

❖ **Ministry of Communications**

TRAI releases Consultation Paper on Encouraging R&D in Telecom, Broadcasting and IT Sectors (September 23, 2023)

Telecom Regulatory Authority of India (TRAI) has released a Consultation Paper on 'Encouraging R&D in Telecom, Broadcasting and IT (ICT) Sectors' on 22nd September 2023. The purpose of this consultation paper is to develop a comprehensive eco-system for enhancing R&D in ICT Sector of the country, wherein there are well established processes for generating a pool of R&D scientists/ engineers, duly supported by the Government and Private Partners for development and innovation of ICT products and services for making India Atmnirbhar and promoting exports in the ICT Sector.

In the consultation paper prepared based on the online brainstorming session and inputs from academia and industry experts from IIT Madras, IIT Kanpur and IIT Hyderabad etc., TRAI has analyzed the important issues which require intervention in the existing R&D ecosystem in India under the three focus elements: "Education & Training System", "Science System" and "Regulatory Framework". The third focus element "Regulatory Framework" has been divided into two parts, namely, "Policies and Programs" and "IPR Framework". Proactively prioritizing R&D and innovation can create a favourable environment for budding entrepreneurs and innovators in the country. In the consultation paper, TRAI emphasizes the need to build a robust R&D ecosystem and discusses potential issues which need to be addressed to enable the same.

The Consultation Paper, for seeking inputs from the stakeholders, has been placed on TRAI's website (www.trai.gov.in). Written comments on the issues for consultation are invited from the stakeholders by 23rd October 2023 and counter comments by 6th November 2023.

For details: <https://pib.gov.in/PressReleasePage.aspx?PRID=1959894>

❖ **Direct Tax**

Classification of NBFC for Section 43B and 43D of the Income tax Act, 1961 (Dated September 25, 2023)

To implement the amendment introduced by the Finance Act 2023, the CBDT issued Notification No. 79/2023 and Notification No. 80/2023, both dated September 22, 2023. These notifications have classified all Non-Banking Financial Companies ("NBFCs") into Top Layer, Upper Layer, and Middle Layers for the purpose of complying with Section 43B and Section 43D of the Income Tax Act, 1961.

For details:

<https://incometaxindia.gov.in/communications/notification/notification-79-2023.pdf>

<https://incometaxindia.gov.in/communications/notification/notification-80-2023.pdf>

❖ Pronouncement

21.09.2023	<i>Batliboi Environmental Engineers Limited(Appellants) v. Hindustan Petroleum Corporation Limited and Another (Respondents)</i>	<i>Supreme Court</i>
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Though, the construction of the terms of the contract is finally for the arbitrator to decide but with a caveat in “reasonable manner”

This case can be referred to understand the interpretation of Section 28(3) of the Arbitration and Conciliation Act, 1996 (A&C Act) which is related to the decision of the Arbitral Tribunal after taking into account the terms of the contract and trade usages.

In this case, the Judgement of Hon’ble Supreme Court provided that the contravention of Section 28(3) of the A&C Act which states that the arbitral tribunal shall decide all cases in accordance with the terms of the contract and shall take into account the usage of the trade applicable to the transaction. This last sub-head should be understood with a caveat that the arbitrator has the right to construe and interpret the terms of the contract in a reasonable manner. Such interpretation should not be a ground to set aside the award, as the construction of the terms of the contract is finally for the arbitrator to decide. The award can be only set aside under this sub-head if the arbitrator construes the award in a way that no fair-minded or reasonable person would do.

For details:

https://main.sci.gov.in/supremecourt/2007/34974/34974_2007_3_1501_47059_Judgement_21-Sep-2023.pdf

Market Watch

Stock Market Indices as on 25.09.2023	
S & P BSE Sensex	66023.69 (+14.54)
Nifty 50	19674.55 (+.30)

Foreign Exchange Rates as on 25.09.2023 (https://m.rbi.org.in/scripts/ReferenceRateArchive.aspx)			
INR / 1 USD	INR / 1 EUR	INR / 1 GBP	INR/ 1 JPY
83.09	88.45	101.69	.5601

Prepared by Directorate of Academics

For any suggestions, please write to academics@icsi.edu

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