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MARCH-APRIL 2024

RECENT AWARDS AND RECOGNITION



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MINISTRY OF CORPORATE AFFAIRS

Thresholds for availing de minimis exemption and notification requirement to the Competition Commission of India

On 7 March 2024, the Ministry of Corporate Affairs has issued two notifications that increased

- the thresholds for availing the small target or de minimis exemption up to Assets of less than INR 450 crore, OR turnover of less than INR 1250 crore; and
- the asset and turnover thresholds of the transacting parties in India and worldwide that requires a notification requirement to the Competition Commission of India.

The thresholds for notification requirement have been increased to:

Transacting parties jointly having:

- assets of over INR 2500 crores, or a turnover of over INR 7500 crores in India; or
- assets of over USD 1.25 billion worldwide, including at least INR 1250 crores in India, or turnover of over USD 3.75 billion worldwide, including at least INR 3750 crores in India;

OR

In case of group companies, of both the acquirer and the target jointly having:

- assets of over INR 10000 crores, or turnover of over INR 30000 crores in India; or
- assets of over USD 5 billion worldwide, including at least INR 1250 crores in India, or turnover of over USD 15 billion worldwide, including at least INR 3750 crores in India.



SECURITIES EXCHANGE BOARD OF INDIA

Small and Medium Real Estate Investment Trusts

On March 8, 2024, Securities Exchange Board of India (“SEBI”) released the SEBI (Real Estate Investment Trusts) (Amendment) Regulations, 2024. The Amendment expands the definition of Real Estate Investment Trusts (“REITs”) to include fund pooling for acquiring and managing real estate assets, and explicitly exclude companies issuing securities related to real estate assets from being classified as REITs. The amendment also introduced Chapter VIB for Small and Medium REITs (“SM REITs”), detailing the registration process that requires an application from the investment manager and a non-refundable fee. Key highlights of SM REITs include eligibility criteria such as a minimum net worth of INR 20 Crores for investment managers, experience requirements, and director independence criteria.

Amendment circular regarding the additional disclosure requirements of Foreign Portfolio Investors

On March 20, 2024, SEBI issued a circular amending the requirements set out in an August 24, 2023 circular that mandated additional disclosures for certain Foreign Portfolio Investors (“FPIs”). The amendment specifies that FPIs with over 50% of their Indian equity Asset Under Management (“AUM”) in a corporate group are exempt from these additional disclosures if the parent company of the group has no identified promoter. The conditions for this exemption include the depositories making public the list of such corporate groups, ensuring the FPI holds no more than 50% of its Indian equity AUM in the corporate group (excluding the parent company), and that the combined holdings of all eligible FPIs in the apex company are less than 3% of its total equity share capital.



Inclusion of Dissolution Period in SEBI (Alternative Investment Funds) Regulations, 2012

On April 25, 2024, SEBI notified amendments in SEBI (Alternative Investment Funds) Regulations, 2012 ("AIF Regulations") for the purpose of providing flexibility to Alternative Investment Funds ("AIFs") and their investors to deal with unliquidated investments of their schemes by: (a) allowing AIFs to enter into a dissolution period subject to certain conditions and approvals. The amendments also prohibit AIFs from launching any new liquidation schemes from the date of notification of the amendments i.e., April 25, 2024.

RESERVE BANK OF INDIA

Investments in Alternative Investment Funds ("AIFs")

The Reserve Bank of India ("RBI") issued guidelines on December 19, 2023, to prevent Regulated Entities ("REs") from disguising bad loans by investing in AIFs. The RBI further revised these guidelines on March 27, 2024. The key highlights of the revised guidelines are:-

- Equity shares of the debtor company of the RE are excluded from downstream investments, but all other investments, including hybrid instruments, are included, (ii) Provisioning is only required for the portion of the RE's investment in the AIF that is further invested in the debtor company, not for the entire investment in the AIF,
- Paragraph 3 of the original guidelines applies only when the AIF has no downstream investment in a debtor company of the RE. If the RE holds subordinated units in an AIF with downstream exposure to the debtor company, paragraph 2 applies instead, and
- Investments by REs in AIFs through intermediaries like fund of funds or mutual funds are excluded from these guidelines.



Omnibus Framework for Self-Regulatory Organizations in RBI Regulated Entities

On March 21, 2024, RBI introduced the Omnibus Framework to recognize Self-Regulatory Organizations (“SROs”) for REs. This new framework represents a significant advancement in financial regulation, providing a structured approach to SRO recognition and enhancing oversight in the financial sector. The Omnibus Framework includes various parameters such as objectives, responsibilities, eligibility criteria, and governance standards, aiming to promote collaboration, transparency, and industry growth. It incorporates feedback from a draft version released in December 2023, addressing key industry concerns.

EMPLOYMENT

Court orders maternity dues to employee

The Bombay High Court quashed a 2014 communication issued by the Airport Authority of India (AAI) refusing maternity leave to a woman employee on the grounds that she already had two children. A bench of Justices AS Chandurkar and Jitendra Jain said an employer had to be considerate and sympathetic towards women staffers.

COMPETITION COMMISSION OF INDIA

Competition Commission of India (“CCI”) introduces regulations relating to the Competition (Amendment) Act, 2023

The CCI through the Competition (Amendment) Act, 2023 introduced significant changes which includes leniency plus, penalties based on global turnover and provisions for commitment and settlement. The Government of India has enacted the regulations



i.e. CCI (Lesser Penalty) Regulations, 2024, CCI (Commitment) Regulations, 2024, CCI (Settlement) Regulations, 2024, CCI (Determination of Turnover or Income) Regulations, 2024 and CCI (Determination of Monetary Penalty) Guidelines, 2024.

MINISTRY OF ELECTRONICS AND INFORMATION TECHNOLOGY

Advisory to take explicit permission by platforms operating on Artificial Intelligence

On March 1, 2024, the Ministry of Electronics and Information Technology (“MeitY”) issued an advisory directing intermediaries and platforms to label under-trial or unreliable Artificial Intelligence (“AI”) models and obtain government approval before their deployment in India. However, the advisory dated March 15, 2024 superseded the March 1, 2024 advisory and the requirement to obtain explicit permission of the Government of India has now been done away with. The revised advisory, inter alia, provides that intermediaries / platforms must ensure that use of AI models, Large Language Models, generative AI, software, algorithm either on or through their computer resource does not permit its users to host, display, upload, modify, publish, transmit, store, update or share any unlawful content as outlined under Rule 3(1)(b) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 or violate any other provision of the Information Technology Act, 2000 and other laws in force.

REAL ESTATE

Deemed conveyance can't be denied if flat purchase agreement mandates promoter to do so – Prestige Garden CHSL v. State of Maharashtra & Ors'

The Bombay High Court on April 30, 2024 ruled that the Competent Authority must grant Deemed Conveyance if the flat purchase agreement requires the promoter to transfer rights to the housing society.



The court emphasized that the Competent Authority shouldn't consider title disputes between original owners and promoters when reviewing these applications. This decision came in response to petitions challenging previous rejections of a conveyance application and an order to deregister the housing society. Justice Marne clarified that the authority's role is limited to executing the agreement terms, not resolving title disputes.

Advance paid by a speculative buyer in Real Estate does not fall within the purview of Section 5(8) of the IBC - Naman Infradevelopers Pvt. Ltd. Vs. Metcalfe Properties Pvt. Ltd.

In agreement for purchase of residential plots, it was one of the conditions in the agreement that if seller fails to execute the sale deed in favour of the purchaser, then the seller shall be liable to return the entire amount received alongwith interest @ 24% per annum from the date of payment of the amount till the actual payment. The Appellant had made advance payment. The Corporate Debtor failed to effect the Registration and proposed to convert the outstanding amount as loan. On default in repayment, an application was filed under Section 7 of the IBC by the buyer which was rejected by the Adjudicating Authority. The Hon'ble NCLAT dismissed the appeal and held that the Appellant was never an allottee or a home buyer but was a speculative buyer, hence would not fall within the purview of Section 5(8) of the Code.

RECENT WEBINARS/SEMINARS



Role of IP in SDGs and AI-driven world organised by ASSOCHAM (The Associated Chambers of Commerce and Industry of India) in collaboration with T-Hub on 26 April, 2024.



Structure Options FDI and ODI US-India Focus organised by Tempus Law Associates on 11 April. [Watch full Video](#)



ABOUT THE FIRM

Tempus Law Associates is a full-service law firm.

Our practice areas include Corporate Law, VC, M&A Transactions, Dispute resolution, Intellectual property, and Real estate.

We at Tempus, take pride in the firm's ability to service our clients by rendering prompt legal services of the high quality, reliability and Integrity.

 Tier 1: City Focus: Hyderabad-2024 Leading Individual (Sundari R Pisupati)-2024-23 Leading Firm in Hyderabad 2023	 Band 1 for Corporate & Commercial: Hyderabad-2024-23	 Band 1 for Corporate & Commercial: Hyderabad-2023	 Ranked for Corporate M&A, Private Equity and Dispute Resolution-2022-23	 Firm to Watch 2023 Ranked for M&A-2023-22 Partners recognized as Super 50 Lawyers-2022	 Recognised for Commercial & Transaction and Hyderabad-2024	 Ranked as Leading Law Firm 2023 and for Corporate & Commercial, M&A, Private Equity & Venture Capital, and Foreign Investments-2021-20 Top 100 Leading Individual Lawyers (Sundari R Pisupati)-2020	 Recognized as a 'Rising Star' law firm
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www.tempuslaw.co.in

info@tempuslaw.co.in

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