulation of dark patterns listing 13 specified dark patterns. The Bureau of Indian Standards (BIS) has notified framework on 'Online Consumer Reviews — Principles and Requirements for their Collection, Moderation and Publication' on 23.11.2022 for safeguarding and protecting consumer interest from fake and deceptive reviews in e-commerce.

For details:

<https://pib.gov.in/PressReleasePage.aspx?PRID=2004520>

❖ *Ministry of Commerce & Industry*

Existing IPR regime well-equipped to protect AI generated works, no need to create separate category of rights (February 09, 2024)

Intellectual Property Rights including Copyright and Related rights provide exclusive rights to the right owner who are legal persons for a set duration. These rights allow for the work or creation or innovation to be protected and enables collection of royalties through licensing. For a right to be granted, the owner is required to meet the criteria specified under the law. India being a member of all major international conventions and agreements for the protection of Intellectual Property Rights grants adequate protection of rights for works created by legal persons through Copyright Law and protects inventions through the Patent system. Therefore, there is no requirement to create a separate category of rights for AI and related innovations in the Indian IPR Regime. Therefore, while Artificial Intelligence (AI) and related innovations is an evolving stream of technology the current legal framework under the Patent and Copyright Act is well-equipped to protect Artificial Intelligence generated works and related innovations.

The exclusive economic rights of a copyright owner such as the right of reproduction, translation, adaptation etc. granted by the Copyright Act, 1957 obligates the user of Generative AI to obtain permission to use their works for commercial purposes if such use is not covered under the fair dealing exceptions provided under Section 52 of the Copyright Act. Since Intellectual property rights are private rights, these are enforced by the individual rights holders. Adequate and effective civil measures and criminal remedies are prescribed under the Copyright Law against any act of infringement or unauthorized use of works, including digital circumvention.

This information was provided by the Union Minister of State for Commerce and Industry, Shri. Som Parkash in a written reply in the Rajya Sabha.

For details:

<https://pib.gov.in/PressReleasePage.aspx?PRID=2004715>

Market Watch

Stock Market Indices as on 12.02.2024	
S & P BSE Sensex	71,072.49 (-523.00)
Nifty 50	21,616.05 (-166.45)

Foreign Exchange Rates as on 12.02.2024 <i>(https://m.rbi.org.in/scripts/ReferenceRateArchive.aspx)</i>			
INR / 1 USD	INR / 1 EUR	INR / 1 GBP	INR/ 1 JPY
82.99	89.57	104.82	0.55

❖ **Pronouncement**

January 30, 2024	Mahanagar Telephone Nigam Ltd (Petitioner) Vs. Delhi International Arbitration Centre, Through Its Co-Ordinator & Ors(Respondents)	High Court of Delhi W.P.(C) 14515/2023 & CM APPL. 57558/2023
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Whether a MSME though had not been registered at the time when the contract was entered into between the parties but is registered during the subsistence of the contract and in such circumstances, whether such party which enter into the contract would be entitled to the benefits under the MSME Act? Held- No.

Hon'ble Delhi High Court inter alia observed that the purpose of Section 17 and 18 of the MSME Act is to grant a cost-effective dispute resolution mechanism for recovery of unpaid dues of the supplier, which is a micro, small and medium level enterprise. The said Section gives the right to a micro, small and medium enterprise to have its disputes adjudicated by approaching the Facilitation Councils and it cannot be obliterated on account of any other contract to the contrary.

Hon'ble Court reliance placed on Apex Court judgement in *Gujarat State Civil Supplies Corporation Limited v. Mahakali Foods Private Limited (Unit 2) & Anr., 2023 (6) SCC 401*, reads as under:-

" 51. Following the above stated ratio, it is held that a party who was not the "supplier" as per Section 2(n) of the Msmmed Act, 2006 on the date of entering into the contract, could not seek any benefit as a supplier under the Msmmed Act, 2006. A party cannot become a micro or small enterprise or a supplier to claim the benefit under the Msmmed Act, 2006 by submitting a memorandum to obtain registration subsequent to entering into the contract and supply of goods or rendering services. If any registration is obtained subsequently, the same would have the effect prospectively and would apply for the supply of goods and rendering services subsequent to the registration. The same cannot operate retrospectively. However, such Issue being jurisdictional Issue, if raised could also be decided by the Facilitation Council/Institute/Centre acting as an Arbitral Tribunal under the Msmmed Act, 2006.

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52.6. A party who was not the "supplier" as per the definition contained in Section 2(n) of the Msmmed Act, 2006 on the date of entering into contract cannot seek any benefit as the "supplier" under the Msmmed Act, 2006. If any registration is obtained subsequently the same would have an effect prospectively and would apply to the supply of goods and rendering services subsequent to the registration."

The same view has been taken by a Coordinate Bench of Delhi Court in *Malani Construction Company v. Delhi International Arbitration Centre & Ors., 2023 SCC OnLine Del 1665*, wherein this Court has observed as under:-

"14. The ratio of these two judgments is clear to the effect that if the registration under the MSMED Act, 2006 was obtained subsequently, the benefits under the said Act would not apply. Even in a situation where some portion of the goods/services are supplied prior to registration and some are supplied post registration, the Act would apply, depending on the facts, only qua the goods and services which are supplied subsequent to the registration."

For details:

https://dhccaseinfo.nic.in/jsearch/judgement.php?path=dhc/SMP/judgement/02-02-2024/&name=SMP30012024CW145152023_165315.pdf

Prepared by Directorate of Academics

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