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*News, Views and Updates*

### **LATEST IN LEGAL ARENA**

**October 22, 2016**

#### **SEBI introduces online system for Investment Advisers and Research Analysts**

Securities and Exchange Board of India (SEBI) has introduced an online system for Investment Advisers and Research Analysts to promote ease of operations in terms of e-registration, compliance reporting, etc. Applicants seeking grant of registration as Investment Advisers and Research Analysts are now required to submit only online application to SEBI. The user manual available in the portal has instructions on how to submit the applications.

#### **Foreign Exchange Management (Manner of receipt and payment) Regulations, 2016**

In consultation with the Government of India, the Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2000; Foreign Exchange Management (Receipt from, and payment to, a person resident outside India) Regulations, 2000 and Foreign Exchange Management Notification (Transactions in Indian rupees with residents of Nepal or Bhutan) Regulations 2000, as amended from time to time have been repealed and superseded by the Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2016.

#### **Construction workers not covered by the Factories Act, 1948 and are entitled to the welfare measure specifically provided under BOCW ACT, 1996 and Welfare Cess Act, 1996**

The Supreme Court in a recent Judgment has held that construction workers are not covered by the Factories Act, 1948 and, therefore, are entitled to the welfare measure specifically provided for such workers under the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (BOCW Act) and Buildings And Other Construction Workers Welfare Cess Act, 1996 (Welfare Cess Act). Interpreting Section 2(d) of BOCW Act, the Court said that the provisions of the Factories Act would “apply” only when the manufacturing process starts for which the building/project is being constructed and not to the activity of construction of the project. The Court said that that is how the exclusion clause, which excludes those building or other construction work to which the provisions of Factories Act or Mines Act apply, is to be interpreted

### **Facilitating transaction in Mutual Fund schemes through the Stock Exchange Infrastructure**

The Securities and Exchange Board of India (SEBI) had earlier permitted mutual fund distributors to use recognised stock exchanges' infrastructure to purchase and redeem mutual fund units directly from Mutual Fund/Asset Management Companies. In order to broad base the reach of this platform, SEBI has decided to allow SEBI Registered Investment Advisors (RIAs) to use infrastructure of the recognised stock exchanges to purchase and redeem mutual fund units directly from Mutual Fund/Assets Management Companies on behalf of their clients, including direct plans.

### **Article 113 of the Limitation Act, 1963 will apply to matters concerning illegal removal or induction of directors and wrongful reduction of their share capital**

The National Company Law Tribunal (NCLT) in a recent order concerning the petition under Sections 241 and 242 of the Companies Act, 2013 where the petitioner had complained of illegal induction of respondents as directors and wrongful reduction of their share capital with the allegations against the respondents of grabbing majority shareholding unfairly as an act of oppression, has dismissed the petition being time barred. The NCLT held that no period of limitation has been provided for illegal reduction of shareholding with malafide intention to acquire majority shareholding, therefore, Article 113 of the Limitation Act, 1963 will apply to such cases and the limitation period will be three years from the date when the right to sue accrues.

Article 113 of the Limitation Act, 1963 applies to suits for which there is no prescribed period and the period of limitation would be three years from the date the right to sue accrues.

### **Court dismisses petition demanding video recording of proceedings**

The Bombay High Court in a recent order has dismissed a petition demanding video recording of court proceedings on the ground that it was a fundamental right of a citizen to know the judicial procedures and happenings during hearing of cases. The Court held that video recording of judicial proceedings cannot be regarded as a fundamental right of a citizen, but can be allowed only if it is necessary in a particular case or in a given situation.

### **MCA takes another initiative in Government Process Re-engineering (GPR)**

The Ministry of Corporate Affairs has launched Simplified Proforma for Incorporating Company Electronically (SPICE) e-Form, with the specific objective of providing speedy incorporation related services within stipulated time frames which are in line with international best practices. The existing INC-29 and INC-7 will be phased out and SPICE will be the Sole, Simplified & Versatile form available for incorporation of a company in India.

### **MCA issues public notice w.r.t. Insolvency and Bankruptcy Code, 2016**

The Ministry of Corporate Affairs (MCA) as part of the process for implementing the Insolvency

liquidation of insolvent corporate persons. Based on the recommendations of the working group the rules and regulations have been drafted, which are available on the online portal of MCA. MCA has issued notice inviting interested stakeholders to comment on these draft rules and regulations.

**For any clarification or delineation, feel free to contact us.**



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