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*News, Views and Updates*

### **LATEST IN LEGAL ARENA**

**November 26, 2016**

#### **Regulations issued by the Insolvency and Bankruptcy Board of India**

The Insolvency and Bankruptcy Board of India (IBBI) has recently notified three Regulations namely, the IBBI (Insolvency Professionals) Regulations, 2016, the IBBI (Insolvency Professional Agencies) Regulations, 2016 and the IBBI (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016.

These Regulations inter alia provide for the registration, regulation and oversight of insolvency professionals under the Code. It also provides for the eligibility norms to be a Professional Member of an Insolvency Professional Agency and also for eligibility norms to be registered with the IBBI as an Insolvency Professional Agency.

Advocates, Chartered Accountants, Company Secretaries and Cost Accountants with 10 years' of post-membership experience (practice or employment) or a Graduate with 15 years' of post-qualification managerial experience, on passing the Limited Insolvency Examination, or any other individual on passing the National Insolvency Examination are eligible for registration as an insolvency professional. However, Advocates, Chartered Accountants, Company Secretaries and Cost Accountants with more than 15 years' of practice experience may seek registration, without any examination. Applications for such registration need to be made till 31<sup>st</sup> December, 2016 and such registration shall be valid for a limited period of six months.

#### **Discontinuation of over the counters exchange of Specified Bank Notes (SBN)**

The Reserve Bank of India (RBI) has issued a circular directing the banks to discontinue over the counters exchange of existing Rs. 500/- and Rs.1000/- Bank Notes. On a review the RBI decided that no over the counter exchange (in cash) of SBNs will be permitted after midnight of November 24, 2016. Members of public who approach the banks for over the counter exchange of SBN are encouraged to deposit SBNs into their bank accounts.

All exemptions including purchases at petrol pumps and pharmacies along with a few new ones such as mobile phone recharges and school fees will be available until December 15. However, only the old Rs 500/- note can be used in these exempted categories. The old Rs 1,000/- note cannot be used anywhere from November 25.

### **Warner Bros, Walt Disney, Fox Star Studios and 4 other entities**

The Competition Appellate Tribunal (COMPAT) has set aside the order of Competition Commission of India (CCI) rejecting a complaint of alleged unfair business practices made against Warner Bros, Walt Disney, Fox Star Studios and four other entities and has further directed the Director General to conduct investigation into the allegations contained in the information. The matter had come before COMPAT by virtue of the order of CCI vide which a complaint filed by K Sera Sera Digital Cinema against the seven entities was rejected on the ground that there was no prima-facie violation of competition norms by the entities.

In its complaint before CCI, K Sera Sera Digital Cinema had alleged that since the seven entities had dominance in production of Hollywood films, they were abusing their dominance by mandating release of their films only through use of Digital cinema technology. COMPAT had remitted the matter back to the CCI to examine potential of technical rules in creating anti-competitive conditions and establishing monopolistic conditions. The matter was rejected by the CCI. COMPAT has ordered an investigation in the matter and has directed the CCI that the investigation shall be conducted in accordance with the provisions contained in the Competition Commission of India (General) Regulations, 2009.

### **Electronic record cannot be admitted in evidence if Section 65B(4) Certificate Isn't Produced: Supreme Court**

The Supreme Court in a recent Judgment has reiterated that any electronic record in the form of secondary evidence cannot be admitted in evidence unless a certificate under Section 65B (4) of the Evidence Act is produced.

Section 65B(4) states that- *In any proceedings where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things, that is to say,—*

*(a) identifying the electronic record containing the statement and describing the manner in which it was produced;*

*(b) giving such particulars of any device involved in the production of that electronic record as may be appropriate for the purpose of showing that the electronic record was produced by a computer;*

*(c) dealing with any of the matters to which the conditions mentioned in sub-section (2) relate, and purporting to be signed by a person occupying a responsible official position in relation to the operation of the relevant device or the management of the relevant activities (whichever is appropriate) shall be evidence of any matter stated in the certificate; and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.*

In the instant case, the prosecution had produced printed copy of the computer generated call details kept in usual ordinary course of business and stored in a hard disc of the company server, to co-relate the calls made from and to the cell phones involved, including those, amongst others, recovered from the accused persons. However, a certificate relatable thereto as required under Section 65B (4) of the Evidence Act was not adduced. The high court held that the evidence is admissible. On appeal the Supreme Court held that as the prosecution had relied upon secondary

be held inadmissible in evidence.

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



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