ALBA LAW OFFICES

Newsletter | September 2024

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HIGHLIGHTS OF THE MONTH

- **IP infringement suit dismissed for not complying with the mandate of pre-institution mediation**

  [Novenco Buidling & Industry A/S v. Xero Energy Engineering Solutions Pvt. Ltd. & Anr. (Neut. Cit. No. 2024:HHC:7518)]

  Recently, the Himachal Pradesh High Court rejected a suit for infringement of designs and patents on the ground that the plaintiff had not exhausted the remedy of pre-institution mediation.

  In this case, as per the plaintiff, the cause of action last arose in December, 2023 but the suit was filed in June 2024 without following the mandate of the Pre-institution mediation.

  Considering the above-mentioned factual matrix, the Hon'ble Court held that since there is no urgency pleaded in the suit, the plaintiff was obligated to avail the remedy of pre-institution mediation as contemplated in Section 12A of the Commercial Courts Act, 2015.

  Read Here

- **The Delhi High Court grants Rs. 10 lacs damages to Taj Hotel**

  [The Indian Hotels Company Ltd. v. Manoj (Neut. Cit. No. 2024:DHC:6560)]

  Recently, the Hon'ble Delhi High Court granted an ex-parte decree of permanent injunction in favour of the Taj Hotel ("Plaintiff") for infringement of their intellectual property rights by the defendant.

	In this case, the defendant had, without any authorisation, used the Plaintiff's registered trademark "TAJ" as part of his business name, domain name and website. The defendant had also used, without any authorisation, various contents and photographs available on the Plaintiff's website. The defendant had also defrauded a person to the tune of Rs. 51 Lacs by impersonating as Plaintiff. In these facts, the Hon'ble Court granted a decree of permanent injunction in favour of the Plaintiff and against the defendant. The Court also granted damages to the tune of Rs. 10 Lacs and Cost of Rs. 5 Lacs in favour of the Plaintiff.
○	**The Delhi High Court grants interim injunction against T-Series** *[Vishesh Films (P) Ltd. v. Super Cassettes Industries Ltd. (Neut. Cit. No. 2024:DHC:6704)]* Recently, the Hon'ble Delhi High Court, restrained T-series ("Defendant") from using the title "Tu hi Aashiqui/ Tu Hi Aashiqui Hai" and/or any other name/title which uses the mark "Aashiqui", in respect of its proposed film. In this case, Vishesh Films (P) Ltd. ("Plaintiff") and the Defendant had entered into an agreement for co-production of first film of the Aashiqui Franchise. Thereafter, the parties entered into another similar agreement for the "Aashiqui 2." It was the case of the Plaintiff that since both the parties are joint owners of the "Aashiqui Franchise" therefore, the Defendant shall not be allowed to release any sequel of the franchise without the Plaintiff's express consent. Therefore, to avoid any public confusion, the Defendant cannot use any title with the word Aashiqui in it. The Defendant contended that the word "Aashiqui" is generic/ descriptive/ nondistinctive and/or common to trade and also that there is no deceptive similarity between the mark "Aashiqui" and the Defendant's proposed film title, i.e., "Tu hi Aashiqui"/"Tu Hi Aashiqui Hai". Defendant also contended that the proposed film has a different plot, and hence, the proposed film would not be perceived as a part of the Aashiqui Franchise.

	On facts, the Hon'ble Court observed that the plot of the proposed film is largely undisclosed and hence, the claims are only based on title of the proposed film. The Hon'ble Court also stated that "Aashiqui" is a suggestive mark that has acquired distinctiveness and goodwill through its association with the successful Aashiqui Franchise. Given that the proposed film title displays the word "Aashiqui" as its dominant and most distinctive element, it is highly likely to be associated with the Aashiqui Franchise. Therefore, the Hon'ble Court granted an interim injunction in favour of the Plaintiff restraining the Defendant from using a title with Aashiqui word in it.
○	**The Supreme Court of cancels compensation award to land buyers with no legal claim** *[Lakshmesh M. v. P. Rajalakshmi (Dead By Lrs.) and Ors., (Civil Appeal Nos. 9731-9732 of 2024)]* In a recent decision, the Supreme Court overturned a Karnataka High Court ruling that awarded 30% of land acquisition compensation to ten individuals who had purchased plots from REMCO, a Cooperative Society without having a valid title. The dispute involved a piece of land in Kempapura Agrahara, Bangalore. This land originally belonged to one BC Subbalakshmamma, who transferred ownership to the Appellant, Lakshmesh M., through a registered sale deed in 1975. The REMCO Society (Respondent) claimed rights over part of this land, but its claims were rejected by the trial court. Subsequently, Karnataka High Court had confirmed the Appellant's ownership and declared that the Society had no legal claim over the property. Despite this, the High Court awarded 30% of the compensation for the land acquired for a Metro Rail Project constructed over the subject land, to ten individuals (Other Respondents) who had bought sites from the REMCO Society.

	The Supreme Court found that the Other Respondents had never filed a claim for compensation nor challenged the High Court's confirmation of the Appellant's ownership. The Supreme Court ruled that the High Court had erred in awarding compensation to these individuals who neither claimed not proved any legal entitlement to it. Therefore, the Supreme Court set aside the High Court's decision and ruled that the full compensation should be paid solely to the rightful owner i.e. the Appellant. Read Here
○	**Supreme Court Ruling on Co-Owner's Transfer Rights in Joint Property** *SK. Golam Lalchand v. Nandu Lal Shaw & Ors. (Civil Appeal No. 4177 of 2024)* In a significant ruling, the Supreme Court clarified the limitations on a co-owner's authority to transfer joint property. The Court established that a co-owner, whose share in a joint property is not clearly defined, cannot transfer the entire property to another party without a formal partition. The case centred around SK Golam Lalchand, the Appellant, who acquired property from Brij Mohan, a co-owner of the suit property. The said co-owner claimed to be the sole owner, asserting that his deceased uncle and father had relinquished their shares to him and that his sisters had also done the same. Based on this claim, he executed a sale deed transferring the entire property to the Appellant. However, the other co-owners of the property, represented by Nandu Lal Shaw ("Respondents"), contested the validity of this sale deed executed in favour of the Appellant. They argued that since the property was jointly owned, the share had not been clearly defined or partitioned, the transfer of the entire property was invalid. They contended that he could only transfer his defined share, not the entire property, without the consent of all co-owners. The Supreme Court ruled that the co-owner does not have the authority to transfer the entire property because the share had not been determined. Consequently, the

Supreme Court upheld the lower court's injunction against the Appellant, preventing him from exercising rights over the property until a formal partition was completed.

Additionally, the Appellant argued that the Respondents had not filed for cancellation under Section 31 of the Specific Relief Act (SRA), suggesting that the sale deed could not be cancelled without such an application. The Court opined that it is not mandatory in every case to file for a declaration of a sale deed as void, especially when the respondent is a third party to the sale. The Court noted, *"Section 31 of the Specific Relief Act, 1963 uses the word 'may' to declare an instrument void, which is not imperative in every case."*.

Read Here

- **The Supreme Court rules on timely compensation for land surrendered for public purposes**

  [Kukreja Construction Company & Ors. v. State of Maharashtra & Ors., (Civil Appeal No. 9702 of 2024)]

  In a recent Supreme Court ruling, the Court delivered a landmark decision affirming the entitlement of landowners to timely compensation for land surrendered for public purposes. The Court ruled that once compensation is determined, it must be paid without the need for additional formal requests, emphasizing that failure to do so violates Article 300-A of the Constitution, which guarantees the right to property.

  In this case, landowners had surrendered portions of their land for public amenities such as roads and were initially granted compensation in the form of Transferable Development Rights (TDR) amounting to 25% of the developed area prior to 2010. This was in line with earlier regulations and agreements. However, following the Supreme Court's 2009 judgment in *Godrej & Boyce Manufacturing Co. Ltd. v. State of Maharashtra* (Godrej & Boyce I), which affirmed that landowners are entitled to 100% TDR, the landowners sought for additional compensation.

  The Municipal Corporation of Greater Mumbai (MCGM), cited a 2016 amendment to Regulation 34 of the Development Control Regulations (DCR), argued that the

compensation limit was reduced to 25% for amenities developed after the amendment. The landowners argued that the amendment should not be applied retroactively to land surrendered before 2010, prior to the enactment of the 2016 amendment.

The Bombay High Court had initially dismissed the landowners' petitions due to delays and laches, but upheld the ruling on merits, agreeing that the 2016 amendment should not retroactively limit TDR entitlements to the landowners. MCGM also contested this, arguing that the earlier Supreme Court decision was not applicable.

The Supreme Court while upholding the High Court's decision on merits, overturned the dismissal on grounds of delay, clarifying that delay and laches are not applicable when seeking compensation for public land surrendered. The Court directed MCGM to process the compensation claims and grant the additional 75% TDR within three months, reinforcing that delay in processing claims does not nullify the landowners' rights.

Read Here

- **The Supreme Court holds tenant in contempt for defying eviction order**

  [M/s Sitaram Enterprises v. Prithviraj Vardichand Jain (Contempt Petition (Civil) Nos. 196-197 of 2024 in Special Leave Petition (Civil) Nos. 12081-12082 of 2023)]

  In a recent ruling, the Supreme Court has found a tenant in contempt for failing to comply with a court order to vacate a property, emphasizing the importance of upholding judicial directives.

  The legal dispute involved M/s Sitaram Enterprises (Appellant) and the tenant Prithviraj Vardichand Jain (Tenant) over the possession of shops in Mumbai. The matter began with eviction suits filed by the Appellant, which were decreed in 2015 and upheld by the Bombay High Court in 2022. The Supreme Court upheld these orders in June 2023. The Court granted the Tenant, a nine-month extension to vacate

	the premises, on the condition that he file an undertaking. This extension explicitly warned that failing to comply could lead to contempt proceedings. Despite the extension, the Tenant did not vacate the property, prompting the Appellant to file contempt petitions. The Court issued a bailable warrant, which the Tenant disregarded, leading to the issuance of a non-bailable warrant. When the Tenant appeared in court, he was a senior citizen who expressed distress over his situation. He requested additional time to relocate his large family and mentioned ongoing curative petitions challenging previous decisions. However, the Court found these reasons inadequate and held him in contempt, citing the importance of respecting judicial authority and orders. Given his old age, the Court imposed a lenient sentence of one day in custody until the court session ended. He was granted one week to vacate the premises or face forcible eviction by the police. Additionally, he was directed to bear the costs associated with the execution of the non-bailable warrant and the recovery of the property. Read Here
○	**Instead of specific rules to lay down the procedure under the Digital Personal Data Protection Act, 2023, (DPDP Act), the Rules are likely to be an umbrella framework of guidelines to be followed by companies** Persons privy to the matter have said that the DPDP Act is likely to not have the conventional framework of rules laying down the procedural aspects, rather the Rules to be formulated will act as umbrella guidelines to be complied with by companies for 'consent management'. The guidelines are said to specify use of 'government-issued identity-card based age' for consent management while the companies will be free to opt for their own devised age-verification system. This move comes in light of the DPDP Act

expressly prohibiting tracking online behaviour of, and targeted advertisement for those below 18 years of age, broadly defined as 'children'.

Parental consent is also likely to become a key determinant of consent management since the DPDP Act also aims to protect the data of children given their growing numbers on social media platforms. Institutions like schools and colleges may have certain exemptions from such requirements since their operations revolve around children which necessitates access to children's data, but ed-tech companies are unlikely to enjoy this exemption.

Read Here

- **The Calcutta High Court allows appeal against a quasi-judicial order passed by Hearing Officer of Trade Marks**

  [Gojo Industries Inc. v. The Registrar of Trade Marks & Anr., (IPDTMA/79/2023)]

  In this case, the Hearing Officer passed an order wherein the Opponent's (Respondent No. 2) opposition was allowed. The appeal came to be since the Hearing Officer was engaged on a contractual basis and thus not empowered under the Trade Marks Act, 1999 to pass any quasi-judicial orders.

  The High Court relied on its judgement in the case *Visa International Ltd. v. Visa International Service Association & Anr. [IPDTMA/82/2023]* wherein it was decided that the power to delegate under Section 3 of the Trade Marks Act, 1999 does not assign the delegated authority the power to pass quasi-judicial orders. Furthermore, the Hearing Officer in this case had also acted in supersedure of his authority in another case.

  The High Court has remanded the matter back to the Trade Marks Registry, Kolkata to be heard by the Registrar himself or a competent officer other than the Hearing Officer who presided over the impugned proceedings.

  Read Here

- **“See-It, See-It” versus “Seth”: The Bombay High Court holds Apollo Tyres liable for prima facie infringement as well as disparaging advertisement**

  [Ceat Limited v. Apollo Tyres Ltd., (Interim Application (L) 28100 of 2024)]

  In this case, the plaintiff brought forth the case of slanderous advertisement by the defendant as well as infringement of its registered trade mark ‘CEAT’.

  The dispute came to be when the plaintiff found that the defendant in one of its commercial advertisements had shown the plaintiff’s product (tyres) to be worn/fragile and in a bad light as compared to the defendant’s products, while cleverly blurring the trade mark ‘CEAT’ embellished on the plaintiff’s products. Furthermore, use of spoken words like ‘See It, See It’ and ‘Seth’ which are phonetically similar to the trade mark ‘CEAT’ clearly shows the defendant’s attempt to downgrade the plaintiff’s products. The plaintiff provided further evidence to show that the overall depiction of the worn-out and fragile tyre is similar to the plaintiff’s product, clearly leading the public to associate the poorly depicted product to be of the plaintiff’s and harming their market reputation.

  The High Court has issued a temporary injunction while stating that the poor depiction of a competitor’s product along with use of similar words in relation cannot be marked as a coincidence and goes against fair competition.

  Read Here

- **Another initiative towards enhancing IP management, the Government of India launched IP Saarthi Chatbot and an artificial language and machine language-based Trademark Search Technology**

  [Press release of Ministry of Commerce & Industry by Press Information Bureau dated September 18, 2024]

	Union Minister of Commerce & Industry, Piyush Goyal, recently announced that the search technology will ensure faster processing of applications efficiently. The platform also aims to make its mark on the inclusivity rung by including official languages in the updated versions. Read Here
○	**Delhi High Court grants permanent injunction in favour of AMUL** *[Kaira District Cooperative Milk Producers Union Ltd & Anr. v. Bio Logic And Psychotropics India Private Ltd & Anr. (Neut. Cit. No. 2024:DHC:7078)]* The Delhi High Court issued a permanent injunction in favour of Kaira District Cooperative Milk Producers Union Ltd & Anr. ("Plaintiffs") and against a pharmaceutical company restraining the latter from using the 'AMUL' trademark on their products. In this case, the Defendant no.1, i.e. – Bio Logic and Psychotropics India Pvt. Ltd., was selling antipsychotic medicines under the mark 'AMUL'. It was the case of the Plaintiffs, that the mark 'AMUL' has been recognized as a well-known trademark and hence the unauthorised use of such well-known trademark by the Defendants counts as infringement. The Court found that the use of the 'AMUL' trademark by the Defendants was likely to confuse consumers, giving them an unfair advantage and damaging AMUL's reputation. The Court noted that the Defendants had acted with a *mala fide* intention and had no plausible justification for adopting 'AMUL' as its trademark. The Court restrained the Defendants from using the 'AMUL' trademark or any other deceptively similar mark and awarded costs and damages to the tune of Rs. 5,00,000/- to the Plaintiffs.
○	**Issuance of a cheque for a time-barred debt is sufficient acknowledgment to revive limitation.**

[Rajeev Kumar v. The State NCT of Delhi & Anr. (Neut. Cit. No. 2024:DHC:7074)]

The Delhi High Court has affirmed that presenting a cheque for a time-barred debt effectively revives the underlying obligation. In a recent ruling, the Court held that issuing a cheque constitutes an acknowledgment of the debt, thereby enabling the creditor to enforce legal liability.

The Court emphasized that the act of drawing a cheque, in and of itself, signifies a promise to pay. This acknowledgment of debt resurrects the prior obligation, triggering provisions related to dishonored cheques.

In the case at hand, the Court considered a scenario where a loan was advanced in 2011, and a cheque was issued in 2014. When the cheque was dishonored, the complainant initiated proceedings under the Negotiable Instruments Act. The Trial Court, however, dismissed the case on the grounds of the debt being time-barred.

Reversing the Trial Court's decision, the High Court determined that the presentation of the cheque acted as a fresh acknowledgment of the debt, effectively extending the period of limitation.

By issuing the cheque, the Court concluded, the drawer acknowledged a legally enforceable liability and could not subsequently claim that the debt was extinguished by the statute of limitations.

- **Arbitrator cannot be substituted on the ground of biasness under Section 29A of the Arbitration and Conciliation Act, 1996**

[Poonam Mittal v. M/S Creat Ed Pvt. Ltd. (Neut. Cit. No. 2024:DHC:7312)]

Recently, the Hon'ble Delhi High Court, while disposing of a petition under Section 29A of the Arbitration and Conciliation Act, 1996 refused to substitute the arbitrator.

The petitioner sought a relief regarding the substitution of the arbitrator on the ground of biasness.

	The Court found that the petitioner's allegations were not substantiated and that there was no evidence of misconduct or bias on the part of the arbitrator. Therefore, the prayer for substitution of the arbitrator was rejected. The Court also observed that Section 29A(6) of the Arbitration and Conciliation Act, 1996 allows the Court to substitute the arbitrator only when the existing arbitrator is needlessly protracting the proceedings.
○	**Supreme Court Mandates Compensation for Flat Buyer: A Landmark Ruling on Developer Accountability** *[Dharmendra Sharma V. Agra Development Authority, (Civil Appeal No. 2809-2810 of 2024)]* In a significant ruling, the Supreme Court directed the Agra Development Authority (ADA) to grant a compensation of Rs 15 lakhs to a flat buyer, citing a deficiency of service by the Developer. The Court found that the absence of a Completion Certificate and firefighting certificates rendered the offer of possession invalid, reinforcing the legal obligations of developers to comply with statutory requirements before providing possession of property. The flat buyer, referred to as the Appellant, had previously challenged the decision of the National Consumer Dispute Redressal Commission (NCDRC), which failed to award compensation or refund the non-judicial stamp duty of Rs. 3,99,100/- that the Appellant paid for executing the conveyance deed which was in addition to the amount paid towards the consideration. The NCDRC had ordered the developer to refund the amount already deposited, along with interest, starting from the date of the complaint in 2020. The Appellant, however, sought interest from the date of deposit in 2011. Upon reviewing the case, the Supreme Court modified the NCDRC's order. The Court directed the developer to:

	• Refund the deposit amount along with the amount paid for the non-judicial stamp, carrying a 9% interest rate from the date of the complaint (July 11, 2020). • Additionally, the Court awarded Rs. 15,00,000/- as compensation to the Appellant, highlighting the significant inconvenience and loss experienced due to the developer's failure to meet statutory requirements. The Court observed that while the Appellant had delayed payment of the additional amount requested by the ADA, the developer failed to provide the necessary documentation for a lawful offer of possession. The appeal was disposed of with favourable modifications to the NCDRC order.
o	**MCA amends Merger and Competition Regulations: Key Updates** In September 2024, the Ministry of Corporate Affairs (MCA) released important notification regarding company mergers and amalgamations, particularly impacting foreign holding companies and their wholly owned Indian subsidiaries. The revised rules emphasize the necessity for Reserve Bank of India (RBI) approval in these transactions, aiming to enhance regulatory oversight. One of the key updates is the amendment to the Companies (Compromises, Arrangements, and Amalgamations) Rules, 2024, specifically modifying Rule 25A. This change, effective from September 17, 2024, sets forth guidelines for mergers involving foreign holding companies and their Indian subsidiaries. Under these rules: • The foreign holding company will act as the transferor, while the Indian subsidiary will be the transferee. • Both entities are required to obtain prior approval from the RBI before proceeding with the merger.

- The Indian subsidiary must follow the merger process outlined in Section 233 of the Companies Act, which includes seeking approval from the Central Government, now delegated to the regional directors of the MCA.
- For holding companies located in countries sharing a land border with India, additional compliance is necessary. Specifically, prior approval under the Foreign Exchange Management (Non-Debt Instruments) Rules, 2019, is required, along with a declaration at the time of the application.

Read Notification here.

The New De Minimis Exemption Rules

The MCA introduced the Competition (Minimum Value of Assets or Turnover) Rules, 2024, effective from September 10, 2024. The rules clarify the de minimis exemption under Section 5(e) of the Competition Act. According to the new regulations, an acquisition, control, merger, or amalgamation will not be considered a combination if:

- The assets in India do not exceed INR 4.5 billion.
- The turnover in India does not exceed INR 12.5 billion.

This amendment aims to ease regulatory burdens on smaller transactions, allowing for greater flexibility in the market.

Read Notification here

Competition (Criteria of Combination) Rules, 2024

Competition (Criteria of Combination) Rules, 2024 was released effective from September 10, 2024, the Competition (Criteria of Combination) Rules, 2024 establish the conditions under which entities can notify the Competition Commission of India (CCI) about combinations. Under these rules, parties to a combination may notify the CCI if they:

	• Do not offer similar or substitutable products or services. • Are not engaged in complementary activities at different stages of production or distribution. The rules further define the parties involved in a combination and outline what constitutes an affiliate relationship based on shareholding, board representation, and access to sensitive information. These regulatory updates reflect the MCA's ongoing efforts to foster a transparent and efficient business environment in India, encouraging growth while safeguarding competition. Companies should review these changes carefully to ensure compliance in their future transactions. Read notification here
○	**'No Transfer of Title in Absence of Registered Document': Supreme Court Rejects Tenant's Claim for Ownership** *[Beena and Ors. v. Charan Das (D) thr. LRs. & Ors., Civil Appeal No. 3190 of 2014]* In a recent landmark ruling, the Supreme Court clarified critical legal principles surrounding property ownership and tenant rights, emphasizing that no transfer of title can occur without a registered instrument. The Supreme Court's decision rejected a tenant's claim for ownership based on a settlement with the landlord, reaffirming the necessity of formal documentation in property transactions. The case arose from an eviction suit filed by a landlord against a tenant occupying a dilapidated property requiring repairs. During the legal proceedings, the landlord and tenant reached a settlement stipulating that if the tenant paid a specified amount of ₹12,000, the landlord's eviction application would be deemed dismissed. Conversely, failure to pay would result in the eviction of the tenant from the premises.

	Following the landlord's application, the tenant promptly deposited the ₹12,000, asserting that this payment conferred ownership and possession of the property under the terms of the settlement. While the trial court and the first appellate court upheld the landlord's position, the High Court reversed this decision, ruling that the tenant had effectively become the owner of the premises upon making the deposit. The Supreme Court pointed out that the settlement, recorded through the parties' statements, did not specify any transfer of ownership to the tenant upon payment of the stipulated amount. The Supreme Court noted, *"...No document, much less a registered instrument, was executed between the parties transferring the title of the suit premises. In its absence, obviously, no transfer of title can pass from one party to another. In such a proceeding, the only option available to the Rent Controller was either to order eviction or to dismiss the application for eviction as has been done by him."* The Court further clarified that the consent order merely addressed the landlord's eviction application based on the tenant's compliance with the payment conditions and did not imply any ownership transfer. In conclusion, the Supreme Court ruled that the High Court had erred in interpreting the consent order and in reversing the lower courts' well-reasoned judgments. By allowing the landlord's appeal, the Supreme Court underscored the necessity of formal documentation in property transactions and affirmed the landlord's right to evict the tenant. Accordingly, the appeal was allowed. Read here
○	**Supreme Court Rules Landowners Jointly Liable Despite Revocation of Power of Attorney** *[Akshay & Anr. v. Aditya & Ors., Civil Appeal Nos.3642-3646/2018]*

	In a significant ruling, the Supreme Court held that landowners remain jointly and severally liable alongside a builder for deficiencies in flat construction, even after revoking a power of attorney executed between the landowners and the builder. The Court's observations clarified two key points regarding the landowners' liability. Firstly, the Court noted that while the landowners revoked the power of attorney granted to the builder, they did not revoke the Joint Venture Agreement (JVA), which continued to be operative. This ongoing validity of the JVA meant that the landowners retained responsibility for the builder's actions prior to the revocation. Secondly, the use of the term "henceforth" in the revocation letter was interpreted to mean that the landowners would only cease liability for the builder's actions occurring after August 12, 2014. However, this did not absolve them of liability for the agreements the builder entered into with flat buyers before that date. The ruling emphasized that the landowners had not taken action against the builder for any non-compliance with the JVA, indicating their acknowledgment of the agreement's validity. Ultimately, the Supreme Court upheld the National Consumer Disputes Redressal Commission's decision and dismissed the landowners' appeal pertaining to no liability in case of deficiency of the flat, stating it lacked merit. Read Here
○	**Supreme Court Upholds Tenfold Penalty on Deficit Stamp Duty Under Karnataka Stamp Act** *[N.M. Theerthegowda vs. Y.M. Ashok Kumar and Others, Civil Appeal No. 10038 of 2024]*

	In a recent ruling, the Supreme Court affirmed the imposition of a tenfold penalty for unpaid deficit stamp duty under the Karnataka Stamp Act, 1957. The case arose when the appellant sought to admit a suit agreement into evidence but failed to provide sufficient evidence of stamp duty on the agreement. According to Section 34 of the Indian Stamp Act, instruments that are not duly stamped are inadmissible in evidence. The trial court ordered the appellant to pay ten times the amount of the deficit stamp duty as a penalty, a decision upheld by the Karnataka High Court. Subsequent to which appeal was filed in the Supreme Court, arguing that the penalty was excessive, and that the deficit stamp duty should be collected only upon the judgment's final decree. The bench concurred with the trial court's order and noted, "*When the trial court imposed ten times penalty on the deficit stamp duty, the appellant argued in the High Court that he would pay the stamp duty when the decree of specific performance was granted. In our considered view, the case of the appellant is covered by Section 34 of the Act, and rightly ten-times penalty is imposed.*" Furthermore, the Court referenced the precedent set in *Gangappa and Another v. Fakkirappa* (2018), which indicated that trial courts lack discretion to impose a lesser penalty when admitting insufficiently stamped documents. Therefore, the Supreme Court dismissed the appeal on the grounds of lacking merit. Read Here
○	**Agreement for Sale Must Be Stamped as 'Conveyance' Under Maharashtra Stamp Act: Supreme Court** *[Shyamsundar Radheshyam Agrawal & Anr. v. Pushpabai Nilkanth Patil & Ors., Civil Appeal No. 10804 of 2024]*

The Supreme Court recently ruled that an agreement for sale, which includes a provision for handing over possession, must be classified as a "Conveyance" under the Maharashtra Stamp Act, 1958. This decision underscores the obligation to pay the appropriate stamp duty at the time of executing such agreements.

In this case, the appellants challenged a decision by the Bombay High Court, which upheld a trial court's order to impound six agreements for sale due to insufficient stamping. The trial court found that the agreements were principal documents requiring stamp duty payment as per Explanation I to Article 25 of the Maharashtra Stamp Act, which states that an agreement for sale is treated as a “conveyance” if either possession is handed over immediately or if it is agreed to be handed over within a particular time.

The defendants applied to impound the agreements, asserting they lacked proper stamping and included clauses transferring physical possession of the properties. The appellants argued that the sale agreements were part of the same transaction as the subsequent sale deed, which had been duly registered with stamp duty paid.

Upon reviewing the case, the Supreme Court emphasized that the six agreements did not constitute a single transaction but represented distinct transactions between various parties. The Court noted, *"The language used in the provision is very clear, whereby the stamp duty is on the instrument and not on the transaction."* It reaffirmed that the charge for stamp duty applies to the instrument itself, not the broader transaction it represents.

The Supreme Court concluded that the agreements for sale, which explicitly stated that possession had been transferred, met the criteria for conveyance and thus required appropriate stamping at the time of execution.

The Supreme Court upheld the trial court's decision to impound the agreements and directed that they be sent to the Collector for adjudication of the owed stamp duty and any applicable penalties. The High Court’s judgment, which found no grounds for interference, was also affirmed.

Read here

- **Noida Authority seeks ED's help to recover 192 crores from Hacienda Project Pvt. Ltd. (HPPL), developer of Lotus 300 Project, in Noida**

  Noida Authority has sought assistance from the Enforcement Directorate (ED) to recover ₹191.9 crore in dues from HPPL, the developer of the Lotus 300 residential project in Sector 107, Noida.

  In 2010, a 17-acre plot was leased to HPPL for the project, which promised 300 apartments. At the time, directors Nirmal Singh, Surpreet Singh, and Vidur Bhardwaj led the initiative. Allegedly, the directors secured prime land without any initial investment and raised approximately ₹636 crore from homebuyers. However, they reportedly siphoned off ₹190 crore to third-party companies and misappropriated nearly ₹236 crore in total proceeds.

  Following the diversion of funds, the directors resigned in 2015, leading to the company's insolvency proceedings initiated by IndusInd Bank in 2022 through the National Company Law Tribunal (NCLT). The Allahabad High Court, during hearings on recovery certificates issued by Noida Authority, ordered an investigation by the ED into the allegations of money laundering and fund diversion. The court also directed the former directors to cooperate with the investigation.

  The ED conducted searches across various locations, including Delhi, Noida, Meerut, Chandigarh, and Goa, in relation to the ₹426 crore fraud affecting homebuyers of the Lotus project. The investigation revealed nine FIRs filed by the Economic Offences Wing of the Delhi Police between 2017 and 2020, indicating that funds from homebuyers were funnelled to companies like Three C Universal Developers Pvt. Ltd. and Granite Gate Properties Pvt. Ltd.

  Additionally, the ED discovered that the directors had established several shell companies to launder fraud proceeds. A ₹65 crore loan from IndusInd Bank, intended for completing the Lotus project, was misappropriated and later classified as a non-performing asset, leaving creditors in a precarious position

- **The Zee-Sony merger has officially been called off**

[Zee Entertainment Enterprises Limited, (C.P.(CAA) - 209/2022)]

The Zee-Sony Merger has been officially called off after the National Company Law Tribunal, Mumbai (NCLT) reversed its earlier approval. This decision comes after both companies, Zee Entertainment and Sony Pictures Networks India, reached a settlement agreement and decided to withdraw the merger plan.

The initial plan for the merger was announced in February 2023, with an estimated value of $10 billion. However, the deal faced various challenges and disagreements between the two companies. The NCLT's initial approval in August 2023 was a significant step forward, but the recent reversal indicates that the issues between the companies were too complex to resolve.

The settlement agreement between Zee and Sony likely involves terms that address the concerns and disputes that led to the merger's termination. It could include financial settlements, intellectual property agreements, or other arrangements to ensure a smooth separation of the two companies.

This development has significant implications for the Indian media industry. The merger would have created one of the largest media conglomerates in the country, potentially impacting competition and content distribution. The termination of the deal means that the media landscape will remain relatively fragmented, with multiple players competing for market share.

Read Here

- **The Banking Laws (Amendment) Bill, 2024**

The Banking Laws (Amendment) Bill, 2024 (*hereinafter*, 'Bill') is a piece of legislation introduced in India to amend several key banking regulations. The Bill aims to modernize the banking sector, improve customer protection, and enhance the efficiency of banking operations.

	Key changes proposed in the Bill include: • **Increase in the number of nominees per bank account:** The Bill proposes to increase the number of nominees per bank account from one to four, allowing customers to have more flexibility in choosing their beneficiaries. • **Redefinition of 'substantial interest' for directorships:** The Bill aims to redefine the term 'substantial interest' for directorships, potentially raising the threshold from the current Rs 5 lakh to Rs 2 crore. This change would allow more individuals to serve on bank boards without being considered as having substantial interests. • **Flexibility in determining statutory auditors' pay:** The Bill proposes to give banks more flexibility in determining the pay for statutory auditors, which could lead to more competitive pricing and improved audit quality. • **Changes in regulatory reporting dates:** The Bill aims to change the regulatory reporting dates for banks to the 15th and last day of each month, replacing the current second and fourth Fridays. This change would streamline the reporting process for banks and improve regulatory oversight. Overall, the Banking Laws (Amendment) Bill, 2024 is a significant piece of legislation that has the potential to modernize the Indian banking sector and improve the experience for both banks and customers.
o	**Anti-Competitive Investigations Against Amazon and Flipkart by the Competition Commission of India (CCI)** The Competition Commission of India (‘CCI’) has conducted extensive investigations into the e-commerce giants Amazon and Flipkart over allegations of anti-competitive practices. These investigations have centered around the companies' relationships with sellers, pricing strategies, and market dominance. Key allegations against Amazon and Flipkart include:

- **Preferential treatment of certain sellers:** It has been alleged that Amazon and Flipkart have given preferential treatment to certain sellers, often those with which they have business arrangements or investments. This preferential treatment could include higher search rankings, exclusive deals, or lower fees.
- **Deep discounting and predatory pricing:** The companies have been accused of engaging in deep discounting and predatory pricing, which can harm smaller competitors by forcing them to lower their prices to remain competitive.
- **Abuse of market dominance:** As market leaders in e-commerce in India, Amazon and Flipkart have been accused of abusing their dominant position to stifle competition and limit consumer choice.

The CCI's investigations have resulted in several findings. It has been found that both Amazon and Flipkart have engaged in anti-competitive practices, including favoring certain sellers and engaging in deep discounting.

The investigations into Amazon and Flipkart have significant implications for the e-commerce market in India. They highlight the challenges of regulating large, global tech companies and the importance of ensuring fair competition in digital markets.

- **Auction Purchaser entitled to claim benefit of extension of limitation due to COVID-19 Lockdown**

[V.S. Palanivel v. P. Sriram, CS, Liquidator, Etc. (Neut. Cit. No. 2024:INSC:659)]

Recently, the Hon'ble Supreme Court held that an Auction Purchaser is entitled to the benefits of the order passed in '*Suo Moto Writ Petition (Civil) No. 3 of 2020'* read with Regulation 47A of the IBBI Liquidation Process Regulations, which provide for the exclusion of the lockdown period from the computation of timelines.

In this case, the Appellant i.e. - V.S. Palanivel (shareholder/former Managing Director of Lakshmi Hotel Private Limited) had filed appeals against the judgment of the National Company Law Appellant Tribunal, Chennai Branch (NCLAT).

As per the facts, a Company, Sri Lakshmi Hotels Private Limited, took a loan from a financial creditor for Rs. 1,57, 25,000. A dispute arose between the Company and the financial creditor and the same was referred to the arbitration. An arbitration award was given in favour of the financial creditor for a sum of Rs. 2,21,08,244 with 24 percent interest per annum from the date of the claim petition till the date of realisation. The Company challenged the arbitration award before the Madras High Court which was dismissed. On non-payment of the amount awarded under arbitration award, the financial creditor initiated a corporate insolvency resolution process against the Company before the Adjudicating Authority under the Insolvency and Bankruptcy Code (IBC). When no resolution plan for the revival of the Company was received, it was recommended that the Company be liquidated. The Adjudicating Authority accepted the recommendation for liquidation.

Accordingly, auction process was initiated for the land and buildings owned by the Company. KMC Speciality Hospitals (India) Limited (Auction Purchaser) was the sole bidder at the auction process and deposited Rs. 2,95,59,698/-. The Auction Purchaser was required to pay the balance sale consideration within 90 days from the date of demand. However, Auction Purchaser failed to pay the balance sale consideration within 90 days. It then applied seeking an extension of time to make payment on the ground of the onset of COVID-19 Pandemic.

The Adjudicating Authority granted time to deposit the balance sale consideration till the lockdown was lifted by the Central Government. Dissatisfied with the order, the Appellant filed an appeal after 19 months. However, before this, the Auction Purchaser paid the balance sale consideration and a sale deed was executed.

The Appellant sought recall of the order of the Adjudicating Authority and challenged the execution of sale deed. The Adjudicating Authority rejected all applications for stalling the e-auction and for setting aside the sale deed through a common order. This dismissal was challenged by the Appellant before the NCLAT, and the same was rejected by the NCLAT. Thereafter, the Appellant approached the Supreme Court. The Supreme Court held that in the larger contextual background of the COVID-19 breakout, a liberal interpretation would have to be adopted and

	the Auction Purchaser would be entitled to the benefit of the order passed in '*Suo Moto Writ Petition (Civil) No. 3 of 2020'* read with Regulation 47A of the IBBI Regulations, 2016. Read Here
○	**Mandate of the arbitral tribunal can be extended even where application is filed after the expiry of the twelve-month or the extended six-month period** *[Rohan Builders (India) Private Limited v. Berger Paints India Limited, (Neut. Cit. No. 2024:INSC:686)]* The Supreme Court has ruled that an application for extending the time for passing an arbitral award can be filed even after the expiry of the twelve-month or the extended six-month period. This decision clarifies a long-standing ambiguity in the Arbitration and Conciliation Act, 1996 and provides a clear framework for parties to arbitral proceedings. The Court's ruling is based on a purposive interpretation of Section 29A(4) of the Arbitration and Conciliation Act, 1996, which states that the mandate of the arbitral tribunal will terminate if an award is not made within the specified period unless the court has extended the period. The Court held that the word "terminate" does not mean that the arbitral proceedings have come to a complete end, but rather that the arbitral tribunal is no longer empowered to pass an award without an extension. This interpretation is significant because it allows parties to arbitral proceedings to seek extensions of time even after the initial and extended periods have expired. Previously, some courts had held that the power of the court to extend time could only be exercised before the expiry of the mandated period. The Supreme Court's ruling overturns this view and provides greater flexibility for parties to resolve their disputes through arbitration. In conclusion, the Supreme Court's ruling is a major victory for parties to arbitral proceedings. It provides a clear and practical framework for extending the time for

	passing an arbitral award, and it helps to ensure that arbitral proceedings are conducted efficiently and effectively. Read Here
○	**If resignation is withdrawn before formal acceptance by employer, no resignation effectuated: The Supreme Court** *[SD Manohara v. Konkan Railway Corporation Limited & Ors., (SLP(C) No. 15788 of 2021)]* In the present case, the employee (appellant) had tendered his resignation which the employer (respondent) had accepted by way of an internal communication, which was neither directed to the employee nor any reference was made to the employee being relieved from his job. Furthermore, the employee showed evidence that even after submitting the resignation letter, he was still asked to come to work which he complied with. The Supreme Court decided in favour of the employee because the crucial ingredient to effectuate the resignation was missing in the present case – the employee was never formally served with any letter or notice of relieving him from his job and that the letter being relied upon by the employer as formal acceptance was taken to be an internal communication. Read Here
○	**The Delhi High Court extends mandate of Pre-Litigation Mediation on filing of counter claim in commercial disputes** *[Aditya Birla Fashion and Retail Limited v. Mrs. Saroj Tandon, (CM(M) 459/2023 and CM APPL. 13679/2023)]* The Delhi High Court interpreted the Order VIII Rule 6A read with Order IV Rule 1 & 2, of the Code of Civil Procedure, 1908 (CPC) alongwith Order VII Rule 11

	CPC to conclude that even a counter claim is to be treated like a suit in a commercial dispute and hence, for valid filing of a counter claim, pre-litigation mediation under Section 12A of the Arbitration and Conciliation Act, 2016 (Arbitration Act) is mandatory. The High Court reiterated that unless it is a case of urgent interim relief, a commercial suit can only be instituted upon compliance with pre-litigation mediation. Consequently, since neither the CPC nor the Arbitration Act treat a suit and counter claim differently, even a counter claim must be instituted only after an attempt to settle the commercial dispute. The High Court further went on to say that merely because at the stage of filing the original suit, the respondent was disinclined towards settling the matter cannot lead to an automatic conclusion that the same shall stand true for even the petitioner during the counter claim stage – in other words, when one party has already undertaken the efforts to settle the dispute, it does not absolve the other party of the obligation of amicable resolution.
○	**The Supreme Court of India holds that the Prevention of Money Laundering Act (PMLA), 2002, will prevail over the Code of Criminal Procedure, 1973 (CrPC) with respect to summons issued by the Enforcement Directorate (ED)** *[Abhishek Banerjee & Anr. v. Directorate of Enforcement, (Criminal Appeal No(s). 2221-2222 of 2023)]* The present case is an appeal preferred by the appellants to quash the summons issued under Section 50 of the PMLA on the grounds that the said provision is only substantive in nature and does not empower the ED with the procedural power to issue/exercise summons, investigate, etc. The Supreme Court reiterated the settled position of law which holds that the PMLA is a self-sufficient code in itself and that its provisions shall have effect unless they are inconsistent with or contrary to the provisions of CrPC. Furthermore, the Apex Court drew attention to the fact that the PMLA indeed contains provisions which empower the ED to exercise the power in relation to arrest, search and seizure,

	attachment, confiscation, investigation, prosecution and all other proceedings, as long as no inconsistency with the CrPC is found. Read Here
○	**The Supreme Court holds that an inquiry of mesne profits is not a fresh suit, rather a continuation of the original suit as understood in the Code of Civil Procedure, 1908 (CPC) and a reminder to the Court for determination** *[Choudappa & Anr. v. Choudappa since deceased by LRs. & Ors., (SLP(C) No. 3056 of 2023)]* In the present case, the original suit for recovery and possession was filed in 1963, which was subsequently decreed in the year 1973. In the year 1993, the respondents were successful in executing the decree and in the year 2005, the respondent finally obtained possession of the concerned property. In the year 2014, the respondents filed an application for determination/inquiry of mesne profit in accordance with the judgement delivered in the year 1973. However, the petitioners contended that the same was barred by limitation. The Apex Court interpreted Order XX Rule 12 of the CPC wherein the Court stated that there does not exist a specific timeline for such applications for determination since the same is an obligation that the Court has undertaken. The Apex Court ultimately decided that the said application for determination/inquiry of the mesne profit was a continuation of the old suit in the form of a preparation of the final decree. Read Here

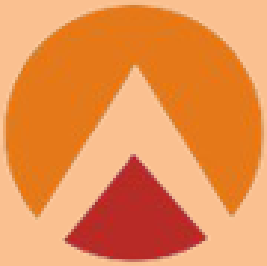
○	**The Supreme Court reiterates that where language is unambiguous and clear, interpretation ought to be literal** *[Kamal Kishore Sehgal (D) thr. LRs. & Ors. v. Murti Devi (Dead) Thr. LRs., (Civil Appeal No. 9482 of 2013)]* In determining a property dispute with respect to a common passage to be divided between the parties, the Supreme Court held the following, "*It is a cardinal principle of interpretation that where the language employed in the instrument is clear and unambiguous, the common literary meaning ought to be assigned in interpreting the same and one should not fall back on any other inference. Only the expression in clear words contained in the instrument/document must be considered and not the surrounding circumstances. In short, literal construction must be considered first, rather than going into the intention behind what is said in the instrument/document if the language of the instrument is clear and unambiguous.*" Read Here
○	**The Supreme Court is set to examine condonation of delay beyond the limitation period of 120 days for appeals preferred under Section 37 of the Arbitration and Conciliation Act, 1996 (Arbitration Act)** *[M/s Sab Industries Limited v. State of Himachal Pradesh & Anr., SLP(C) No. 21111 of 2024]* In the present case, the Supreme Court has considered Section 43 of the Arbitration Act along with the decision taken in *Union of India vs. Varindera Constructions Ltd., (2020) 2 SCC 111* to take a re-look at the scope of condonation of delay in preferring appeal under Section 37 of the Arbitration Act. Section 43 of the Arbitration Act speaks of limitation to arbitration proceedings and broadly encapsulates that much like its application on proceedings before a court of law, the Limitation Act, 1963 will also apply on arbitration proceedings.

	The cited judgement has been referred because therein, the Supreme Court itself had held that a delay beyond 120 days cannot be condoned, however, the Apex Court has agreed to reconsider its stance in light of the scope of 'sufficient cause' which may lead to an inevitable delay in preferring an appeal as well as the scheme of the Act which aims to prioritise speedy dispute resolution. Read Here
○	**The Insolvency and Bankruptcy Board of India (IBBI) has notified the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Second Amendment) Regulations 2024** By way of this amendment, the IBBI aims to ensure that creditors have adequate representation during insolvency proceedings where the approval of the authorised representative is still pending before the adjudicating authority. By appointing an interim representative to take charge during such pendency, it will prevent any delay or complications that may arise during insolvency proceedings, ensuring transparency in the corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016. Read Here
○	**The Delhi High Court orders health influencer to takedown video 'maligning' Complan, on the grounds that it is a government recognised product** *[Zydus Wellness Products Ltd. vs. Mr. Prashant Desai, CS(COMM) 684/2024]* The present case came to be when the Defendant made a video on Instagram criticizing Complan and other such health drinks for being harmful to children's health given the excessive sugar content which with regular consumption was said to harm a child's overall growth. The Plaintiff raised issue with the disparaging

content by stating that the Defendant was encroaching on its widespread goodwill and reputation. The Defendant, on the other hand, stated that it was merely shedding light on the fact which the Plaintiff has cleverly suppressed information with respect to the amount of sugar consumed per serving of the product. The Defendant also claimed that rather an intention to injure the Plaintiff or its business, the Defendant was merely expressing his views which are also protected under Article 19(1) of the Constitution of India. With the further averment that the Defendant is a health influencer with requisite knowledge in the field, he also said his claims were backed by appropriate studies.

The High Court, however, found that since the Defendant was neither a doctor nor a nutritionist specialising or professionally educated in the field of health, his claims cannot be considered as credible and thus, not protected by the Constitution either. Further, the Plaintiff has regularly and adequately complied with the permissions/sanctions and other requirements demanded by the Food Safety and Standards Authority of India (FSSAI) in accordance with the guidelines set forth by the Government and thus, uploading content such as the present case by the Defendant is also a manner of undermining the authority of the Government, that cannot be allowed since the present content was also not substantially corroborated with sound evidence.

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