



WHITESPAN
A d v i s o r y

WINS

(WHITESPAN INFORMATION AND NEWS SERVICES)

A GATEWAY TO KNOWLEDGE

Monthly Newsletter

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MAA FOUNDATION ACTIVITIES



Maa Foundation organized events such as Donation of Artificial Organs, Initiation of program for school level children that enables them to learn extra curricular activities.

MESSAGE FROM THE CHIEF EDITOR

“When I let go of what I am, I become what I might be.” – Lao Tzu

It gives us immense satisfaction to share the 74th Edition of “WINS – E-Newsletter” for June 2023, covering legal updates released during the month of May 2023, articles shared by respected professionals, Case Laws and compliance calendar for the month of June 2023.

In this issue, we have covered the following:

1. Corporate Updates from, MCA, SEBI, RBI, CBDT, CBIC and other miscellaneous laws
2. Articles on:
 - i. Article on Space Policy 2023
 - ii. Article on Defamation Understanding the Legal Implications of Harmful Speech
 - iii. Article on Revamping of Legal System in India
3. Case Laws
4. Compliance checklist for the month of June 2023.

Trust, WINS not only helps you to keep yourself updated, but also saves your time with crisp summary, in the form of Editor’s Quick Take.

My sincere gratitude to each one of you for sparing your precious time in reading this newsletter and sharing your valuable feedback. Your suggestions and ideas have been a source of inspiration for us and have motivated and guided us to scout for better contents, every month, in timely manner. We take this opportunity to invite articles on topics of professional interest. Please ensure that the article is original, written in good style and adds value for the readers.

You may reach to us at vinayshukla@whitespan.in or [+91 9810 624 262](tel:+919810624262)

With warm regards,

TEAM WINS (Whitespan Information and News Services)
May 31, 2023

OUR EDITORIAL BOARD COMPRISES THE FOLLOWING PROFESSIONALS

- 1. Mr. Vinay Shukla**, a fellow member of The Institute of Company Secretaries of India (ICSI), a graduate in Law, Commerce and Management and the co-founder of WsA having more than thirty years' experience in wide spectrum of corporate functions.
- 2. Ms. Jaya Yadav**, a practicing company secretary based at Gurgaon is a fellow member of The Institute of Company Secretaries of India (ICSI) and a graduate in Law and Commerce from Delhi University.
- 3. Ms. Divya Shukla**, a practicing advocate enrolled in the Bar Council of Delhi and a graduate in Law and Commerce from Christ University, Bengaluru.
- 4. Mr. Shubham Tyagi**, a practicing advocate enrolled in the Bar Council of Delhi and a graduate in Law and Commerce from Delhi University.
- 5. Ms. Saloni Sharma**, a Qualified Company Secretary, a graduate in bachelors and masters of commerce from Rajasthan University, and Pursuing bachelors of Law.

Ministry of Corporate Affairs (MCA)

1. Companies (Removal of Names of Companies from the Register of Companies) Second Amendment Rules, 2023

Date of Notification- May 10, 2023

Effective Date – May 10, 2023

Link:

<https://www.mca.gov.in/bin/dms/getdocument?mds=NayTkLw9l%252BWYjFrBKAUtDQ%253D%253D&type=open>

MCA vide its Notification dated 10th May 2023, amended the Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016, and the new rules will be called as the Companies (Removal of Names of Companies from the Register of Companies) Second Amendment Rules, 2023.

The following provisos shall be incorporated in the Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016 (hence referred to as the principal rules), in rule 4, sub-rule (1), namely: -

“If a company is filing an application for removal of its name to the authority the same shall not be filed unless the financial statements and annual returns of the company are not filed in Section 137 and 92 of The Companies Act, 2013 till the financial year the company ceased to carry its business operations.

Further, if the company is filing the application after the order of ROC in Section 1 of 248 after the action has been initiated the company is required to file the financial statements and annual returns before filing the application.

Furthermore, once notice has been given in accordance with subsection (5) of section 248 by the Registrar, A company is not permitted to submit the application if the action has started under subsection (1) of section 248.

2. Companies (Compromise, Arrangements and Amalgamation) Amendment Rules, 2023

Date of Notification- May 15, 2023

Effective Date – June 15, 2023

Link:

<https://www.mca.gov.in/bin/dms/getdocument?mds=1Wyd8lIdgilFPq8Dx6A3QA%253D%253D&type=open>

MCA vide its Notification dated 15th May 2023, amended the Companies (Compromise, Arrangements and Amalgamation) Amendment Rules, 2016, and the new rules will be called as the Companies (Compromise, Arrangements and Amalgamation) Amendment Rules, 2023.

The following will be changed in sub-rules (5) and (6) of rule 25 in the Companies (Compromises, Arrangements, and Amalgamations) Rules, 2016:

"(5) Where no objection or suggestion is received within thirty days of receipt of copy of scheme and If the Central Government receives a request for confirmation of a merger or amalgamation under subsection (2) of section 233 from the Registrar of Companies and Official Liquidator and determines that the proposal is in the public interest or in the interest of creditors, it may do so within fifteen days of the expiration of the thirty-day period by issuing a confirmation order in Form No. CAA.12:

3. Competition Amendment Act 2023

Date of Notification- May 18, 2023

Effective Date – May 18, 2023

Link:

<https://e-book.icsi.edu/Default.aspx?page=notification>

The Central Government hereby sets the 18th of May 2023 as the day on which the provisions of the following sections of the said Act shall take effect, in accordance with the authority granted by sub-section (2) of section 1 of the Competition (Amendment) Act, 2023 (9 of 2023).

Serial No.	Section
1	Sections 1 to 5 (both inclusive);
2	Sections 9 to 11 (both inclusive);
3	Sections 13 to 18 (both inclusive);
4	Section 19 (except clause f);
5	Sections 25 to 27 (both inclusive);

Serial No.	Section
6	Section 29;
7	Sections 31 to 32 (both inclusive);
8	Sections 36 and 37;
9	Section 39;
10	Sections 41 to 44 (both inclusive);
11	Section 45 (except 64B).

However, if the Central Government does not issue the confirmation order within sixty days of receiving the scheme as required by section 233 sub section (2), it will be assumed that it has no objections to the scheme and a confirmation order will be issued in accordance with that assumption.

(6) If the Central Government receives objections or suggestions from the Registrar of Companies or Official Liquidator or both within thirty days of receiving a copy of the scheme under subsection (2) of section 233, then –

(a) Should the Central Government determine that the proposed plan is in the public interest or in the interests of creditors and that the Registrar of Companies' or Official Liquidator's objections or suggestions are unjustifiable, it may issue a directive within thirty days of the aforementioned thirty-day period.

b) The Central Government may, within sixty days of receiving the scheme, file an application before the Tribunal in Form No. CAA.13 stating the objections or stating that it is of the opinion that the scheme is not in the public interest or in the interest of creditors, whether on the basis of such objections or otherwise.

If the Central Government does not issue a confirmation order under clause (a) or does not submit any application under clause (b) within sixty days of receiving the scheme, it will be assumed that it has no objection to the scheme, and a confirmation order will be issued in accordance.

Securities Exchange Board of India (SEBI)

1. Introduction of Legal Entity Identifier (LEI) for issuers who have listed and/ or propose to list non-convertible securities, securitized debt instruments and security receipts

Date of Circular – May 03, 2023

Effective Date – May 03, 2023

Link:

https://www.sebi.gov.in/legal/circulars/may-2023/introduction-of-legal-entity-identifier-lei-for-issuers-who-have-listed-and-or-propose-to-list-non-convertible-securities-securitised-debt-instruments-and-security-receipts_70875.html

SEBI vide its circular dated May 03, 2023 have directed issuers proposing to issue and list non-convertible securities and securitized debt instruments and security receipts on or after September 01, 2023 to report their LEI code in the Centralized Database of corporate bonds and to the Depositories respectively at the time of allotment of the ISIN as per the following requirements:

Category of security	Relevant Regulation	Applicability	Timeline
Non-convertible Securities	SEBI (Issue and listing of Nonconvertible Securities) Regulations, 2021	Issuer proposing to issue and list non-convertible security	On or after September 1, 2023
		Issuer having outstanding listed non-convertible security as on August 31, 2023	On or before September 1, 2023
Securitised Debt Instruments and Security Receipts	SEBI (Issue and Listing of Securitised Debt Instruments and Security Receipts) Regulations, 2008	Issuer proposing to issue and list Securitised Debt Instruments or Security Receipts	On or after September 1, 2023
		Issuer having outstanding listed Securitised Debt Instruments and Security Receipts as on August 31, 2023	On or before September 1, 2023

In India, the LEI code may be obtained from Legal Entity Identifier India Ltd (LEIIL), a subsidiary of the Clearing Corporation of India Limited (CCIL), which has been recognised by the Reserve Bank of India as issuer of LEI under the Payment and Settlement Systems Act, 2007 and is accredited by the GLEIF as the LOU in India for issuance and management of LEI codes.

2. Additional requirements for the issuers of transition bonds

Date of Circular – May 04, 2023

Effective Date – May 04, 2023

Link:

https://www.sebi.gov.in/legal/circulars/may-2023/additional-requirements-for-the-issuers-of-transition-bonds_70937.html

SEBI vide its circular dated May 04, 2023 prescribed a few additional disclosure requirements for issuers of transition bonds in the following documents:

i. In the offer document for public issues /private placements of such transition bond

To differentiate transition bonds from other categories of green debt security, Issuer of transition bonds shall use a denotation 'GB-T' Transition plan containing details of interim targets*/ milestones, Brief of the project implementation strategy etc.

ii. In the Centralized Database for corporate bonds- The Issuer to disclose the denotation in the Centralized Database for corporate bonds/ debentures by filling the denotation i.e. GB-T in sub point 6 i.e. Others (Please specify) of point 10. i.e. Type of Instrument of Annex-XIV-A to Chapter XIV (Centralized Database for corporate bonds/ debentures) of the Operational Circular dated August 10, 2021 (and as amended from time to time).

- iii. To Stock Exchanges, in case of a revision in the transition plan - Revised transition plan along with an explanation for any such revision to the already disclosed plan; if applicable
- iv. In the Annual report - Transition plan along with a brief on the progress of the implementation of the transition plan.

3. Registration with the FINNET 2.0 system of Financial Intelligence Unit – India (FIU-India)

Date of Circular – May 09, 2023

Effective Date – May 09, 2023

Link:

<https://www.sebi.gov.in/legal/circulars/may-2023/registration-with-the-finnet-2-0-system-of-financial-intelligence-unit-india-fiu-india-71040.html>

SEBI vide its circular dated May 09, 2023 advised all the SEBI registered debenture trustees to register/ re-register themselves in FINNET 2.0 system of FIU-India in light of the FATF mutual evaluation as soon as possible.

4. Investment in units of Mutual Funds in the name of minor through guardian

Date of circular: May 12, 2023

Effective Date: June 15, 2023

Link:

https://www.sebi.gov.in/legal/circulars/may-2023/investment-in-units-of-mutual-funds-in-the-name-of-minor-through-guardian_71148.html

SEBI vide its circular dated May 12, 2023 modified its circular no. SEBI/HO/IMD/DF3/CIR/P/2019/166 dated December 24, 2019 with regard to the process for Investments made in the name of a Minor through a Guardian.

With effect from June 15, 2023, payment for investment by any mode shall be accepted from the bank account of the minor, **parent or legal guardian of the minor**, or from a joint account of the minor with parent or legal guardian. For existing folios, the AMCs shall insist upon a Change of Pay-out Bank mandate before redemption is processed. Prior to this modification, payment for investment by means of Cheque, Demand Draft or any other mode was accepted from the bank account of the minor or from a joint account of the minor with the guardian only. Irrespective of the source of payment for subscription, all redemption proceeds shall be credited only in the verified bank account of the minor, i.e. the account the minor may hold with the parent/ legal guardian after completing all KYC formalities.

5. Model Tripartite Agreement between the Issuer Company, Existing Share Transfer Agent and New Share Transfer Agent as per Regulation 7(4) of SEBI (Listing Obligation and Disclosure Requirements) Regulation, 2015

Date of circular: May 25, 2023

Due Date of Submission – June 01, 2023

https://www.sebi.gov.in/legal/circulars/may-2023/model-tripartite-agreement-between-the-issuer-company-existing-share-transfer-agent-and-new-share-transfer-agent-as-per-regulation-7-4-of-sebi-lodr-regulation-2015_71657.html

SEBI vide its circular dated May 25, 2023 pursuant to regulation 9A (1)(b) of SEBI (Registrar to an Issue and Share Transfer Agent) Regulations, 1993 and regulation 7(4) of SEBI LODR Regulations, 2015 have prepared a model Tripartite Agreement has been prepared in consultation with Registrar Association of India (RAIN) and some issuer companies. Format of the Tripartite Agreement is provided in the circular.

RTAs and listed companies have been advised to:

1. publish the format of tripartite agreement on their respective websites.
2. comply with the conditions laid down in this circular;

3. make necessary amendments to the relevant bye-laws, rules and regulations, operational instructions, as the case may be, for the implementation of the above circular.

Regulation 9A (1)(b) of SEBI (Registrar to an Issue and Share Transfer Agent) Regulations, 1993: “Without prejudice to its obligations under any other law for the time being in force, RTA shall enter into a legally binding agreement with the body corporate or the person or group of persons for or on whose behalf it is acting as a registrar to an issue or a share transfer agent stating therein the allocation of duties and responsibilities between itself and such body corporate or person or group of persons, as the case may be”.

Regulation 7(4) of SEBI LODR Regulations, 2015”

“In case of any change or appointment of a new share transfer agent, the listed entity shall enter into a tripartite agreement between the existing share transfer agent, the new share transfer agent and the listed entity, in the manner as specified by the Board from time to time.”

6. Risk disclosure with respect to trading by individual traders in Equity Futures & Options Segment

Date of circular: May 19, 2023

Effective Date: July 01, 2023

Link:

https://www.sebi.gov.in/legal/circulars/may-2023/risk-disclosure-with-respect-to-trading-by-individual-traders-in-equity-futures-and-options-segment_71426.html

SEBI vide its circular dated May 19, 2023 introduced 'Risk disclosures' with respect to trading in equity Futures & Options (F&O) segment. With effect from the date of the circular, all stock brokers will be required to display the 'Risk disclosures' as provided in the circular on their websites and to all their clients in the manner provided therein.

7. MASTER CIRCULARS ISSUED BY SEBI

SEBI issued following master circulars during the month of May 2023:

S.No.	Date	Name of the Master Circular	Link
1	May 17, 2023	Master Circular for Stock Brokers	https://www.sebi.gov.in/legal/master-circulars/may-2023/master-circular-for-stock-brokers_71265.html
2	May 17, 2023	Master Circular for Registrars to an Issue and Share Transfer Agents	https://www.sebi.gov.in/legal/master-circulars/may-2023/master-circular-for-registrars-to-an-issue-and-share-transfer-agents_71271.html
3	May 19, 2023	Master Circular on Mutual Funds	https://www.sebi.gov.in/legal/master-circulars/may-2023/master-circular-for-mutual-funds_71438.html

8. FAQ's on filing of announcements in XBRL format on NSE Electronic Application Processing System (NEAPS) platform.

Date of circular: May 15, 2023

Link:

https://static.nseindia.com/s3fs-public/inline-files/Circular%20XBRL%20FAQs%2024042023_0.pdf

NSE vide its circular dated May 15, 2023 in furtherance to its circular no. NSE/CML/2023/28 dated March 31, 2023 w.r.t Filing of equity announcements under Regulation 30 of SEBI LODR in XBRL format on NSE Electronic Application Processing System (NEAPS) platform, released (FAQ's) with respect to filing of disclosures available in XBRL format for the guidance purpose.

9. FAQ's on Filing of announcements in XBRL format on BSE listing centre

Date of Notice: May 16, 2023

Link:

<https://www.bseindia.com/markets/MarketInfo/DispNewNoticesCirculars.aspx?page=20230516-36>

BSE vide its notice dated May 16, 2023 in furtherance to the circular no. 20230331-87 dated March 31, 2023, issued by the Exchange w.r.t Filing of equity announcements in XBRL format on BSE listing centre, released Frequently Asked Questions (FAQ's) with respect to filing of disclosures available in XBRL format for guidance purpose.

10. Comprehensive guidelines for Investor Protection Fund and Investor Services Fund at Stock Exchanges and Depositories

Date of Circular – May 30, 2023

Effective Date - May 30, 2023

Link:

https://www.sebi.gov.in/legal/circulars/may-2023/comprehensive-guidelines-for-investor-protection-fund-and-investor-services-fund-at-stock-exchanges-and-depositories_71925.html

SEBI vide its circular dated May 30, 2023 released modified comprehensive guidelines for Investor Protection Fund and Investor Services Fund at Stock Exchanges and Depositories. The guidelines have been revised based on the feedback received from various market participants, discussions with Stock Exchanges, Depositories and deliberations in Secondary Market Advisory Committee (SMAC) of SEBI.

Reserve Bank of India (RBI)

1. Formalisation of Informal Micro Enterprises on Udyam Assist Platform

Date of Circular – May 09, 2023

Effective Date – May 09, 2023

Link:

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12500&Mode=0>

RBI vide its circular dated May 09, 2023 in continuation to the notification issued by the Government of India, vide Gazette Notification S.O. 1296(E) dated March 20, 2023, specifying that the certificate issued on the UAP to IMEs shall be treated at par with Udyam Registration Certificate for the purpose of availing Priority Sector Lending (PSL) benefits, clarified that IMEs with an Udyam Assist Certificate shall be treated as Micro Enterprises under MSME for the purposes of PSL classification.

IME - Informal Micro Enterprises

UAP- Udyam Assist Platform

PSL - Priority Sector Lending

2. ₹2000 Denomination Banknotes – Withdrawal from Circulation; Will continue as Legal Tender

Date of notification: May 19, 2023

Effective Date: May 19, 2023

Link: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12505&Mode=0>

RBI vide its notification dated May 25, 2023 in pursuance of its “Clean Note Policy” withdrew the circulation of ₹2000 denomination banknotes. The ₹2000 banknotes will continue to be legal tender. The notification lists down the plan of action to be followed in this regard covering the following aspects:

- a. Handling of existing stock and receipts
- b. Facility for Deposit and Exchange
- c. Replenishment of Stock of Other Denominations for Exchange
- d. Dissemination of Information

The above instructions will be effective until September 30, 2023.

Central Board of Direct Taxes (CBDT)

1. Income-tax (Sixth Amendment) Rules, 2023

Date of Notification: May 29, 2023

Effective Date: May 29, 2023

Link:

<https://incometaxindia.gov.in/communications/notification/notification-32-2023.pdf>

Central Board of Direct Tax vide its notification date May 29, 2023 made the Income Tax (Sixth Amendment) Rules, 2023 by amending the Income Tax Rules, 1962.

In the new rules following will be substituted:

Rules/ Appendix	Pre Amendments	Post Amendments
In Rule 45 (in Marginal Heading)	Commissioner (Appeals)	Joint Commissioner (Appeals) or Commissioner (Appeals)
In Rule 45 (in sub rule (1))	Commissioner (Appeals)	Joint Commissioner (Appeals) or the Commissioner (Appeals)
In Rule 46 (in Marginal Heading)	Deputy Commissioner	Joint Commissioner
In Rule 46	Deputy Commissioner	Joint Commissioner

Rules/ Appendix	Pre Amendments	Post Amendments
In Appendix- II, In Form No. 35	Commissioner of Income Tax	Joint Commissioner (Appeals) or the
In Appendix- II, In Form No. 35	Commissioner	Joint Commissioner (Appeals) or

2. CBDT Raises Cash Equivalent Limit for Leave Salary in Income Tax Act

Date of Notification: May 24, 2023

Effective Date: April 1, 2023

Link:

<https://incometaxindia.gov.in/communications/notification/notification-31-2023.pdf>

CBDT vide its notification dated May 29 has issued Notification No. 31/2023-Income-Tax and Increased Limit for Tax Exemption on Leave Encashment for non-government salaried employees, . For non-government salaried employees, the Income-tax Act of 1961 historically provided a tax exemption on leave encashment.

The earned leave they had accumulated at the time of retirement, whether from superannuation or another source, was covered by this exemption. The upper limit for this exemption, however, was fixed at Rs. 3 lakh.

The Central Government has recently announced an increased maximum for the tax exemption on leave encashment in response to the suggestion made by the Honourable Finance Minister during the Budget Speech of 2023.

The new cap is set at Rs. 25 lakh for salaried non-government workers as of April 1, 2023. The total amount exempt from income tax under section 10(10AA)(ii) of the Act should not exceed Rs. 25 lakh if a non-government employee receives such payments from various employers in the same prior year.

The Rs. 25 lakh limit shall also be reduced by any tax exemption that the employee has previously received from their total income under section 10(10AA)(ii) of the Act.

Central Board of Indirect Taxes & Customs (CBIC)

1. CBIC issues instruction on Standard Operating Procedure for Scrutiny of Returns for FY 2019-20 onwards

Date of Notification: May 26, 2023

Link:

<https://www.cbic.gov.in/1c87a560-aaff-4848-982b-744f6ee59e09>

Instruction No. 02/2023-GST, dated May 26, 2023, from the Ministry of Finance's Department of Revenue and Central Board of Indirect Taxes and Customs (CBIC) outlines the standard operating procedure (SOP) for the examination of Goods and Services Tax (GST) returns beginning with the financial year 2019–20. The instruction explains that the CBIC ACES-GST application now includes an online workflow feature called "Scrutiny of Returns" that was developed by the Directorate General of Systems (DG Systems).

This functionality enables the proper officer to notify the registered individual of discrepancies found in the returns, solicit feedback, issue orders, or take additional measures including sending show-cause warnings, doing audits, or opening investigations. The Directorate General of Analytics and Risk Management (DGARM) will choose which returns to examine based on defined risk indicators. The chosen GSTINs (GST Identification Numbers) will be made accessible on the ACES-GST application's scrutiny dashboard for the appropriate officers. The dashboard will also display the risk criteria and the amount of tax or discrepancy involved for reference.

The SOP outlines the procedures for the scrutiny process, including the dates to be adhered to, the scrutiny schedule, and the process of scrutiny by the appropriate officer. It places a strong emphasis on timing the scrutiny process and avoiding unnecessary physical contact between the proper officer and the registered individual.

The instruction also covers the issuance of notices, acceptance of differences by the registered person or an explanation thereof, and the actions to be taken by the appropriate officer in light of the response obtained. It emphasises that the proper authority may proceed with assessing the tax and other dues under Sections 73 or 74 of the CGST Act if no adequate explanation is provided or the inconsistencies are accepted but not paid.

The instruction emphasises reporting and monitoring through the scrutiny dashboard and provides timetables for each step of the scrutiny process. For the financial year 2019–20 forward, it also eliminates the necessity of delivering monthly scrutiny progress reports to the Directorate General of Goods and Services Tax (DGGST).

Miscellaneous Laws

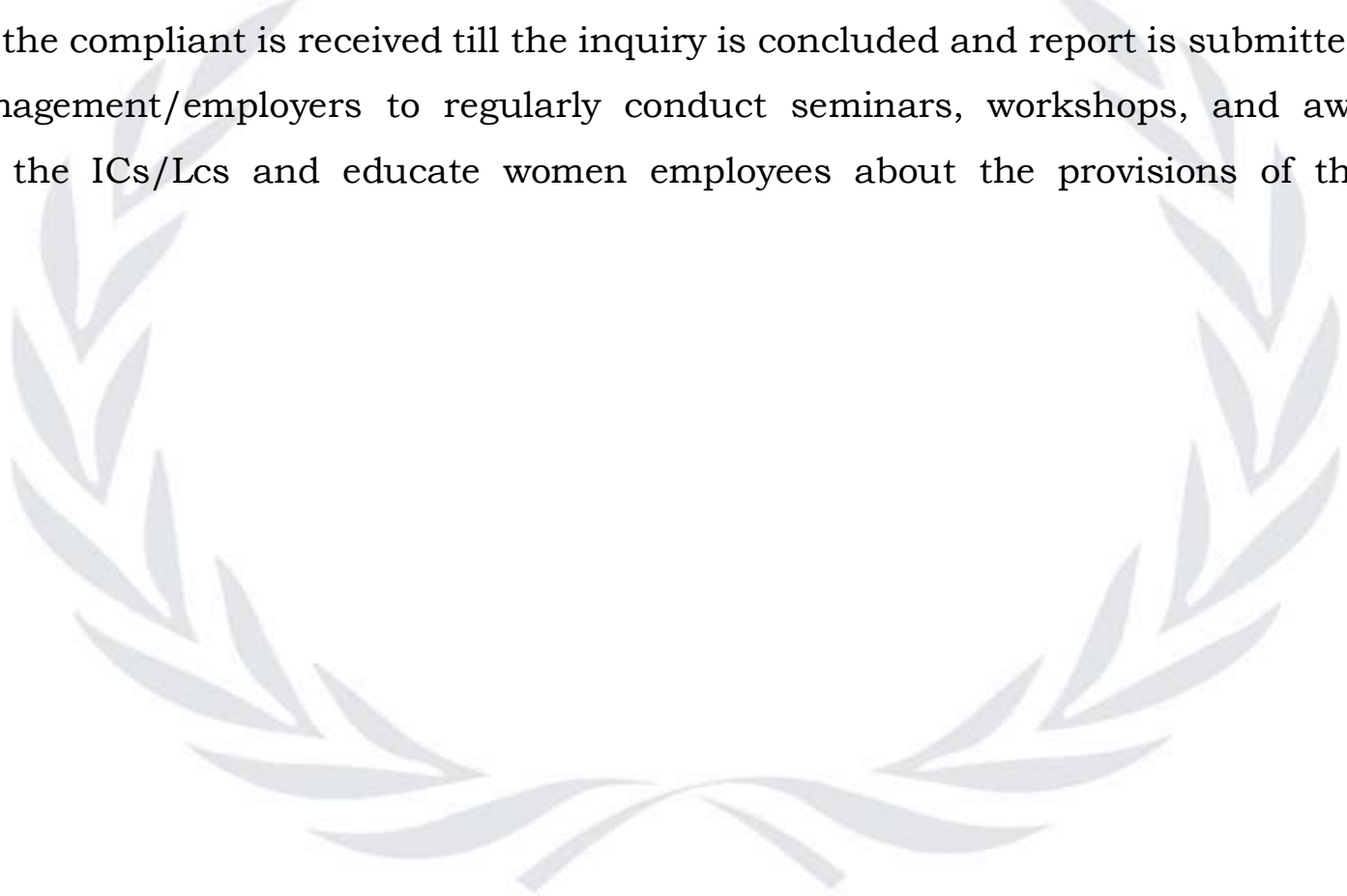
1. Supreme Court issued directions for the private and public entities for successful enactment of the POSH Act, 2013

Date of Judgement: May 12, 2023

Effective Date: May 12, 2023

The Supreme Court in the matter of **Aureliano Fernandes v. State of Goa & Ors**, observed that there are serious lapses in the enactment of the POSH Act, 2013 and stated that the POSH Act, 2013 will not succeed in giving the women the respect and dignity that they deserve unless and until there is a strict adherence to the enforcement regime and a proactive approach by all the State and Non-State Actors. Further, in order to fulfil the promise that the POSH Act, 2013 holds out, the Supreme Court issued the following directions:

- a. The Union of India, all State Governments and Union Territories to verify that all the ministries, departments, government organizations, and any other public institutions, etc., to have constituted ICCs/LCs/ICs, as the case may be, as per the composition under the POSH Act, 2013.
- b. It shall be ensured that all the information regarding the committee and all the relevant rules, regulations, and internal policies on POSH, 2013 be made readily available on the website of the concerned authority/institution/body/statutory bodies of professionals, etc and the same shall be updated time to time.

- c. Immediate and effective steps to be taken by the employers on the complaints of sexual harassment at the workplace, from the point when the complaint is received till the inquiry is concluded and report is submitted.
 - d. The authorities/management/employers to regularly conduct seminars, workshops, and awareness programmes to upskill members of the ICs/Lcs and educate women employees about the provisions of the POSH Act, and rules thereunder.
- 
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2. The Hon'ble Supreme Court made significant observations on admission of application under Section 7 of Insolvency and Bankruptcy Code, 2016

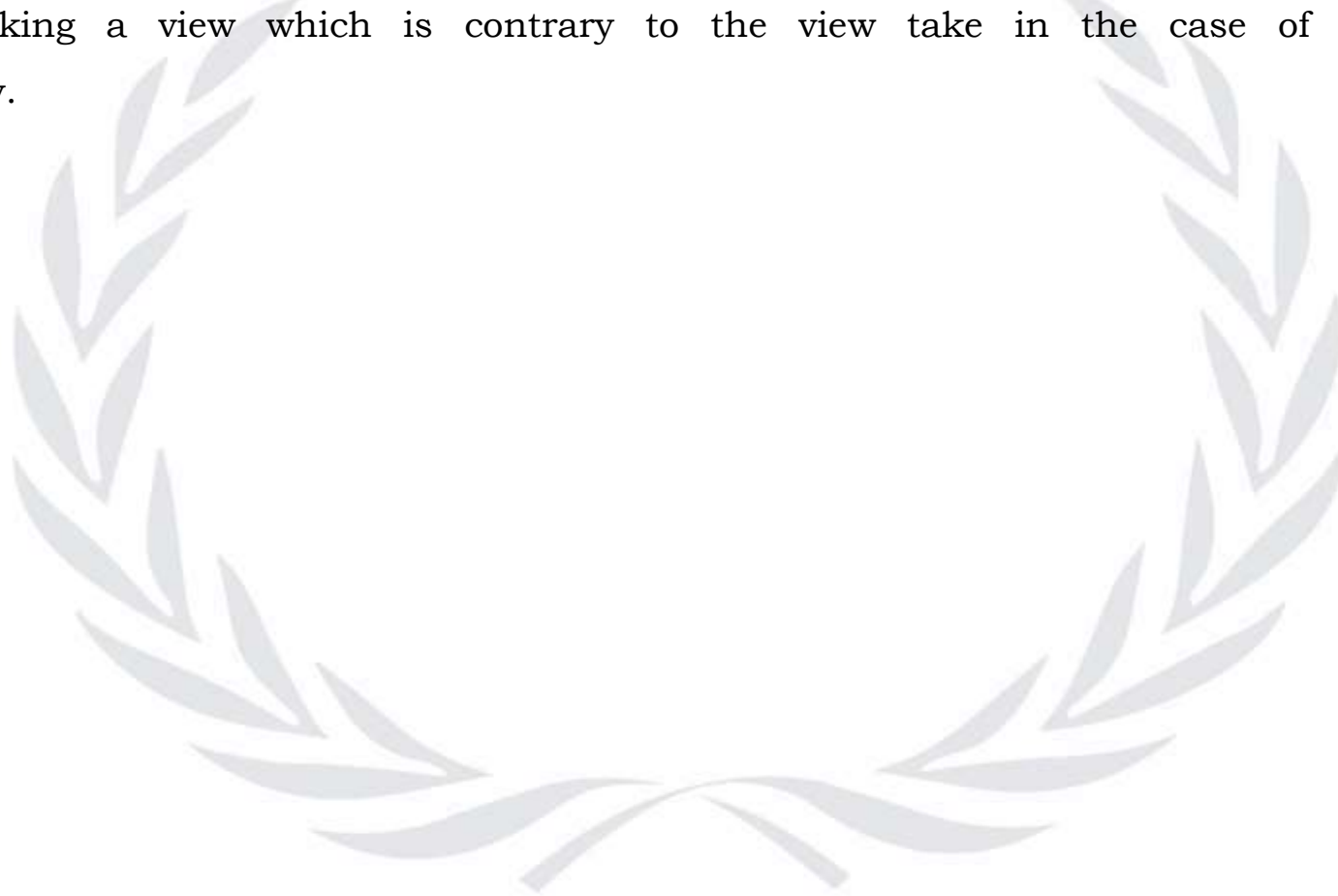
Date of Judgement: May 11, 2023

Effective Date: May 11, 2023

The Supreme Court in the matter of M. Suresh Kumar Reddy v. Canara Bank & Ors. Made significant findings and observations regarding the admission of application under IBC, 2016, that are as follows:

- a. In the cases of Innoventive Industries and E.S.Krishnamurthy and others, the SC had held that in case Corporate Debtor commits default of financial debt, Adjudicating Authority has to merely see the records of information utility and other evidence produced by Financial Creditor to satisfy that default has occurred.
- b. Once Adjudicating Authority is satisfied that the default has occurred, there is a hardly a discretion left with Adjudicating Authority to refuse admission under section 7 of the Code.
- c. Even non- payment of a part of debt becoming due and payable will amount to default on the part of Corporate Debtor.
- d. The SC in the Vidarbha Industries case has held that the Adjudicating Authority cannot exercise discretionary power arbitrarily or capriciously unless the fact and circumstances warrant exercise of discretion in a particular manner.
- e. The SC laid emphasis on the review petition observations that its decision in Vidarbha Industries case was in the setting of facts of the case and observations in the judgments are not to be read as provisions of statute.

- f. The SC while dismissing the appeal observed that the decision in the case of Vidarbha Industries cannot be read and understood as taking a view which is contrary to the view take in the case of Innoventive Industries and E.S.Krishnamurthy.



Article 1

SPACE POLICY 2023 OF GOI

The Space Policy was announced in April 2023 by the GOI. This policy has introduced sea change in the earlier policies of the government. Earlier it was restricted only to Government and Agencies of Government of India. Now it has opened its doors to the Private Entities / Non-Governmental Entities (NGE) in carrying out end-to-end activities in the space domain and with an aim to provide them a level playing field.

The Preamble clearly highlights that subsequent to these reforms, the Government seeks to provide regulatory certainty to space activities by various stakeholders, in order to create a thriving space ecosystem.

The Indian Space Policy – 2023 has thus been formulated as an overarching, composite and dynamic framework to implement the reform vision approved by Cabinet.

The purpose and vision for introducing such a policy, though late in terms of our space programmes, to augment space capabilities; enable, encourage and develop a flourishing commercial presence in space; use space as a driver of technology development and derived benefits in allied areas; pursue international relations, and create an ecosystem for effective implementation of space applications among all stakeholders;

And for the nation's socio-economic development and security, protection of environment and lives, pursuing peaceful exploration of outer space, stimulation of public awareness and scientific quest.

To meet its strategy, the GOI has decided to focus on the following goals:

Encouraging advanced Research & Development in space sector to sustain and augment the space program.

- ii. Providing public goods and services using space technology for national priorities.
- iii. Creating a stable and predictable regulatory framework to provide a level playing field to Non-Government Entities in the Space sector through IN-SPACe.
- vi. Promoting space-related education and innovation, including support to space-sector start-ups.
- v. Using space as a driver for overall technology development, nurture scientific temperament in the society, and increase awareness on space activities.

The Policy also states that the Indian National Space Promotion and Authorization Centre (IN-SPACe) shall act as the single window agency for the authorization of space activities by government entities as well as NGEs, subject to relevant Government directives, keeping in mind safety, national security, international obligations and/or foreign policy considerations.

The Space Policy 2023, has kept many questions unanswered and will keep us guessing for years. Crucial areas of Foreign Direct Investments (FDI) and Spectrum policies on allocation are still remains open. Hope the GOI and TRAI give us clarity in the near future.

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Article 2

DEFAMATION

UNDERSTANDING THE LEGAL IMPLICATIONS OF HARMFUL SPEECH

Introduction: Defamation is a legal concept that deals with the protection of one's reputation and the consequences of making false statements about another person or entity. In the digital age, where information spreads rapidly, understanding the elements and implications of defamation has become increasingly important. This article aims to provide a detailed overview of defamation, including its definition, types, legal elements, defence, and potential consequences.

Definition of Defamation: Defamation refers to a communication that harms the reputation of an individual, group, or organization by making false statements of fact to a third party. The key elements of defamation are falsity, communication, harm to reputation, and the presence of a third party.

Types of Defamation: Defamation can be classified into two main categories:

- Libel - Libel involves the publication of defamatory statements through written or printed mediums, such as newspapers, magazines, or online platforms.
- Slander – Slander, on the other hand, refers to spoken defamatory statements or gestures.

Legal Elements of Defamation: To establish a defamation claim, several elements must be proven:

- **False Statement of Fact:** The statement made must be a factual assertion, rather than an expression of opinion or subjective interpretation.
- **Publication:** The defamatory statement must be communicated to at least one third party, beyond the person making the statement and the subject of the statement.
- **Identification:** The defamatory statement must be reasonably understood to refer to the person or entity claiming defamation. In the case of a group or organization, the statement must specifically identify them.
- **Harm to Reputation:** The defamatory statement must have caused harm to the reputation of the individual or entity. This harm may include damage to their personal or professional standing, loss of business opportunities, or mental anguish.

Defences against Defamation Claims: Several defences can be raised against a defamation claim, depending on the jurisdiction. Some common defences include:

- **Truth:** If the statement in question is true, it generally serves as an absolute defence against a defamation claim. However, the burden of proving the truth of the statement rests on the defendant.
- **Opinion:** Statements of pure opinion are generally protected under free speech rights, as they are subjective and not presented as statements of fact. However, if an opinion implies false facts, it may still be subject to a defamation claim.
- **Privilege:** Certain communications, such as statements made in court proceedings or by government officials in their official capacity, may be protected by privilege. This grants immunity against defamation claims.

Consequences of Defamation: If a court determines that defamation has occurred, the potential consequences may include:

- **Damages:** The defamed party may be awarded compensatory damages to recover the financial losses incurred as a result of the defamation, including damage to reputation, emotional distress, and lost opportunities.
- **Injunctions:** In some cases, a court may issue an injunction to prevent further publication or dissemination of the defamatory statements.
- **Retractions and Corrections:** Courts may require the defendant to publish retractions or corrections to mitigate the harm caused by the defamatory statements.
- **Conclusion:** Defamation can have severe implications on a person's or entity's reputation and well-being. Understanding the legal elements, defences, and potential consequences of defamation is crucial to navigate the complexities of free speech and protect against unwarranted harm.

A Comparative Analysis of Criminal Defamation and Defamation in Tort

- **Introduction:** Defamation, whether in the form of criminal defamation or defamation in tort, deals with the protection of reputation and the consequences of making false statements about another person or entity. While both types of defamation share similarities in terms of the harm caused by false statements, there are significant differences in their nature, legal frameworks, and potential consequences. This article provides a detailed comparison between criminal defamation and defamation in tort, exploring their key distinctions and implications.

- **Nature and Purpose: Criminal Defamation:** Criminal defamation is a legal offense, often codified in criminal laws, that seeks to punish individuals who make false statements about others with the intent to harm their reputation. The primary objective of criminal defamation is to maintain social order and protect public interests by deterring the dissemination of false information.
- **Defamation in Tort:** Defamation in tort, also known as civil defamation, focuses on the rights of the defamed individual to seek redress for the harm caused to their reputation. It aims to compensate the victim and restore their reputation through legal action. The primary goal is to provide a remedy for the injured party rather than imposing criminal penalties on the defamer.
- **Legal Framework: Criminal Defamation:** Criminal defamation laws vary across jurisdictions, and the elements required to establish a criminal defamation offense may differ. Generally, criminal defamation requires the presence of mens rea, or a guilty mind, on the part of the defamer. The burden of proof rests with the prosecution to establish both the falsity of the statement and the intent to harm reputation.
- **Defamation in Tort:** Defamation in tort is governed by civil laws and statutes specific to each jurisdiction. The burden of proof lies with the plaintiff, who must demonstrate that the defamatory statement meets the necessary elements, including falsity, publication, harm to reputation, and identification. Unlike criminal defamation, the intent to harm reputation may not always be a prerequisite for establishing a civil defamation claim.

- **Punishment and Remedies: Criminal Defamation:** Criminal defamation typically entails criminal penalties imposed by the state, which may include fines, imprisonment, or both. The severity of punishment varies depending on the jurisdiction. The primary focus is on punishing the defamer for their wrongful conduct and deterring others from engaging in similar behaviour.
- **Defamation in Tort:** Defamation in tort primarily focuses on providing remedies to the injured party. The most common remedy is monetary compensation, often referred to as damages. The damages awarded aim to compensate for the harm caused to the plaintiff's reputation, including financial losses, emotional distress, and impairment of personal or professional opportunities. In some cases, injunctive relief may also be sought to restrain further publication of defamatory statements.
- **Public Interest and Freedom of Speech: Criminal Defamation:** Criminal defamation laws, although aimed at protecting reputation, may sometimes intersect with concerns related to freedom of speech. Balancing the right to free expression with the need to safeguard reputation can be challenging. In some jurisdictions, criminal defamation laws have been criticized for their potential misuse as tools of censorship and stifling dissent.
- **Defamation in Tort:** Defamation in tort allows for a more nuanced approach to balancing freedom of speech and protection of reputation. Courts often consider various factors, such as the public interest, truthfulness of the statement, and the presence of a legitimate opinion, when determining liability. This approach seeks to strike a balance between protecting reputation and upholding the right to freedom of expression.

Conclusion: While both criminal defamation and defamation in tort address the harm caused by false statements, they diverge in nature, legal frameworks, and objectives. Criminal defamation aims to deter through criminal penalties, while defamation in tort seeks to compensate and restore the reputation of the victim. Balancing freedom of speech and reputation protection remains a complex challenge, with each form of defamation presenting distinct implications within the legal landscape. Understanding these differences is crucial for navigating the legal complexities surrounding defamation and ensuring the protection of both reputation and the right to free expression.

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Article 3

Revamping of Legal System in India

In Pre-Independence era, Indian legal system was influenced by British Raj. The Country and its people were subject to laws which served the interests of Britishers. After Independence in 1947, India got its own constitution in 1950. Indian Constitution has three major arms i.e. Legislation, Executive and Judiciary. Each arm has its own role and responsibilities and the importance of any of them cannot be undermined. The Constitution provides powers to Parliament and State Assemblies to make laws under Central, State and Concurrent lists. Governments discharge the role of Executive and Judiciary keep a tab on other arms and protects the rights of people.

After 75 years of independence, there is a need to retrospect the journey of legal system in India for revamping the same in the changed national and international environment. Like other fields, law has evolved itself in line with the needs of the society. The changes in the environment gave birth to new laws and made old laws redundant with the passage of time. The entire legal ecosystem consisting of law makers, implementors, litigants, Advocates, judiciary and related infrastructure support needs alignment to make legal system efficacious and robust. The gaps are to be filled up from time to time.

Post-Independence era has seen many changes in political, social and economic front and our legal system moved in tandem to meet its vary purpose of making law abiding and healthy society.

Indian Economy moved from mixed economy to capitalism/liberalisation particularly post 1990 to compete with the world economy.

This made us necessary to move towards international laws/treaties such as treaty on protection of intellectual property rights (TRIPS) , Double taxation avoidance treaties, replacing FERA to FEMA, free trade policy (moving most of the items from restricted list to Open General License), bilateral and multilateral treaties with other countries, international arbitration etc. Similarly, Indian Society has also undergone a change since independence. There has been a shift from Joint family to nuclear family leading to division of properties & family disputes, migration of people from rural areas to urban areas in search of business & employment opportunities, a shift from Agriculture to Industry & Service Sector. This paradigm shift brought changes in Business, Commercial and labour laws. Economic independence and education of women challenged the male dominated society and that gave new dimensions to matrimonial and feminist laws. Equity cult after 1990 also gave birth to SEBI Regulations, Securities laws and changes in Company laws. Today information Technology has penetrated into every field and has made its impact on every facet of life. Now time has come to make new IT related laws and amend the existing ones to keep pace with fast changing IT environment.

In nutshell, changed social, political, economic and educational environment in the Country brought changes in the prevailing laws from time to time to meet the requirements of the system.

It is rightly said in this fast-changing world; change is the only constant. This holds good for legal system also. Present system has many areas of concern or challenges which need to be addressed.

1. Time is the essence of Justice. Justice delayed is justice denied. A large number of cases are pending in various courts in the country and take abnormal time to be decided. In February, 2023 there were over 4.3 Crores pending cases in lower courts, around 60 lacs in high courts and 7 thousand in Supreme Court. Our courts are overburdened and considering vast population of 140 crores there seems to be no respite in future also. It is not that Judiciary is not aware about this sanguine situation, it is exploring new ways and means to tackle the situation with the available resources.
2. Social media is highly influential in today's time as everything has become real-time situation. Social media has been influencing the conduct, behaviour and thoughts of people who have become addicts of Facebook, Twitter, Instagram and other platforms. Unbridled flow of contents on such platforms need to be regulated by laws to keep it within permissible contours, otherwise it is going to be a wildfire. Messages spreading hatred among religion, caste, creed, gender, political parties and between have & have-nots are to be monitored and not be allowed under the garb of fundamental rights. Social media should be healthy and not be allowed to weaken the fabrics of society.
3. Brand Building – Judiciary is an independent institution above politics, religion, caste, creed, gender, financial status of people. People who are deprived of their rights look for justice from courts. Therefore, Judiciary has its responsibility to keep its image clean and above board to win the confidence & faith of common people. High profile cases should be disposed of in a time bound manner to give a clear message to all that no one is above law. In the past, Judiciary has seen its high and low on the barometer of public perception.

4. Proliferation of laws – India is a vast Country and have a plethora of laws falling under Central, State and Concurrent list. At times, it becomes difficult even for judiciary or legal fraternity to acquaint itself with all such laws & their interpretational issues. In the past new laws such as GST,RERA, IBC, Wage Code, Cryptocurrency Bill, Personal Data Protection Bill etc. have come up and it would take time to reach at maturity stage.
5. Information Technology is making inroads in legal field also. Bulky legal books, case laws and voluminous court records are getting replaced by soft records taking limited physical space. In Covid times, E-Courts showed the world how the technology can be leveraged to give justice to the people without physical records and interactions. The challenge with Judiciary is to imbibe the technology fully to make its optimal use. This requires to adapt the new working style and to keep upto date with latest applications/software of legal field.
6. Overlapping jurisdiction Though Constitution clearly demarcate the role and responsibilities of Parliament, Government and judiciary yet at times there are cases of overreaching each other jurisdiction.

Today, judiciary is besieged by pendency of cases, pressure from Social Media, daunting task of keeping clean image, coping up with fast changing technology and delivering justice to common people in a time bound manner.

To address the above concerns or challenges faced by legal system in India, following points can be pertinent and require actions from various stakeholders of legal system.

- I. To start with legislations, need to be prepared or amended with utmost clarity and need not leave much scope of multiple interpretations. Proper clarity and simplicity in language are important for a legislation to stand against the future litmus test. Public consultations, involvement of ground people, subject experts are equally desirable to make a legislation as a master piece of paper.
- II. To cut down multilayer system : Indian legal system provides a number of progressive legal remedies to the litigants in the form of lower court – High Court – Supreme Court, even within a court mechanism of review, revision, single bench/ Division bench etc. exist if one is not satisfied with the order. This long chain takes many years and in the process litigants incur a lot of time, energy and money. That is why sometimes it is rightly said a common man has to run from pillar to post to get justice. Even in the Court Tarik pae Tarik forces the person to lose hope and force him not to go for litigation in life. In my view some mechanism is required to contain the long chain of remedies considering the nature and materiality of the matters.
- III. Frivolous PILs and Writs – There is an increased tendency among litigants/activists to use PILs and Writs liberally even for petty and frivolous matters. This unnecessarily put the burden on the Courts and needs to be discouraged by putting penalties for future deterrence. These remedies are to be resorted in genuine cases and for bonafide purpose.

- IV. Propagate Alternative Dispute Resolution (ADR) mechanism – ADR in the form of mediation, conciliation and arbitration can be effective tool to replace litigation in courts. This mechanism can be cost effective and less time consuming to resolve the issues without recourse to the courts. In the Past, a lot of efforts have been made to propagate this mechanism, however still it has a long way to go. There is a need to strengthen it further so that it becomes a popular powerful tool of resolving disputes among parties.
- V. Special Courts, Tribunals and Ombudsman Our legal system has special courts such as Rent Controller, Family Courts, Labour Courts, Consumer Redressal Forums, NCLT, ITAT and Insurance & Banking Ombudsman to deal with specified category of cases. However, in my view there can be more such courts for speedy disposal of cases.
- VI. Filling up of vacancies in Courts There is a need to ensure that not only Judges vacancies are filled in time but also new vacancies are created depending upon the requirements. Adequate infrastructure are provided to Judges to discharge their duties efficiently.
- VII. Legal inclusion – Legal recourse should not be confined to elite class or perception needs to be broken that only rich class has access to expensive legal recourse and get justice from courts. There is a need to make legal remedies available to common people at every nook and corner of the country. This requires creation of necessary infrastructure, availability of resources and awareness among common people. In this direction NGOs and legal platforms can play an important role to bridge the gap between access to court and common man.

There is no doubt that India has one of the strongest legal system which has evolved itself to meet the changing socio, political and economic environment of the Country. What needs to be done is to maintain clean and good perception of judiciary in the eyes of general public. There should be a clear message that justice cannot be bought with money and political power and nobody is above the law of land. Early access to legal remedies at an affordable cost and justice in a time bound manner is the ultimate purpose for which each stakeholder should strive for in the legal eco system.

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Case Laws

CASE LAWS

1. In **Commissioner of Customs, Central Excise & Service Tax v M/S Suzlon Energy**, the Supreme Court upheld the constitutional validity of Section 140(5) of the Companies Act, 2013 and held that that the provision is "neither discriminatory, arbitrary and/or violative of Articles 14, 19(1)(g) of the Constitution of India. It further observed that “subsequent resignation of an auditor after the application is filed under section 140(5) by itself shall not terminate the proceedings under section 140(5). Resignation and/or removal of an auditor cannot be said to be an end of the proceedings under section 140(5).”
2. In **Damodhar Narayan Sawale (D) through LRs vs Shri Tejrao Bajirao Mhaske & Ors.**, the Supreme Court held that an inter-se dispute on the validity of the sale deed executed between the defendants in respect of the suit land, cannot be considered in the suit for possession instituted by the plaintiff on the basis of a registered sale deed executed in its favor, as it would amount to adjudication of a right or a claim by way of counter-claim by one defendant against his co-defendant, which cannot be permitted by virtue of Order VIII Rule 6A of the Code of Civil Procedure, 1908 (CPC).
3. In **Indian Oil Corporation vs Sathyanarayana Service Station.**, The Supreme Court observed that, in arbitration cases, a Court cannot, after setting aside the award, proceed to grant further relief by modifying the award.

4. In **Dr. VR Sanal Kumar v. Union of India And Ors.**, the Supreme Court reiterated that inquiry proceedings of persons employed in civil capacities under the Union Government or the State Government can be done away with if the President or the Governor is satisfied that in the interest of the security of the State, it is not expedient to hold such an inquiry [clause (c) of second proviso to Article 311(2) of the Constitution of India] It further held that once it is obvious that circumstances based on materials capable of arriving at a satisfaction that it is not expedient to hold an inquiry “in the interest of the security of the State” are available, the decision in holding that it is inexpedient “in the interest of the security of the State” to hold an inquiry warrants no further scrutiny.
5. In **Commissioner of Customs, Central Excise and Service Tax, Hyderabad vs Ashwani Homeo Pharmacy.**, the Supreme Court has observed that the classification of a product under the Central Excise Tariff Act, 1985, cannot be changed merely on the ground of change of tax structure or tariff entries, without showing a change in the nature and character of a product or a change in the use of the product.
6. In **National Insurance Company Ltd V. Vedic Resorts and Hotels Pvt. Ltd.**, the Supreme Court has held that while the Surveyor's Report in a claim for insurance is not final and can be deviated from, it is necessary for the insurer to provide ‘cogent and satisfactory’ reasons for not accepting the report. It further held that when there is an exclusionary clause in an insurance policy, the onus is on the insurer to show that the case is covered under such clause. The Apex Court also reiterated that when there is ambiguity in the insurance contract, it must be construed in favour of the insured.

7. In **Aureliano Fernandes v. State of Goa & Ors.**, the Supreme Court observed that there are serious lapses in the enactment of the POSH Act, 2013 and stated that the POSH Act, 2013 will not succeed in giving the women the respect and dignity that they deserve unless and until there is a strict adherence to the enforcement regime and a proactive approach by all the State and Non-State Actors. Further, in order to fulfil the promise that the POSH Act, 2013 holds out, the Supreme Court issued the following directions:
 - a. The Union of India, all State Governments and Union Territories to verify that all the ministries, departments, government organizations, and any other public institutions, etc., to have constituted ICCs/LCs/ICs, as the case may be, as per the composition under the POSH Act, 2013.
 - b. It shall be ensured that all the information regarding the committee and all the relevant rules, regulations, and internal policies on POSH, 2013 be made readily available on the website of the concerned authority/institution/body/statutory bodies of professionals, etc and the same shall be updated time to time.
 - c. Immediate and effective steps to be taken by the employers on the complaints of sexual harassment at the workplace, from the point when the complaint is received till the inquiry is concluded and report is submitted.
 - d. The authorities/management/employers to regularly conduct seminars, workshops, and awareness programmes to upskill members of the ICs/Lcs and educate women employees about the provisions of the POSH Act, and rules thereunder.

8. In **Adivasis for Social and Human Rights Action v. Union of India And Ors.**, The Supreme Court, dismissed a plea, inter alia, contending that the Representation of the People Act, 1950 and the Delimitation Act, 2002 are not applicable to the Scheduled Area in absence of the notification issued by the Governor of the State under Clause 5(1) of the Fifth Schedule of the Constitution of India. The Court also rejected the argument that the fifth schedule of the Constitution takes away the right of a non-tribal person to settle down and vote in a scheduled area was also rejected.
9. In **Senthilbalaji V. vs A.P. Geetha & Ors**, the Supreme Court has ruled that failure to plead material facts concerning alleged corrupt practice is fatal to the election petition. The apex court observed that when allegations of corrupt practice are made against an elected representative in an election petition, the proceedings virtually become quasi-criminal. Further, the outcome of such a petition is very serious, which can oust a popularly elected representative of the people. Therefore, non-compliance with the requirement of stating material facts concerning the ground of corrupt practice must result in the rejection of the petition at the threshold itself.

Compliance Checklist

COMPLIANCE CALENDAR FOR JUNE 2023

Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

Tax Related Compliance

TDS Payment for May 2023

TCS Payment

Advance Tax / Corporation tax for A.Y. 23-24 (1st Installment)

GSTR 1 (Monthly) for May 2023

Invoice Furnishing Facility (“IFF”) (Monthly) for the May 2023

Issuance of TDS Certificates / Form 16 or 16A for 4th QTR (Jan-23 to March-23)

GSTR 3B for May 2023 (Monthly)

FEMA Related Compliance

Reporting of actual transactions of External Commercial Borrowings (ECB) through AD Bank under FEMA

IEC Code Renewal

Economic, Industrial & Labour Law Related Compliance

Provident Fund (PF) & ESI Returns Payment for May-2023

Ministry of Corporate Affairs

Form DPT 3 for FY 2022-23 applicable for the Companies registered under Companies Act, 2013.

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