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LEGAL MEDIA GROUP

LEGAL ERA

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MORATORIUM UNDER INSOLVENCY & BANKRUPTCY PROCEEDINGS

RATIO DECEDENDI INSOLVENCY AND BANKRUPTCY CODE

Ashish Agarwal
Senior Group President and CRO
YES BANK

Pavan Kaushal
CRO
IDFC Bank Limited

Aparna Nirgude
Executive Director and CRO
SBI Funds Management (P) Ltd.

CRO POWERLIST 2017

P.88

Srikanth Mahadevan
CRO
Tata Motors Finance Limited

Shailendra Kothavale
Chief Compliance Officer & CRO
Birla Sun Life Insurance

Indranil Sengupta
CRO
SREI Equipment Finance Ltd.

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YES SECURITIES, a wholly-owned subsidiary of YES BANK executed 24 marquee transactions during January - December, 2016, covering M&A, Private Equity placement and Capital Markets transactions for its clients across sectors. Sustainable Investment Banking, a specialized function of YES SECURITIES further consolidated its pole position in the Renewable Energy, Food & Agribusiness and other Social Infrastructure sectors

Mergers & Acquisitions / Private Equity

- Cinépolis — Acquisition of select screens of DT Cinemas
- Fortis — Proposed demerger of diagnostics business (SRL)
- Future Retail — Acquisition of Food & Agri businesses of Heritage Foods
- Future Retail — Realignment & consolidation of Future Retail & Bharti Retail
- Patil Group — Fund raising from Olympus Capital Asia
- routemobile (communication simplified) — Acquisition of Cellent Technologies
- SeedWorks — Sale to a leading Buyout Fund
- tfs (Travel Food Services) — Strategic investment by SSP Group, UK
- Proposed merger of Videocon d2h with Dish TV

Sustainable Investment Banking (SIB)

- Atria Power — Fund raise from Piramal APG
- Fonroche Renewable Energy — Sale of 22.3 MW solar plant to Hinduja Group
- Greenko — Buyout of 1 GW of Solar Portfolio
- Indo Rama — Sale of 30 MW wind plant to Tata Power Renewable
- Jain Irrigation Systems Ltd. — Fund raising for multiple businesses

Capital Markets

- Bharat Financial Inclusion Ltd (Prayaas se pragati) — BRLM for INR 7.5 Bn QIP
- DHFL (Changing Rules Changing Lives) — Lead Manager for two public issues of INR 140 Bn NCDs
- HCG (adding life to years) — BRLM for INR 6.5 Bn IPO
- Indiabulls (Indiabulls Housing Finance Limited) — Lead Manager for public issue of INR 70 Bn NCDs
- Mahindra Finance — Lead Manager for public issue of INR 10 Bn NCDs
- Nirma — Private Placement of INR 4.95 Bn NCDs
- Quess — BRLM for INR 4 Bn IPO
- Reliance Home Finance — Lead Manager for public issue of INR 30 Bn NCDs
- SREI — Lead Manager for public issue of INR 3 Bn NCDs
- Varun Beverages — BRLM for INR 11.12 Bn IPO

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Saluting The Judiciary

Aakriti Raizada Sharma
Founder & Managing Editor
Legal Era Magazine, Legal Media Group

The Indian Judiciary, an undisputed hero of all times, marked August 2017 with a clutch landmark judgements.

With the conviction of self-styled spiritual guru and chief of Dera Sacha Sauda, Gurmeet Ram Rahim Singh, of raping two sadhvis in 2002. The trial commenced in 2008, and the same year, Ram Rahim was charged under Section 376 (rape) and Section 506 (criminal intimidation) of the Indian Penal Code. Following the SC pronouncement, the Godman's legions of followers went on a rampage and set vehicles, buildings, and railway stations on fire. The unrest spread to other parts, with a great many lives lost and a lot of property damaged till curfew had to be imposed in parts of Punjab and Haryana and even Delhi, Noida, and Ghaziabad. Notwithstanding, the judiciary stuck to its stance. On August 27, special CBI Judge Jagdeep Singh sentenced the Dera chief, who continues to refute all charges as 'false and baseless', to 20 years in prison and fined him `30 lakh. Of this, `28 lakh will be divided between the two rape survivors who stuck to their statements for the past 15 years despite intense pressure from various quarters.

One more stellar judgment came on August 24, just a day before the Ram Rahim verdict, where the country's Apex Court overturned at least two former judgments to rule that "Right to Privacy" is an integral part of right to life and personal liberty guaranteed under Article 21 of the Constitution. The implications of this ruling, which exemplifies the judiciary's changing approach to what constitutes fundamental rights in a modern republic, will go far beyond in terms of the legality of Section 377 (whether sexual orientation is part of the right to privacy), the right to choose one's food habits (what about Maharashtra's beef ban!), and other such. In the wake of the judgment, a group of people even claimed that the Centre's insistence on linking individual information to Aadhaar constitutes a violation of the right to privacy.

Indeed, the Indian Judiciary has come up trumps in passing these historic judgments, including the one where the SC has held triple talaq as unconstitutional. We salute the Indian Judiciary that is working tirelessly so that the people of this country get justice.

Kindly share your opinions/feedback at editor@legalera.in

CELEBRATING

4

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INSOLVENCY SUMMIT 2017

22nd & 23rd September 2017 | Hotel Taj Mahal Palace, Mumbai, India

"THE JOURNEY OF INSOLVENCY & BANKRUPTCY CODE: THE FOOTPRINT HITHERTO" *2017: THE YEAR OF INSOLVENCY INDUSTRY*

KEY SPEAKERS

Justice A K Sikri
Judge
Supreme Court of India
(Confirmed)

Arun Jaitley*
Finance Minister
Government of India
(Yet to be confirmed)

Dr. M. S. Sahoo
Chairperson
Insolvency and Bankruptcy Board of India
(Confirmed)

OVERVIEW

In September 2017, we would have completed 270 days from December 1, 2016 when the Insolvency and Bankruptcy Code (IBC), 2016 was made effective. In terms of importance, perceived as the second-most important piece of legislation, next only to the goods and services tax (GST), expectations from IBC are high. The Government of India has demonstrated unprecedented resolve to effectively implement the law by building a new institutional architecture in record time and sensitizing the stakeholders.

Even though the proper impact of the new insolvency regime is not expected to be visible in short term and the hangover of celebration of the enactment of IBC still hangs in the air, both the advocates of the law and its cynics are closely watching the developments in the first 270 days of IBC. This is the magic period, that is, the maximum time for corporate insolvency resolution process provided under IBC. There have been a large number of filings in NCLT, significant activity in the insolvency industry, many key decisions by NCLT and NCLAT, and learning in the first two quarters and the ball is still on the roll, gathering momentum. Many corporate debtors in respect of which insolvency process commenced in December last year would have completed 270 days in September. What would be their fate? While it still might be early days to pronounce judgment, the first stock take will surely be due in September on the footprints created in the first three quarters of the IBC year.

The Insolvency Summit will bring the key stakeholders together for two days to share their experiences and views on the first 270 days of the journey of IBC. Based on discussions and deliberations, the Summit Technical Committee will prepare a synthesis note to be shared with the policy makers and other stakeholders.

SUMMIT COMMITTEE

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(Chairman)
Managing Partner & Head - Insolvency, Secured Transactions & Corporate Law Practice
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General Counsel
Axis Bank

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Partner - Deal Advisory
KPMG India Private Limited

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Dhir & Dhir Associates

Harish Chander
Executive Vice President
Edelweiss Financial Services Ltd

KEY DISCUSSION AREAS

- RBI Role In Resolution Of Distressed Assets Under IBC
- 270 Days And Counting: Success Stories Under And Around IBC
- Earning Your Crust: How Insolvency Professionals Get Remunerated?
- Use And (Misuse) Of IBC For Recovery Of Debt: How To Curb The Dangerous Trend?
- Acquiring Old Businesses In New Ways Or Just The New Packaging? What Kinds Of Resolution Plans Are Being Put Forward?
- Creditors & Debtors: Friends Or Foes - Does The Blame Game Continue?
- Pre-Packs: The Missing Player In The Game
- Insolvency Professionals: Are They Coming Of Age?
- Raising Finance – Interim & Exit – Where To Find The Money, How To Spend?
- The View From The Bench - Judge's Take On IBC Journey
- Cross-Border Insolvency Law – Necessity Or An Option?
- Will IBC Change The Recovery/Resolution/Liquidation Judicial Landscape For The Positive?
- IBC Proceedings – Past, Present & Future
- Is There A Case To Re-Visit The Law And Regulations?

For More Information, Please Contact +91-8879635570 / +91-8879635571 / +91-8879634922 marcom@legalera.in

CREDITS

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FOR ADVERTISEMENT QUERIES, CONTACT
E-MAIL: INFO@LEGALERA.IN
+91 9967255222, +91 8879635570, +91 -22 -2600 3300
CORP. OFFICE
301-302, 3RD FLOOR, OM PALACE, DR. AMBEDKAR ROAD JUNCTION,
BANDRA WEST, MUMBAI - 400 050, INDIA

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"Legal Era aims at Initiating, Integrating & Innovating ways and means to establish thought-provoking seminars with a vision to proliferate knowledge and optimize business opportunities."
-Aakriti Raizada, *Founder & Managing Editor*

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CONTENTS

SEPTEMBER 2017

REGULARS

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CYBERCRIME

Am I Even A Real Victim?

The author elaborates on the nature of the cyber world and its many pitfalls

A Report From The Front

An Interview With Justice Stephen G. Breyer

- by Ashish Joshi

Legal Era Successfully Concludes

CORPORATE FRAUD & FORENSICS INDIA SUMMIT 2017

LEGAL ERA RISK AWARDS 2017

And The Award Goes To

READERS' NOTES
BY THE PEOPLE FOR THE PEOPLE

TELL US HOW WE ARE DOING.

Legal Era Magazine is very creative and interesting. The magazine covers most of the news topics related to law that are not covered by other news websites or channels. It plays an important role in educating us about legal rights and duties. I personally like the "Viewpoints" section of the magazine; it contains very interesting matters.

VIVEK JOSHI
Mumbai

Legal Era Magazine is one of the best legal magazines which provides all the latest/ updated information related to law. The entire magazine is well organized, and covers most trending legal and business news not only from India but also all over the world. I would definitely recommend this magazine to everyone.

DISHA JAIN
Ahmedabad

I heartily congratulate the entire team of ***Legal Era*** Magazine for initiating and bringing up Legal Magazine which is one of its kind. The magazine is wonderful and very informative presented in the form of news and articles. I personally liked the cover page of the latest edition, it is unique with catchy headlines.

MINAL REDDY
Bengaluru

Being a law student, ***Legal Era*** Magazine is very helpful for me. The magazine consists of many new things related to laws and legal matters. The articles published in this magazine are worth reading because of its standard of writing which is very high and well experienced authors with great legal background.

GIRISH CHAUDHARI
New Delhi

Legal Era Magazine is a perfect collection of all the latest legal news and articles from all over the world in one single magazine, which is very rare and hard to find. The cover page of the magazine contains eye-catching headlines and images. Several significant points related to law have been highlighted by this magazine.

RAHUL SINGH
Mumbai

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Hinduja Group (UK)

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Martin Polaine
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Michael O' Kane
Senior Partner
Peters & Peters
London

Michelle Ratpan
Litigation Specialist, Special Litigation Unit, Integrity Vice Presidency
The World Bank Group

Monty Raphael QC
Special Counsel
Peters & Peters Solicitors LLP

Nina Barakzai
President and Chair In-House Counsel Worldwide, Group Head of Data Protection & Privacy, Sky UK Ltd

Richard Lissack QC
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London

Robert (Bob) Quick
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Partner Johnson Winter & Slattery, Sydney, Australia, and Immediate Past Co-Chair International Bar Association Anti-Corruption Committee

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- Practice Director
- Head of Finance
- Head of Risk & Compliance
- CIO / CTO / Head of Legal Technology
- Head of Knowledge & e-Disclosure
- Head of Business Development
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For Speaking & Sponsorship, please contact:
Shruti Singh +91 8879635570 or shruti@legalera.in
Jinal Chheda +91-8879634922 or jinal@legalera.in

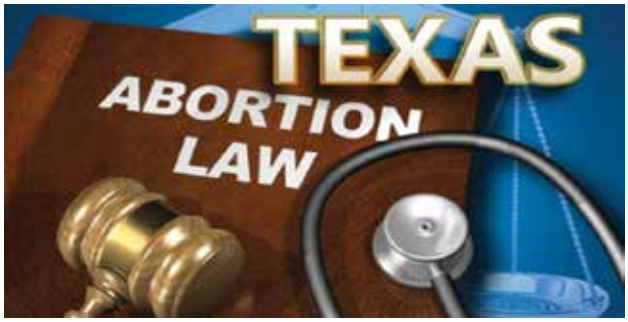
For Registration, please contact:
Anita Rodrigues +91 8879635571 or anita@legalera.in
Abhay Kharat +91 8879635574 or abhay@legalera.in

LEGAL UPDATES FROM ACROSS THE GLOBE

United States of America

TEXAS APPROVES BILL RESTRICTING INSURANCE COVERAGE FOR ELECTIVE ABORTIONS

Friday, August 11, 2017



A bill was approved by the Texas House of Representatives that will stop health insurance companies from providing coverage for elective abortions. When the mother is not in danger of death or serious injury, if the abortion is not performed, it is known as an elective abortion. Insurance for an elective abortion would only be allowed if the coverage is provided separately from the other health plan coverage and the enrollee pays a premium for the coverage separately from the other health plan premium.

The health insurer is not allowed to cut down the elective abortion premium by considering any cost saving from another health plan. No discount or reduction of premium of the other plan can be opted for by the insurer for enrolling in the elective abortion premium.

The bill was passed by a vote of 92-46. It prevents opponents of abortion from subsidizing abortion, as stated by the proponents of the bill. The bill has been called as a precondition to buy "rape insurance" by the opponents as the bill has no exceptions for cases of rape or incest.

OKLAHOMA SC RULES AGAINST STATE CIGARETTE TAX

Monday, August 14, 2017

The Oklahoma Supreme Court ruled against a state cigarette tax on August 10. An argument that the $1.50 tax violated the state constitution was raised by the plaintiffs and several cigarette companies, distributors, and smokers. Considering the tax was a revenue bill, it should derive in the House, be passed at least five days before the legislative session ended, and be approved by either the public or 75 percent of each house. In this case, the Senate created the tax and approved it on the last day of the session. The bill also did not gain 75 percent of the vote, delivering it as unconstitutional.

WASHINGTON SC UPHOLDS SEATTLE TAX ON WEAPONS, AMMO DEALS

Monday, August 14, 2017

The Washington Supreme Court maintained Seattle's tax on weapons and ammo deals on August 10. The tax was really a state regulation on guns, which is restricted by a Washington state law, contended the two individual weapon proprietors and associations. The six-justice majority insisted the lower court's statement in favor of the city. The majority opinion said, "While courts should be dubious of regulations masquerading as taxes (and vice versa), in this case, Watson offers no convincing evidence that the Ordinance has a regulatory purpose or intent." The court also quoted the fact that the revenue from the sale of guns was used for public services as evidence, that the ordinance was a tax. The contradicting equity contended that since Seattle passed a law that identifies with guns, it is invalid, in light of the fact that the state law forbids the city from doing precisely that.

TRUMP SIGNS BILL, ALLOCATES $2.1 BILLION IN GOVERNMENT FUNDS FOR VETERANS' MEDICARE

Wednesday, August 16, 2017

The VA Choice and Quality Employment Act was signed by US President Donald Trump, which will allocate $2.1 billion in government funds to the Veterans Choice Fund, and an additional $1.8 billion to core VA health programs and medical facility leases.

In a return to the budget shortfall in the Department of Veterans Affairs (VA) which jeopardized healthcare for thousands of veterans, Trump signed the bill. Staff shortages in veterans' health administration, dearth of proper training and experience in the administration and delivery of healthcare, accountability of political representatives placed in charge of managing the VA, hiring of VA medical center directors, vying salary packages of physician assistants, re-employment of former VA employees, promotional opportunities for VA technical experts, and hiring of students and recent graduates were additional addresses of the bill.

Along with welcoming of the bill, came the criticizing of the delay in the bill by veterans groups. It stated, "Unfortunately,

this bill took far too long to get to the President's desk and is $1.8 billion more expensive than it needed to be." Before being presented to the President, it was approved collectively by both houses of Congress.

Asia

MoU BETWEEN INDIA AND SWEDEN ON IPR CLEARED BY THE CABINET

Friday, August 18, 2017

MoU signing between India and Sweden on Intellectual Property Right (IPR) Cooperation was cleared at the Union Cabinet which aimed at benefiting entrepreneurs, investors and businesses. The MoU was approved by Prime Minister Narendra Modi in a cabinet meeting.

"The MoU establishes a wide-ranging and flexible mechanism through which both countries can exchange best practices and work together on training programs and technical exchanges to raise awareness on IPRs and better protect intellectual property rights," the statement read. The statement also added that the association of the two nations will improve protection and awareness about India's various intellectual creations.

For the same, a joint committee will be formed from both the ends to exchange the best practices, experiences and knowledge on IP awareness among the public, businesses and educational institutions of India and Sweden. There will also be collaboration for training programs, technical and expertise exchanges, exchange on best practices, experiences and IP knowledge with the industry, universities, research and development organizations and small and medium enterprises (SMEs).

There will be "exchange of information and best practices for disposal of applications for patents, trademarks, industrial designs, copyrights and geographical indications, as also the protection, enforcement and use of IP rights".

The MoU will also cover cooperation in automation and modernization projects, new documentation and information system in IP and procedures for management of intellectual property, among others.

United Kingdom

GOVERNMENT CLARITY ON BREXIT A MUST: UK TOP JUDGE

Tuesday, August 08, 2017

How British courts should interpret rulings from the European Court of Justice after Brexit, needs to be clarified from the government, says Britain's most senior judge.

Prime Minister Theresa May's government said that Britain will leave its jurisdiction after Brexit, but currently, it must abide by ECJ judgments.

The long and complicated process of the UK detaching from the UK legislation has been on for more than 40 years yet, according to the government, British courts might take note of ECJ rulings after the country has left the bloc.

"If the United Kingdom parliament says we should take into account decisions of the ECJ then we will do so, if it says we shouldn't then we won't, and basically we will do what the statute says," says David Neuberger, President of the UK's Supreme Court.

"If it doesn't express clearly what the judges should do about decisions of the European Court of Justice, then the judges will simply have to do their best. But to blame the judges for, as it were, making the law when parliament has failed to do so would be unfair."

Brexit followers say that the vote to leave the EU was partly about rebuilding legislative sovereignty and the ECJ should have no say at all over British matters.

Former British Attorney General Dominic Grieve said Neuberger was right.

A government spokeswoman said ministers had been clear that direct jurisdiction of the ECJ must come to an end.

DESPITE BREXIT, UK TO CONTINUE PAYING EU TILL 2020

Monday, August 07, 2017

EU Budget Commissioner Guenther Oettinger said that Britain will have to make long-term payments to the European Union till 2020.

Oettinger then said that Britain was indebted to fulfill long-term commitments that they made before they decided to leave the bloc in 2019.

"As a result, London will have to transfer funds to Brussels at least until 2020," he added.

With Britain's departure from the EU, Germany was expected to face extra costs in the single-digit billion-euro range. Oettinger also said that there would be an annual hole of 10-12 billion euros in the EU treasury, with the departure of Britain.

According to Oettinger, the gap could be neutralized if higher payments were done by members and budget cuts; however, by eliminating the discounts which EU had offered member countries, including Britain, the money could be saved.

The EU Commission in June delineated five situations to manage additional expenses coming about because of Britain's exit, taking note that the EU could tap sources like corporate duties, tax on financial transactions, or levies on electricity, motor fuel, and carbon emissions.

Australia

FIRST INDIAN LAW COLLEGE ACQUIRES RECOGNITION IN AUSTRALIA

Tuesday, August 22, 2017

The Law Council of Australia (LCA) recently recognized the Jindal Global Law School (JGLS) making it easier for students to practice in Australia.

All the LL.B. degrees offered at JGLS got a go ahead by the LCA and the Law Admissions Consultative Committee (LACC), making it the first Indian law college to be recognized by Australia.

Commenting on the development, Founding Vice Chancellor of O.P. Jindal Global University and Dean of JGLS, Prof. Raj Kumar said,

"The recognition by the LCA is also a part of our vision to promote opportunities for further study and work in Australia. Australia hosts numerous world-class law schools and many top law firms. However, despite the similarities between our legal systems, Australia remains a relatively untouched option in terms of further studies and work."

In 1992, the LACC fixed eleven subjects (known as the Priestley 11) including Administrative Law, Civil Procedure, Company Law, Contracts, Criminal Law and Procedure, and Federal and State Constitutional Law, among others, that a person had to pass in order to practice law in Australia.

Now, the LACC has recognized that JGLS students will have pre-approval of seven of these subjects, assuming they score more than a minimum grade in those subjects. These students will only have to complete four prescribed subjects and complete their practical legal training in order to become a qualified practising lawyer in Australia.

Therefore, the passing of the Priestley 11, which would take years to complete, has now been made much easier for JGLS students.

Global

ETIHAD'S WITHDRAWAL LEADS AIR BERLIN TO FILE FOR INSOLVENCY

Friday, August 18, 2017

After years of losses caught up with German Airline Air Berlin, shareholder Etihad withdrew funding along with rival Lufthansa saying it was in talks to take over parts of its business. Air Berlin's debt has seen a speculation over its finances and has hit bookings. The Abu Dhabi-based airline has been reviewing its European investments as it failed to bring the expected profit, despite its funding to Air Berlin which had helped it to keep afloat.

"However, Air Berlin's business has deteriorated at an unprecedented pace, preventing it from overcoming its significant challenges and from implementing alternative strategic solutions," Etihad said in a statement.

Air Berlin said its flights were continuing, while the German government said it had provided a bridge loan of

150 million euros. Shares in Air Berlin were suspended from trade until 1205 GMT. Lufthansa's stock extended gains to trade 2.2 percent higher at 20.09 euros by 1140 GMT.

DISCLAIMER: It may be noted that the Legal Era edition publishes select news pieces collated from various sources, based not necessarily on their timeliness and topicality but their interest to you.

HIGH COURT & TRIBUNAL NEWS AROUND THE NATION

Bombay High Court

GOVT BARRED FROM UNSEATING CORPORATOR OVER CASTE ISSUE

Saturday, August 19, 2017

The state government and civic body were restrained from disqualifying Congress corporator from suburban Kalina, Tulip Miranda, over her caste validity certificate issued by the Bombay High Court. The Caste Verification Committee declared her caste certificate invalid and rejected Miranda's claim of belonging to Other Backward Classes (OBC).

Fearing disqualification as a corporator, she moved the court against the committee's action, and also sought an interim direction to the government.

Directions from a bench of Justices B.R. Gavai and M.S. Karnik to Brihan Mumbai Municipal Corporation (BMC) stated no disqualification of Miranda until further orders. It also ordered them to file their replies within two weeks.

Bandra district divisional caste scrutiny committee denied that she belonged to the OBC category, and rejected her claim of being an East Indian Catholic, an ethno-religious community belonging to OBC category, as recognized by the state, when she won from ward number 90 in Kalina, reserved for OBC candidates, in the civic elections.

ARRESTED BEFORE ISIS NAMED A TERRORIST OUTFIT? CANNOT BE CHARGED UNDER UAPA!

Wednesday, August 16, 2017

A Bench of Justices Ranjit More and Sadhna Jadhav of the Bombay High Court ruled that "A person, who joined a terrorist organization and was arrested before the organization was named as such in the relevant law, cannot be charged under Section 20 of the Unlawful Activities Prevention Act (UAPA)." In this regard, the bench was hearing an appeal filed by the National Investigation Agency (NIA) against Special Judge V.V. Patil's order dropping charges under Sections 20 and 38 of the UAPA against ISIS recruit Areeb Majeed and trying him only for offenses punishable by the Indian Penal Code.

Special Public Prosecutor Prashant Shetty, appearing for the NIA, contended that Majeed was a member of a "terrorist gang", and hence, he ought to have been prosecuted under Section 20 of the UAPA (Punishment for being member of terrorist gang or organization).

Lawyer Mubin Solkar, appearing for Majeed refuted the NIA's claim, contending that it was an afterthought. This is because the ISIS was included in the list of terrorist organizations in the UAPA only on February 16, 2015, after Majeed was arrested. Hence, it was trying to draw him into the shackles of the UAPA by a circuitous route- by alleging that he was a member of a "terrorist gang".

In this regard, the high court noted that because Majeed was arrested before the ISIS was named a terrorist

organization, he couldn't be charged with being a member of one. As for "terrorist gang", the court pointed out the definition in Section 2 (l) of the UAPA - "terrorist gang" means any association, other than a terrorist organization, whether systematic or otherwise, which is concerned with, or involved in, a terrorist act.

The court also said that "Admittedly, ISIL was included in the schedule only on February 16, 2015. This is subsequent to the registration of the subject FIR. Obviously, the accused cannot be termed as a member of the terrorist organization within the meaning of clause (m) of Section 2 of the said Act.

Read more: http://www.legaleraonline.com/news/arrested-before-isis-named-as-terrorist-organization-cannot-be-charge-with-being-member-of-one

Delhi High Court

RECORDS PERTAINING TO TRADEMARKS BE MADE EASILY ACCESSIBLE

Monday, August 21, 2017

The Delhi High Court has passed certain directions to the Registrar of Trademarks to make records pertaining to trademarks easily accessible.

Justice Rajiv Sahai Endlaw, who has delivered multiple landmark judgments in the field of IPR in the past as well, passed the following directions in the matter of Registrar of Trademarks vs Kapoor Saws Manufacturing. The Registrar of Trademarks was directed to:

- If not already in place, nominate one Nodal Officer of each branch to receive applications for certified copies and to issue certified copies.
- Within two months, announce on the website of the Registrar of Trademarks, the particulars i.e. name/ designation, address, phone number/s and email address of the Nodal Officer responsible for accepting and entertaining applications for certified copy and to issue certified copies for each office of the Registrar of Trademarks.
- Within six months, make a provision, if not already in existence, for making online applications for certified copies.
- Within six months, make a provision on the website of the Registrar of Trademarks for disclosure of the status of the applications for certified copies including any deficiency or defect therein required to be remedied by the applicant and/or the date when it will be ready for collection.
- Till the aforesaid is functional, as an interim measure, make a provision for sending intimation, to the applicant/s for certified copies, of deficiencies/defects required to be rectified via e-mail, SMS and other modes of communication.
- Endeavor to make provision for online payment of the fee and other charges, if any, for certified copies.
- Issue certified copies within one month of receipt of a duly completed application.
- Indicate on the certified copy, whether it has been prepared from the original of the document or from a copy of the document.
- Explore the possibility of making an endorsement of 'original seen and returned' on copies on the record, originals of which are returned.
- Ensure, that the certified copies are legible and wherever the original/copy on the record of the Registrar of Trademarks has any color other than black and white, the certified copy reflects such color.
- If documents of which certified copies are sought, have been lost or misplaced, intimate the same to the applicant within one month as aforesaid of the application for certified copy having been made.

The Court observed:

"Once the Registrar of Trademarks has implemented the aforesaid, it is expected that neither will any of the parties to the litigation nor any of the Courts, where such litigations are pending, mechanically issue summons to the Registrar of Trademarks as witness, requiring it to produce records..."

Delhi High Court

PRESS HAS NO RIGHT TO PASS COMMENT, CRITICIZE OR LEVEL ALLEGATIONS AGAINST ANYONE

Friday, August 11, 2017

The Delhi High Court said that the Press does not have any right or special privilege to comment, criticize or make allegations which are sufficient to ruin a citizen's reputation. It also said that journalists do not hold any greater freedom than others but rather reminded them that their responsibility was higher as they held powers to disseminate information.

"Further, journalists are in no better position than any other person. The press does not enjoy any exclusive rights under our Constitution, apart from those enjoyed by a citizen as a concomitant of the Freedom of Speech and Rights against Unlawful Deprivation of Life and Liberty guaranteed under Articles 19 and 21 of the Constitution," Additional District Judge Raj Kapoor said.

The managing editor of a magazine was restrained from publishing any defamatory articles against a man who alleged that he was defamed as per the court's order. Amount of ₹30,000 and ₹20,000 respectively, were asked to be paid by the managing editor to the man as "symbolic damages".

An article was published in the magazine in December 2007 to tarnish the man's image by using defamatory words as alleged by him which was followed by a legal notice to the defendant. However, they again defamed him by using defamatory words instead of apologizing. The founder and the managing editor of the magazine disagreed upon the same.

The court, however, said that the articles in the magazine were defamatory in nature and harmed the reputation of the man, despite the second defendant's statement that the man was indulging in unlawful activities in the society.

Tribunals

IBC NOT A RECOVERY TOOL, SHOULD BE INVOKED JUDICIOUSLY!

Monday, August 14, 2017

India's bankruptcy courts aim to recover from lenders, nearly ₹8 lakh crores in bad debts and direct the flow of credit to more productive sectors of the economy, admitting fewer cases brought by trade creditors. Its firm approach to not allow flimsy complaints to be presented before its benches, is also promoting many out-of-court settlements as many cases from creditors are dying down before the National Company Law Tribunals (NCLTs).

A financial consultant for insolvency proceedings, Vinod Kothari & Company, showed 184 cases - or 57 percent of the total cases, which were filed in different NCLTs since the beginning of the year. Of these, only 67 (or 37 percent) cases were admitted in courts while the rest were dismissed, settled or withdrawn outside court.

"Due to effective and time-bound process of IBC (Insolvency and Bankruptcy Code), many frivolous cases are being filed by operational creditors at NCLTs as pressure tactic for dispute settlement or civil recovery," said Pavan

Kumar Vijay, founder of Corporate Professionals, closely associated with the IBC process. The rate of admission is much higher in cases filed by financial creditors. "The (IBC) Code is not a law meant for recovery of dues – there are commercial courts and civil courts to handle money suits," said Vinod Kothari, insolvency professional.

"It is slowly but definitely dawning on such applicants that IBC is not a recovery tool and has to be invoked very judiciously, weighing the objectives of the code." said Babu Sivaprakasam, Partner at Economic Laws Practice (ELP).

DISCLAIMER: It may be noted that the Legal Era edition publishes select news pieces collated from various sources, based not necessarily on their timeliness and topicality but their interest to its readers.

JUSTICE DIPAK MISRA SWORN IN AS 45TH CHIEF JUSTICE OF INDIA

Monday, August 28, 2017

Justice Dipak Misra was on August 28, 2017 sworn in as the 45th Chief Justice of India.

The oath of office was administered by President Ramnath Kovind in a brief ceremony in Darbar Hall of Rashtrapati Bhavan.

Justice Misra, 64, gracefully acceded the position after retirement of Justice J.S. Khehar. As a lead judge of the Aadhaar Constitution Bench, Justice J.S Khehar will now have Justice Misra or Justice Chelameswar lead the Bench.

Justice Misra will have a tenure of about 14 months till October 2, 2018.

Justice Misra enrolled as an Advocate on February 14, 1977 and practiced in Constitutional, Civil, Criminal, Revenue, Service and Sales Tax matters in the Orissa High Court and the Service Tribunal. He was appointed as an Additional Judge of the Orissa High Court in 1996 and was transferred to the Madhya Pradesh High Court in 1997.

Justice Misra became a permanent Judge in December, 1997. He assumed office as Chief Justice of Patna High Court in December 2009, and later became Chief Justice of Delhi High Court on May 24, 2010. He was elevated to the Supreme Court on October 10, 2011.

Justice Misra made history when he led the three-judge Bench which heard Yakub Memon, the sole condemned man in the Bombay blasts case, who came knocking on the Supreme Court's door for reprieve in the small hours of the day he was hung to death.

NDA'S VENKAIAH NAIDU ELECTED 13TH VICE-PRESIDENT OF INDIA

Tuesday, August 08, 2017

The Vice-Presidential election on August 5 was comfortably won by NDA nominee and former Union Minister Venkaiah Naidu, who was elected as the 13th Vice President of India, after defeating Opposition candidate Gopalkrishna Gandhi. While Naidu secured 516 votes in his favor, Gandhi managed to get only 244 votes. Upon his glorious victory, Naidu said, I am very humbled. I am also thankful to the Prime Minister and all party leaders for their support."

Out of 785, 771 MPs have voted in the election which is recorded as 98 percent voting, said the Assistant returning officer Mukul Pandey. "Coming from an agricultural background, I never imagined I would be here. Agriculture has no proper voice in Indian polity," said India's Vice President-elect after being elected. "I will seek to utilize the Vice-Presidential institution to strengthen the hands of the President and secondly uphold the dignity of the Upper House," Naidu added.

Prime Minister Narendra Modi also congratulated Naidu on his victory and voiced his confidence that the Vice President will serve us as an earnest and dedicated individual and will be committed towards upliftment of

the nation. Naidu was born in an agricultural family in Andhra Pradesh and ever since he was a child, he took keen interest in politics. Naidu pursued law from Andhra University in Visakhapatnam after his graduation.

Naidu first entered mainstream politics with the 'Jai Andhra Movement' of 1972, and later joined BJP in 1980. From Udayagiri constituency, he won the assembly election twice and became a Rajya Sabha MP thrice in 1998, 2004 and 2010. Under the Modi as well as Vajpayee-led government, Naidu served as a cabinet minister and will now be Vice President of India for a tenure of 5 years.

JUDICIARY CONVICTS SPIRITUAL LEADER GURMEET RAM RAHIM SINGH OF RAPE

Monday, August 28, 2017

Facing several challenges and being unaffected by threats of followers of Dera Sacha Sauda chief Gurmeet Ram Rahim Singh, the Haryana court finally convicted Ram Rahim Singh in the case of raping two sadhvis in 2002.

On August 27, special Central Bureau of Investigation (CBI) Judge Jagdeep Singh sentenced Ram Rahim Singh to 20 years in prison and fined him ₹30 lakh, three days after convicting him of rape. CBI counsel Sumeet Goel said that any decision on challenging the order for enhancing the sentence would be taken after examining the fine print of the order. The judge also slapped a fine of ₹30 lakh on Gurmeet. Of this, ₹28 lakh will be divided between the two rape survivors who stuck to their statements for the past 15 years despite intense pressure from various quarters.

The conviction sparked fury among Singh's supporters and led to chaos and clashes in northern India, leading to loss of several human lives and property.

Notably, this verdict has now restored people's faith in the Indian Judiciary, as did the verdicts on triple talaq and Right to Privacy. As soon as the verdict was declared, people started celebrating and praising the Indian Judiciary.

Ram Rahim Singh has a vast following in Haryana, where he runs a spiritual movement that claims to have millions of devotees around the world.

Prior to the verdict, Singh's followers had threatened to create havoc within the system. However, the judiciary stayed unaffected by threats and convicted Singh of rape.

MINING LEASE HOLDERS CAN'T HAVE THEIR CAKE & EAT IT TOO, WITH ICING ON THE TOP

Thursday, August 3, 2017

On August 2, 2017, a Bench of Justices Madan B. Lokur and Deepak Gupta of the Supreme Court directed that mining companies and leaseholders who have engaged in mining activities without forest or environmental clearance will have to pay the public exchequer compensation equivalent to 100% the value of the minerals they extract illegally.

The bench observed that "The mining leaseholders cannot have their cake and eat it too, along with icing on the top."

The Supreme Court gave the central government a deadline of December 31, 2017 to announce a "fresh and more effective, meaningful and implementable policy."

The bench further observed that "It is high time that the Union revisits the National Mineral Policy".

The bench passed the judgment while hearing a PIL filed by NGO Common Cause about rampant illegal mining of iron and manganese ore in Odisha. Out of a total 187 mining leaseholders in Keonjhar, Sundergarh and Mayurbhanj districts, 102 were found to have no environmental or forest clearance. In this regard, the court observed that the situation must be the same or worse in other states. The court's decision to lay down the law that miners should reimburse to the public the entire value of the minerals

they extract illegally comes despite the Supreme Court's own Central Empowered Committee's advice to reduce the compensation to 30% instead of 100%.

The Supreme Court judgment records that the Union too had raised objections to the court's suggestion during the court hearing to squeeze 100% compensation from defaulting mining leaseholders. The government had disagreed, and said that it would be contrary to the statutory scheme.

Read more: http://www.legaleraonline.com/news/mining-lease holders-cannot-have-their-cake-eat-it-too-along-with-icing-on-top-sc

SC UPHOLDS PRIVACY AS A FUNDAMENTAL RIGHT

Thursday, August 24, 2017

The Supreme Court ruled that the Right to Privacy is a fundamental right. A nine-judge bench headed by Chief Justice Jagdish Singh Khehar collectively declared that privacy was a fundamental right. The 1954 judgment by Justice MP Sharma and the 1962 judgment by Justice Kharak Singh were overruled by the latest Supreme Court judgment.

The court, in its ruling, said that anything that infringed privacy of a citizen would be knocked out. However, a batch of petitioners challenged the government's decision to make Aadhaar mandatory saying that mandatory use of Aadhaar was an infringement of privacy.

Senior Advocate Gopal Subramaniam, one of the petitioners, argued before the Supreme Court, "The right to privacy is recognized as a fundamental right under Article 21 of the Constitution. The concept of privacy is embedded in liberty as well as a person's honor."

The Centre, however, defended that Aadhaar doesn't pose a threat to privacy and is not a fundamental right. Attorney General KK Venugopal countered the petitioners' arguments claiming that "Privacy is a species of liberty, which is subordinate to the right to life. Aadhaar is to secure the poor's right to life such as food and shelter."

According to him, the "elitist" perspective of right to privacy could destroy the "right to life" of 270 million poor people in the nation, and "right to life" is a more essential fundamental right as compared to privacy.

The court ruling is going to have its consequences on not just the Aadhaar case, but also on legality of Section 377, and also cases of privacy in Whatsapp and Facebook posts filed by petitioners.

DELHI HC TOLD TO DISPOSE IPR CASES QUICKLY

Thursday, August 17, 2017

Undue delay in disposal of Intellectual Property Rights (IPR) cases in the Delhi High Court is a concern of the Supreme Court , and thus, the SC has asked the Delhi HC to dispose these cases quickly.

A bench comprising Justices Ranjan Gogoi and Navin Sinha also complained about the manner in which recording of evidence was taking place.

"At the very outset, we make it clear that the present order should not be perceived to be any kind of interference in the administration of the Delhi HC, but has to be construed to be an effort on the part of the judiciary as an institution to work out ways and means to dispose of long-pending contested civil suits throughout the country for which purpose the HC and, particularly, the IPR matters have been taken as the yardstick."

"The judges of the HC have to work out ways and means for effective disposal of IPR matters before it so that a model for disposal of civil suits can be culled out from the ways and means adopted by the Delhi High Court which can form the basis of a uniform action

plan for the rest of the country," the bench said. A suo motu writ petition titled "ReCase Management of Original Suits" was registered and the Registrar General of the HC was to submit periodical reports of the work done in this regard.

"The first of such reports should be filed within 60 days. At a later stage of the present proceedings, this court may also take the assistance of other high courts in the country to resolve the issue," the court said.

MP HC TO CALL ASPIRANT FOR INTERVIEW, ONE DAY'S DELAY IN RECEIPT OF HIS APPLICATION NOTWITHSTANDING

Wednesday, August 2, 2017

Recently, a Bench comprising Justice M.B. Lokur and Justice Deepak Gupta of the Supreme Court came to the rescue of a man whose aspiration to become a judge came to a standstill.

In this regard, the apex court was hearing a petition filed by one Ashutosh Agnihotri, whose application was rejected by Madhya Pradesh High Court on the grounds of delay in receiving it. The bench went through the track consignment report, before holding that there was an "unexplained delay of ten days by the postal department."

January 20 was the last date for submission of the application, but Ashutosh Agnihotri's application (sent through speed post) reached a day later. Ashutosh had petitioned the high court after being turned away by the HC Registry, but to no avail.

Agnihotri then approached the Supreme Court, which asked the high court to permit him to appear for the exam but declare his results only after his plea was decided.

In July, Agnihotri's results were delivered to the Supreme Court in a sealed envelope. The apex court said that Ashutosh had cleared the examination, and directed the high court to call him for the interview. The Supreme Court further observed that "Surely, under the circumstances, the petitioner cannot be blamed for the delay particularly since the application was sent by him through speed post and not by ordinary post."

"In view of these special circumstances, we are of the view that the result of the examination should be accepted by the high court, and the rejection of his application on the grounds of one day's delay should not come in the way for considering him for interview," the bench directed.

LIQUOR BAN NEEDS NO FURTHER CLARIFICATION

Monday, August 14, 2017

The Supreme Court said that there was no need to further clarify its order that within 500 meters of national and state highways across the country, there is a prohibition on liquor vends.

However, the sale of liquor within 500 meters alongside highways in some hilly areas and in Chandigarh has been allowed as per modification of the apex court.

When Senior Advocate Arvind Datar mentioned the matter and sought clarification, a bench comprising Chief Justice J S Khehar and Justice D Y Chandrachud said "Our Chandigarh order says everything. If states do not understand it, there is nothing we can do."

The bench said that the notification or denotification of highways was a policy matter and the court would not interfere in it.

By denotifying highways as district roads, the Chandigarh administration's decision to allow the sale of liquor was challenged by the apex court.

The idea behind banning the liquor vends was to ensure that nobody drives fast on highways.

In December, the apex court had banned the sale of liquor within 500 meters of national and state highways, except in Meghalaya and Sikkim. In July, Arunachal Pradesh and Andaman and Nicobar Islands were also exempt from the ban followed by areas in Uttarakhand and other hill states too.

NO FIRECRACKERS SHALL CONTAIN POLLUTING SUBSTANCES

Wednesday, August 2, 2017

In the ongoing case of Arjun Gopal Vs Union of India and others, a Bench of Justices Madan B. Lokur and Deepak Gupta of the Supreme Court on July 31, directed that no firecrackers shall contain polluting substances such as, antimony, lithium, mercury, arsenic and lead in any form whatsoever.

The apex court made it clear that it is the responsibility of the Petroleum and Explosive Safety Organisation (PESO) to ensure compliance, particularly in Sivakasi, the hub of firecrackers' manufacturers, many of whom were arraigned as respondents before the Supreme Court in Arjun Gopal Vs Union of India.

Earlier in 2015, the petition was filed in the apex court by three infants from Delhi, seeking the top court's intervention against inevitable and widespread use of firecrackers and fireworks and other products of the same classification, especially during festivals of Dussehra and Diwali. The infants filed the petition under Article 32 seeking interim steps to effectuate their right to clean, healthy and breathable air under Article 21.

The petitioners, Arjun Gopal, Aarav Bhandari, and Zoya Rao Bhasin filed the public interest litigation petition through their fathers and next friends; Supreme Court Advocates, Gopal Sankaranarayanan, Amit Bhandari and Saurabh Bhasin, respectively.

On July 31, during hearing, the bench was told that no standards have been laid down by the Central Pollution Control Board with regard to air pollution through bursting of firecrackers. The Member Secretary of the CPCB, Dr. A.B. Akolkar, told the bench that it would take some time to arrive at the standards and it would be done by September 15, at the latest.

As there seemed to be some doubt about strontium and its compound, the bench wanted to hear submissions in this regard.

The bench assured the counsel that it would also consider modification of the interim orders passed by the court in this case. The bench added that for setting up of standards, collaborative efforts would be made between CPCB and PESO. The Bench asked Dr. Akolkar and the Deputy Chief Controller of Explosives, Sivakasi, to remain present at the next hearing.

AFFIDAVIT SUBMITTED BY J&K DISASTROUS, MAKES FUN OF US!

Wednesday, August 9, 2017

On August 8, a bench of Chief Justice J S Khehar and Justices D Y Chandrachud and AK Goel of the Supreme Court gave three more months to the Centre and the Jammu and Kashmir government to sit together and take a considered view on formation of a minority commission for the state.

The bench took serious note of the state government's affidavit which said that its officials could not get time to coordinate with officials from the Centre on the issue as they were busy conducting the Amarnath Yatra, law and order duties, and handling a worsened situation.

The court was hearing the case filed by one Ankur Sharma, who prays for establishment of a Minority Commission in the state, contending that minorities including Hindus, Sikhs and Buddhists are unable to avail benefits under various schemes for minorities.

The bench referred to the affidavit submitted by Jammu & Kashmir and remarked that "It is a disastrous affidavit, it makes fun of us."

The state immediately withdrew the affidavit. Additional Solicitor General Tushar Mehta, appearing for the central government, informed the Supreme Court that discussions for setting up the Minority Commission were taking place at various levels. The apex court allowed the Centre and the state government three more months to deliberate on the issue and take a decision.

RECOGNITION

WOCKHARDT LIMITED AWARDED BEST INNOVATION LEGAL TEAM OF 2017 IN ASIA

On May 11, 2017, the In-House Community at their annual In-House Community Counsels of the year Awards in Hong Kong recognized the persistent development of in-house counsel best practices and the consistent improvement in delivery of legal services across Asia and the Middle East.

The event witnessed attendees from no less than 11 countries and submissions from almost 69 in-house legal and compliance teams recording their determinations in the areas of Dedication; Innovation; Efficiency & Value; Integration; Encouragement Improvement; Corporate Social Responsibility and Diversity.

We are immensely pleased to let you know that Legal Team of Wockhardt Limited has been awarded as the best "Innovation Legal Team of the Year, 2017 in Asia". The Award was given in a gala ceremony in Hong Kong on May 11, 2017.

We wish to continuously sustain securing, monitoring and safeguarding intricate legal issues of the company.

We also thank all our colleagues for their continuous support without which, this could not be possible.

M & A

ADVENT INTERNATIONAL TO ACQUIRE MAJORITY STAKE IN DIXCY TEXTILES

On August 3, private equity firm Advent International announced that it has agreed to pick up a significant majority stake in innerwear maker, Dixcy Textiles Pvt. Ltd.

Reportedly, Dixcy's Founder and Managing Director, Prem Prakash Sikka will retain a stake in the company and continue as chairman following the completion of the transaction.

AZB & Partners acted for Advent International and the team was led by Partners Ashwin Ramanathan, Bhavi Sanghvi, and Rink Ganguli along with Associate Dhruv Bhutia.

Khaitan & Co advised Dixcy with a team led by Partners Haigreve Khaitan and Abhishek Sinha along with Senior Associate Abhishek Thanvi and Associate Puneet Rathsharma. Partner Adheesh Nargolkar, advised on the IP aspects of the trasaction.

It has been said that this transaction is Advent's fourth investment in India since 2015, following its equity stake purchases in Crompton Greaves, QUEST Global Service and ASK Group.

M & A

FLIPKART COMPLETES ACQUISITION OF EBAY'S INDIA ARM

In April, Flipkart had raised $1.4 billion from eBay, Microsoft, and Tencent at a valuation of $11.6 billion. In exchange for an equity stake in Flipkart, eBay had made cash investment and sold its eBay.in business to Flipkart. Reportedly, with Flipkart now completing the acquisition of eBay's India arm, it will begin offering the global inventory of eBay to Indian consumers while taking the products of thousands of sellers in the country to eBay's customers globally.

J. Sagar Associates acted as Indian Counsel for eBay and the team was led by Partners Vivek K. Chandy and Archana Tewary along with Principal Associate Siddharth K. Vedula, Senior Associate Ritika Vaswani Pooranimaa Hariharan and Associates Medha Shah, Astha Shrivastava and Anand Balaji.

JSA Partners Amitabh Kumar and Vaibhav Choukse along with Associate Diksha Rai advised on anti-trust law compliances while Partner Kumarmangalam Vijay advised on certain tax-related aspects of the deal.

Morgan Lewis & Bockius, USA acted as US Counsel to eBay and the team included Partners William Perkins and Dinesh Melwani and Associates Zachary Zemlin and JiWon Park.

Morgan Lewis & Bockius, Singapore Partner Joo Khin Ng acted as Singapore counsel to eBay.

Cyril Amarchand Mangaldas advised Flipkart with a team led by Partners Nivedita Rao, Anand Jayachandran, Arun Prabhu along with Principal Associate Richa Mohanty, Senior Associate Aditya Prasad and Associates Hita Kumar and Rajalakshmi Natarajan.

Gunderson Dettmer acted as US Counsel to Flipkart and the team included Partners Steven L. Baglio, Jonathan C. Pentzien, Ferish P. Patel, Hozefa M. Botee, Andrew Y. Luh, Ward Breeze and David P. Sharrow and Associates Rick Fortunato, Margaux J. Knee, Ryan J. Grimm, Emily M. Lieberman, Teghan Binnings. Allen Gledhill acted as Singapore Counsel to Flipkart.

ON THE MOVE

FORMER JURIS CORP PARTNER VEENA SIVARAMAKRISHNAN JOINS SHARDUL AMARCHAND

Former Juris Corp Partner, Veena Sivaramakrishnan is joining Shardul Amarchand Mangaldas as Partner in Mumbai, focusing on the firm's Banking, Restructuring and IBC practice.

In this regard, Shardul S Shroff, Executive Chairman, Shardul Amarchand Mangaldas said, "Veena joins us as a partner who will strengthen and help expand our expertise and reach in the Banking, Restructuring and IBC practices. She is a great value add to our team as she brings her considerable experience of over 13 years in a Tier 1 banking firm and ICICI Bank, both in India and abroad. We are delighted to have her join us."

Akshay Chudasama, Managing Partner, said, "We are delighted to welcome Veena as a Partner in the Firm. She will be a vital contribution to the team and will help us further strengthen our relationship with our clients in the western region. She is a well-respected banking lawyer and has significant expertise on complex matters."

Veena Sivaramakrishnan, said that "I am very excited to join Shardul Amarchand Mangaldas & Co in the Banking, Restructuring and IBC team. It is the logical next step in my professional journey. I look forward to growing the practice to newer heights in the years to come. I am excited to exploit the opportunities that would present themselves going forward and contribute to the growth of the Firm."

In 2009, Veena had rejoined Juris Corp from ICICI Bank, where she spent about three and a half years.

INVESTMENTS

FABHOTELS RAISES $25 MILLION IN SERIES B FUNDING ROUND LED BY GOLDMAN SACHS

Budget hotels chain FabHotels has raised $25 million in a Series B funding round led by Goldman Sachs, a top company executive said. Accel Partners, an existing investor in FabHotels, also participated in the round.

It has been said that the funds will further accelerate the nationwide expansion of FabHotels.

Trilegal advised Goldman Sachs and the team was led by Corporate Partners Yogesh Singh and Upasana Rao. Other team members included Senior Associate Ankush Goyal, and Associates Avantika Gupta, Chetna Srivastava, and Bhupinder Gridhar.

Goldman Sachs was also advised by Gibson, Dunn & Crutcher, New York, on the deal and the team included Partner Richard Birns and Associate Drew McLelland. Indus Law acted for FabHotels and Accel Partners and the team

was led by Partner Srinivas Katta along with Principle Associate Anindya Ghosh, Senior Associates Mayukh Datta and Ashwin Krishnan and Associate Devya Sharma.

PRIVATE EQUITY

GENERAL ATLANTIC PICKS UP MAJORITY STAKE IN KARVY COMPUTERSHARE

AZB & PARTNERS
ADVOCATES & SOLICITORS

US-headquartered private equity firm General Atlantic LLC has picked up a majority stake in Hyderabad-based share registry Karvy Computershare.

Reportedly, General Atlantic is paying around $240 million (₹1,529 crore) for an 83% stake. Karvy Group Founder C Parthasarathy will retain some stake and be chairman of the board. The deal is subject to regulatory approvals.

C Parthasarathy, Managing Director of Karvy Computershare, said that "With continued growth of the Indian asset management industry, there is significant opportunity for Karvy Computershare to support clients' needs."

AZB & Partners acted for General Atlantic LLC and the team was led by Partners Ashwath Rau, Vaidhyanadhan Iyer and Divya Mundra along with Senior Associates Shivanand Nayak, Palaq Vora and Rutunjay Singh.

Shardul Amarchand Mangaldas advised Karvy Computershare and the team was led by Principal Associate Sayak Maiti.

INVESTMENTS

PLASMAGEN RAISES $25 MILLION FROM INVESTORS LED BY EIGHT ROADS VENTURES INDIA

On August 1, biopharmaceutical company PlasmaGen BioSciences Pvt. Ltd. said that it has raised $25 million (₹160.4 crore) from investors led by private equity firm Eight Roads Ventures India. Spectrum Legal Partner Vaishnavi Bhaskaran advised PlasmaGen. J. Sagar Associates advised Eight Roads and the team was led by Partners Manvinder Singh, and Nalin Bawa along with Senior Associate Upasana Gupta. Reportedly, the investment will help PlasmaGen expand its product portfolio, deepen market penetration and strengthen its product supply chain.

jsa
J. SAGAR ASSOCIATES

ON THE MOVE

ATULYA SHARMA JOINS DESAI & DIWANJI

Three partners from rival law firms have been hired by Desai Diwanji. Atulya Sharma, who was last with HSA Advocates, Omar Vanjara from Solomon & Co, and Durgesh Khanapurkar from Juris Corp; of which Senior Partner Apurva Diwanji confirmed the hiring of three partners, will join Desai Diwanji within a month, as reported by VCCircle.

Atulya Sharma will focus on corporate finance, while Omar Vanjara will oversee the real estate practice. Durgesh Khanapurkar is part of the litigation and arbitration practice.

As a part of their work history, Sharma had joined HSA Advocates in October 2016 from Apollo Tyres, where he was Global Chief Legal Counsel. However, he left HSA after a short stint. Before that, he was with Deutsche Bank in 2007 – where he was the legal head for the Indian subcontinent and Mauritius – post working with IDFC Group as Group General Counsel.

Prior to IDFC, he was associated with Dua Associates, where he was a Senior Partner in the firm's Mumbai office, heading the firm's Corporate Finance and Banking practice. In December 2014, he resigned from Deutsche Bank to join Apollo Tyres as Global Chief Legal Counsel shortly thereafter.

Vanjara initially worked with Eversheds and later joined Solomon & Co. Khanapurkar joined Juris Corp in 2014 and was made Partner in 2015. He previously worked at India Law Alliance too.

ON THE MOVE

FORMER SNAPDEAL GC ASHISH CHANDRA JOINS KUALA LUMPUR-BASED ASTRO MALAYSIA HOLDINGS

Former Snapdeal General Counsel Ashish Chandra has moved to Kuala Lumpur and joined Malaysian media and entertainment company Astro Malaysia Holdings as Vice President and Head Counsel. Chandra will be based out of Kuala Lumpur in his new role. His deliverables consist of "providing legal, strategic and regulatory leadership to Astro Malaysia to be a leader in digital media and consumer Internet market in ASEAN countries."

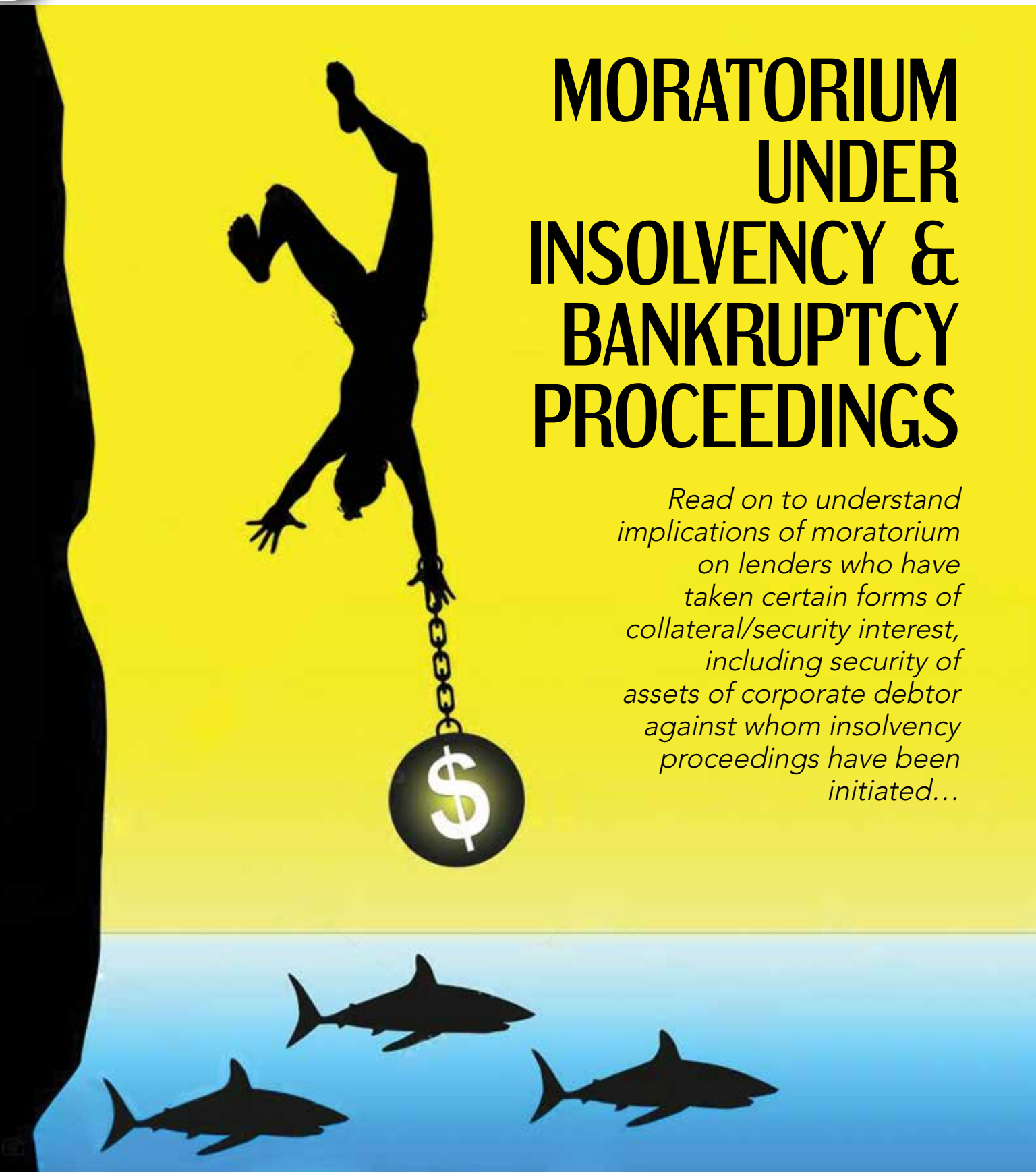
In September 2014, Chandra had joined Snapdeal, where he created and mentored a team of 22 attorneys.

At Snapdeal, Chandra led the legal and tax structure, and was involved in the negotiation and conclusion of multiple financing and acquisition deals aggregating more than $1.5 billion across multiple jurisdictions.

ON THE MOVE

JSA PARTNER KANNAN RAHUL TO JOIN TRILEGAL AS EQUITY PARTNER

J. Sagar Associates Partner Kannan Rahul is all set to join Trilegal as Equity Partner. It is understood that Kannan will be joining Trilegal with some of his team members. In 2015, Kannan had joined JSA as part of the Banking & Finance team and was working with Dina Wadia. Kannan has done his graduation from the National Law School of India University, Bangalore and started his career with ICICI Bank in Mumbai and later was in Hong Kong as ICICI Corporate Legal Group Head. He was handling Singapore, China, Sri Lanka and Hong Kong. Nishant Parikh, Head of the Corporate Practice Group at Trilegal said that "Kannan brings a wealth of experience in banking and finance, and is widely regarded for the quality of his work and advice. Kannan will add more strength to Trilegal's leading banking and finance practice. We welcome Kannan to the Trilegal partnership and wish him the very best."



MORATORIUM UNDER INSOLVENCY & BANKRUPTCY PROCEEDINGS

Read on to understand implications of moratorium on lenders who have taken certain forms of collateral/security interest, including security of assets of corporate debtor against whom insolvency proceedings have been initiated…

A moratorium in general parlance refers to a delay or suspension of activity or law for a certain period of time. In the legal context, it may refer to the temporary suspension of a law to allow a certain legal challenge or proceeding to be carried out without any disruption on account of interplay of overlapping legal processes.

Under the newly enacted Insolvency and Bankruptcy Code, 2016 ("the Code"), the National Company Law Tribunal ("the Adjudicating Authority/NCLT") on the date of admission of the application filed for initiating corporate insolvency resolution process under Section 7 or Section 9 or Section 10 of the Code (called insolvency commencement date), shall, by an order, declare a moratorium for prohibiting all of the following, namely:

(a) institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;

(b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;

(c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property, including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

(d) recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor[1].

Santosh B. Parab

General Counsel and
Head - Legal
IDFC Bank Limited

An exception to the abovementioned prohibition is the supply of essential goods and services to the corporate debtor, which shall not be interrupted by way of the moratorium. Further, the Central Government is authorized to notify non-applicability of the moratorium provisions as the Government may deem fit in consultation with the financial services regulator. Pursuant to the powers vested with the Central Government under the Code, the Department of Financial Services, Government of India has addressed its letter dated May 1, 2017 to members of the Indian Banks' Association, seeking suggestions on the aforesaid exclusions from Section 14 of the Code, including cases where SARFAESI action has been initiated under Section 13(4) and Section 14 of the SARFAESI Act.

This article aims to analyze implications of the moratorium on lenders who have taken certain forms of collateral/ security interest, including security of assets of the corporate debtor against whom insolvency resolution process has been initiated, pledge of shares pertaining to the corporate debtor, guarantee from promoters of the corporate debtor etc. This can be better understood by the following illustration:

Company A is a promoter of Company B. Company B has obtained a loan from Bank X against the following security (a) Corporate Guarantee of Company A and (b) Pledge of Shares held by Company A in Company B ("the Pledged Shares"). Lenders of Company A file an application under Section 7 of the Code against Company A. The application has been admitted by NCLT, the moratorium has begun and interim resolution professional (IRP) is appointed. In these circumstances:

i. Can Company A or IRP stop invocation of Pledged Shares by Bank X? Will invocation of Pledged Shares be impacted by the moratorium?

ii. Can Bank X invoke the Corporate Guarantee?

iii. Can Company A refuse payment to Bank X in the event of invocation of Corporate Guarantee?

iv. Will the invocation of Corporate Guarantee be impacted by the moratorium?

Analysis - As per the Code, if the application filed against Company A is admitted by the NCLT, the following shall occur:

(a) a moratorium shall be declared on any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect to its property under Section 14(1)(c) of the Code. This may lead to the Bank X being barred from invoking the pledge over the Pledged Shares till such time as the moratorium continues;

(b) the interim resolution professional ("IRP") shall take control and custody of any asset over which the corporate debtor has ownership rights, including securities it holds in its subsidiaries under Section 18(1)(f) of the Code i.e. the Pledged Shares as the same would qualify as assets of the corporate debtor; and

(c) the Committee of Creditors ("CoC") established in relation to Company A may instruct the IRP to create additional security on the Pledged Shares in favor of

[1] Section 14 of the Insolvency and Bankruptcy Code, 2016.

such persons as instructed by the COC under Section 28(1)(b) of the Code.

On plain reading of the abovementioned sections of Code, it appears that security created in the form of pledge over Pledged Shares cannot be enforced till expiry of the moratorium period. Though the IRP can theoretically take control of Pledged Shares, under the existing depository system established under the Depositories Act, 1996 read along with the bye-laws issued by the National Securities Depository Limited (NSDL)[3], there is no provision for any third party to take charge or control of the already Pledged Shares. Unless, Bank X consents to the release of the pledge on Pledged Shares, neither IRP will be able to take control or deal with in any manner, or create additional pledge over Pledged Shares nor COC can instruct creation of additional pledge over Pledged Shares in favor of lenders of Company A. The Code does not give any power to either the IRP or COC to invalidate or cancel the pledge validly created in favor of Bank X on Pledged Shares in terms of the procedure prescribed under the Depositories Act, 1996. Therefore, the pledge created in favor of Bank X will not be impacted except that during the moratorium period, Bank X may not be able to invoke and sell Pledged Shares. After expiry of the moratorium period, Bank X will have no restriction for invoking or selling Pledged Shares.

As regards the Corporate Guarantee, Bank X may not be able to invoke it during the moratorium period, however, there would be no restriction on sending demand notice to the Company A, asking it to make payment under the Corporate Guarantee. Further, upon non-payment by Company A under the said Guarantee, Bank X will be at liberty to initiate appropriate legal proceedings against Company A before Debt Recovery Tribunals and/or under the Code, in its capacity as a financial creditor of Company A in terms of the Code.

Now let's reverse the above illustration:

Company A is a promoter of Company B. Company B has obtained a loan from Bank X against the following security (a) Corporate Guarantee of Company A and (b) Pledge of Shares held by Company A in Company B ("the Pledged Shares"). Some other lenders of Company B file an application under Section 7 of the Code against Company B. The application has been admitted by NCLT, the moratorium has begun, and IP is appointed. In these circumstances:

i. Can Company A or IRP stop invocation of Pledged Shares by Bank X? Will invocation of Pledged Shares be impacted by the moratorium?

ii. Can Bank X invoke Corporate Guarantee?

> "Though the IRP can theoretically take control of Pledged Shares, under the existing depository system established under the Depositories Act, 1996, there is no provision for any third party to take charge or control of the already Pledged Shares

iii. Can Company A refuse payment to Bank X in the event of invocation of Corporate Guarantee?

iv. Will invocation of Corporate Guarantee be impacted by the moratorium?

In this case, neither invocation of Corporate Guarantee nor Pledged Shares shall be impacted by declaration of moratorium. The COC can even, as part of the resolution plan, decide on invocation of Corporate Guarantee and Pledged Shares.

It may thus be noted that it is important that moratorium provisions are interpreted to be restricted to the assets of the corporate debtor and must not be used as a tool by third-party security providers to evade their liability under security documents executed with the lenders.

The recent judgment given by NCLT, Mumbai, in case of ***M/s Schweitzer Systematic India Private Limited vs. Phoenix ARC Limited***[2], is an illustrative judgment on this aspect, where the tribunal ruled that '***moratorium has no application on properties beyond the ownership of the corporate debtor***.'

It was further ruled that (a) moratorium shall commence on the corporate debtor; (b) property not owned by corporate debtor does not fall within the ambit of moratorium; (c) order of CMM directing the court commissioner to take over possession of properties shall not fall into the clutches of moratorium; (d) further clarified that any action under SARFAESI Act shall come within the ambit of moratorium if an action is to foreclose or recover or create any interest in respect of the property belonged to or owned by a corporate debtor, otherwise not.

[2] Order dated July 3, 2013 in TCP No. 1059/I&BP/NCLT/MB/MAH. [3] In terms of the Depositories Act, 1996 read along with the Bye-Law 9.9.9 issued by NSDL (as amended till June, 2017); the entry of pledge or hypothecation made in respect of any securities shall be cancelled by the Depository Participant when the Client redeems the pledge or hypothecation and makes a request, with the concurrence of the pledgee.

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A Report From The Front
An Interview With
Justice Stephen G. Breyer

- by ASHISH JOSHI

In the spring of 2016, I interviewed Justice Stephen G. Breyer in his chambers at the Supreme Court. He had recently published his latest book, *The Court and the World* (Knopf 2015). The book, widely acclaimed as original, far-reaching, and timely, examines the work of the Supreme Court in an increasingly interdependent and globalized world. Breyer, analyzing several key decisions of the Supreme Court, points out that as the world grows smaller - or, to quote Thomas Friedman, "flatter" - the Court's horizons have inevitably expanded. Issues that used to or could be considered as "other people's" problems are no longer considered as such; what happens in Thailand may very well have real consequences - monetary or otherwise - in Washington. And for that reason, the "foreign" aspect of the Supreme Court's docket is on the rise. Breyer's book attempts to answer the following question: How can America's highest court decide American cases and interpret American laws so that they might work efficiently and in harmony with similar laws in other nations?

Justice Breyer received a BA in philosophy from Stanford University in 1959. He studied philosophy and economics at Oxford as a Marshall scholar and earned a law degree at Harvard. From 1964 to 1965, he clerked for Justice Arthur Goldberg. He was a special assistant to the U.S. Assistant Attorney General for Antitrust from 1965 to 1967 and an assistant special prosecutor on the Watergate Special Prosecution Force in 1973. Breyer taught law at Harvard Law School from 1967 until 1994. He was chief counsel to the Senate Judiciary Committee from 1979 to 1980, and was then confirmed a seat on the U.S. Court of Appeals for the First Circuit. After serving as chief judge of that court, he joined the Supreme Court in 1994.

Although the issue of American jurists citing foreign courts' decisions continues to raise controversy in political debates, our nation has a well-established legal tradition of learning from foreign sources. After all, Abraham Lincoln learned law from Blackstone's Commentaries, and our Supreme Court justices, from John Marshall to Felix Frankfurter, have referred to foreign courts' decisions in their opinions. Judges routinely refer to and cite various sources in their judicial opinions. Why not a foreign judge's decision? Justice Breyer disarmingly puts it this way: "[I]f someone with a job roughly like my own, facing a legal problem roughly like the one confronting me, interpreting a document that resembles the one I look to, has written a legal opinion about a similar matter, why not read what that judge has said? I might learn from it, whether or not I end up agreeing with it." Stephen Breyer, *The Court and the World 240*.

The premise of Breyer's book is straightforward: Judicial isolationism in an interconnected world is not the way forward. In fact, it's not even a realistic option. America's apex court cannot stand aloof and isolated from the legal universe beyond the country's shores. As John Fabian Witt, professor of law and history at Yale, wrote when reviewing Breyer's book for the *New York Times*, "Democracy has never been a nativist straitjacket. Breyer's book offers a powerful description of the price we would pay for allowing it to become one." John Fabian Witt, *Stephen Breyer's "The Court and the World,"* N.Y. Times, Sept. 14, 2015, www.nytimes.com/2015/09/20/books/review/stephen-breyers-the-court-and-the-world.html?_r=0. Excerpts from the interview:

ASJ: The Court and the World is a fascinating read. What made you write this book? Was there an "Aha!" moment?

SGB: Yes, I can't tell you at what time, but I suddenly began to realize that the number of cases in which, in order to decide them correctly or reasonably, you have to know something about what's going on abroad was growing rapidly. When I first came to the Court, you hardly saw such a case. They existed, but there weren't too many.

I would say, when I started writing the book, they probably were 15 or 20 percent, perhaps. That's a lot. And these are cases where you must know what's going on beyond the borders. And for the most part, it is not controversial. If you

involve a treaty, you have to know how other countries are interpreting the treaty in order to have a sensible interpretation yourself. There's unanimity in this Court on that statement that I just made. And we had more and more cases involving requirements to know something about terrorism, which is international, and how other countries are treating it; cases involving human rights, such as the Alien Tort Statute; cases involving commerce; cases involving international organizations; everything under the sun... It became, once I started thinking about it, obvious. And I think people should know that.

ASJ: Recently, we've had a political debate about the practice of American judges referring to foreign courts' opinions in their decisions. But if you really think about it, referring to a foreign case, or a foreign legal system, is by no means a new phenomenon. In the Steel Seizure case, for example, Justice Robert Jackson cited legal systems that were foreign, and he wasn't the first judge to do so by any means. Chief Justice John Marshall referred to decisions in foreign courts as well. So why does this practice continue to generate controversy?

SGB: Well, I think your statement of the facts is correct. It was around the 1980s when people began to say that we should not refer to foreign courts. In my own opinion, that controversy has arisen in the context of two kinds of cases - death cases and gay rights cases. Now, those are very controversial cases, and it is all too tempting for some people, whom I don't agree with, to think that foreign law and references to foreign law in those cases had an influence on results that they may think were wrong. So that's where I think the controversy comes from. And my response to that is, first, that is a small number of cases. That is not the whole story, and to think that's the whole story is to misunderstand how the courts are going to have to deal with and argue with foreign law and foreign practices.

And my second response is I know I will never convince you by simply pointing out that John Marshall and many others did refer to foreign law. By pointing out that we refer to all kinds of things, including law review articles, including magazine articles, including all sorts of things; why not refer to foreign law? By saying that the judges in foreign countries are judges too. They have jobs like mine. More and more have documents like our Constitution - why not read what they say? I might learn something. But I won't convince people with those arguments because I have tried and they don't usually work.

So, I say that I have a different approach: I understand what you, the critic, are worried about. You are worried about our paying too much attention to what foreign courts say or foreign lawyers or those involved in foreign practices of different kinds say. And we will, if that happens, lose our own American values. Alright. I understand that. I sympathize with that. I respect and think our very important American values - and they're very particular to democracy and human rights, equality, fairness - all of those are very important. Of course, other countries have them too. But they are important. We keep them.

Now, I would point out what is going on in the world and why are there now 2,000 organizations in the world created by some form of agreement - Blue Fin Whale Commission, the International Olive Oil Council, hundreds of them that we belong to, which make rules that in practice bind people in more than one nation. Why? Because the great problems of the world today go beyond one nation's borders.

The great problems are problems of environment, problems of terrorism, problems of commerce, problems of health. All kinds of problems are, in today's world, international problems. And we either participate through law in helping to resolve those problems, or we don't. And if we don't, the world will go its way anyway and we will have to live with the result. If we do, we can help show that our system, like any system based on rule of law, can produce not perfect solutions, but it can help. And the alternative to rule of law is something much worse - rule by the mob.

If I can convince you that this is the nature of what's called interdependence or globalization today - that by being very specific about what's in front of us - I might convince you that participation by the United States is the best way to preserve our American values. It doesn't undermine them. It is indeed in today's world a necessity for us to look beyond our own borders and to participate if we are to preserve them. That's the object of the book.

ASJ: Interdependence. You just mentioned the term, and in your book, you frequently use the term. What do you mean by that term? Is it that American courts are interdependent with their brethren in foreign countries, or is it just a fair exchange of views, some sort of a conversation?

SGB: You see, it depends. It is three different things. One, people talk about interdependence and globalization. But those are very abstract words that tend to produce a cloud of buzz in the minds of most people. The example I often use is from The Charterhouse of Parma. The hero, Fabrice del Dongo, is in Waterloo. He is fighting, there are bullets, there are clouds of smoke, Napoleon is rushing back and forth, and he thinks to himself, "Something very important is going on here. I wish I knew what it was." And that is how people feel when they hear the word "interdependence".

So part of that word as used in this book is to say: I am giving you some specific examples. I think it might help you to take one small institution, but an important one, the Supreme Court, and by being very concrete, give you some idea of what interdependence can involve.

Second, it suggests that the problems - not all problems, but some problems of great importance - are interdependent. Terrorists do not all live in the United States. And indeed other countries have problems with terrorism. And cooperation in trying to deal with such problems can help with the security of all, and working out how to reconcile the need for such security with the traditions of civil liberty is a problem everyone faces.

Third, those solutions are sometimes interdependent as well. If we have a case involving the Alien Tort Statute, where a person from abroad, an alien, who suffered torture by another

alien abroad but shows up in the United States and finds the torturer here, we have to interpret the words of the Alien Tort Statute. We have to figure out whether he or she has a case, whether he or she can bring it or whether he or she can't - we have to have a solution that others could adopt as well. Why? Because if not, they might adopt a solution which, to use the joke everyone uses, they're all going to put Henry Kissinger in jail. We don't want that. So our solution has to be one that will work if adopted by many or all countries. That's called universalism. And it's called comity in the law: Pay attention to what you do, to be sure that other countries could do the same. So the word sometimes has something to do with solutions, sometimes something to do with problems, and sometimes something to do with the state of the world.

ASJ: What do you have to say to the skeptics whose argument appears to be that consideration of foreign courts' opinions or foreign legal systems could lead to watering down of our American values?

SGB: This is exactly what I would say: that all I am doing, in a sense, is giving you a report from the front. I am giving you a report. You read it. And then you answer yourself the question. What I believe they will say is participation and an understanding of the kinds of cases I am talking about, of what happens abroad, is the best way to preserve our American values.

ASJ: On a practical note, have you seen a significant increase in the filing of amicus briefs before the Supreme Court that highlight how the rest of the world has decided on a particular issue?

SGB: Yes, absolutely! For example, I was surprised on a copyright case [Kirtsaeng v. John Wiley & Sons] where a young student from Thailand, who was a student at Cornell, discovered the price of books is less expensive in Thailand. Same books, same words, written in English, but done abroad under license from the publisher, much cheaper. He told his parents, "Send the books," and they sent quite a few, and he sold them. Does he have the right to do it or not? That is a very technical question, in fact, in copyright law.

And so I was surprised to see in my office, dozens and dozens of briefs, including amicus briefs from lawyers in England, from lawyers in Asia, from governments all over the world, and quite a few briefs from foreign lawyers or American lawyers representing foreign institutions of various kinds.

My point here is: Why? Because we are told that copyright today does not simply affect books or even books, films, and music. Automobile software is copyrighted. Go into any store and look at the goods. They have labels. The labels are copyrighted and many of those goods come from abroad. At the end of one of the briefs, it said your decision will affect 2.3 trillion dollars' worth of commerce. That's huge, isn't it? That's why we get the briefs, because that's today's world and it has nothing to do with the philosophy of a particular judge. It has everything to do with the nature of the world today.

ASJ: But was that case an outlier? Or is there a trend here that you can see?

SGB: No, I can find similar cases. We had, which I wrote about in the book, a question of a vitamin distributor from Ecuador who says there is an international cartel illegally raising the price of vitamins. And he sues a Dutch member, or who he claims is a Dutch member, and he wants this suit, with an Ecuador plaintiff and a Dutch defendant, to take place in New York. Why? Not because he was so weak lacking vitamins that he couldn't get to Europe, but because we have treble damages. That's why. So that is going to affect, by the way, lots of other countries' antitrust laws. So, we have briefs from the EU, we have briefs from Japan, Canada, all over the place, telling us how our decision will affect their law. Similarly, we had a discovery case involving two companies in Los Angeles. They wanted to get discovery A against B to send it to the EU. Again, briefs by the EU telling us what the effect will be, which they thought would be bad. They didn't want it.

And cases involving efforts to apply our securities law to purchase of a foreign security in Australia. The plaintiff is Australian. He bought securities in Australia over an Australian exchange of an Australian company, but the fraud involved alleged that the Australian company bought a company that had overstated its assets in Florida. It isn't surprising that we got briefs from many countries explaining how their securities law worked and why it was or was not a good idea. They basically thought it was not a good idea to extend our securities law, and we didn't in that situation.

Henry Friendly, I think, would have come to the opposite conclusion. He was a great judge, Second Circuit, one of our greatest judges, but he was writing at a different time. And the problems of the world were not the same. And it was not true that all of the countries at that time had their own securities law. Today, they do.

So, today, cooperation through this notion called comity does not simply mean stay out of it America if you're going to interfere. It means try to find interpretations where American law, through its language being not unclear and uncertain, will promote a kind of harmony among the enforcers, for example, or other laws of other countries. Look for the harmonious interpretation as a plus, not just "stay out of it". Again, that's a change in the nature of the world. Because so far we have had antitrust, we have had discovery, we have had human rights, we've had copyright, and there are a lot of areas.

ASJ: Are you aware of a similar change ongoing in courts of foreign nations?

SGB: Yes. When I was in England, I went to the Privy Council and they had a case of an Italian company suing a Russian company, or vice versa. And I said, "Well, why are they here in England? Why are you hearing it in the Privy Council?" And my host said, "Well, because they are incorporated in Barbados." And I said, "Well, why are they incorporated in Barbados?" He said, "So they can come to us in the Privy Council."

ASJ: Interesting.

SGB: Yes, very interesting, but it's all over. Go look at who's in the Inns of Court. Go see who's having dinner there in London. Quite a lot of people who were not born in England.

ASJ: Right. Here I am, in America.

SGB: Yes, that's right. America always has lots of people coming over from abroad, but it's all over. It's all over.

ASJ: The part of your book that deals with the power of the executive during wartime is fascinating. It shows how the legal landscape has shifted. From the time of the American Civil War to the present war on terror, the pendulum seems to have swung from the Court's attitude of utmost deference toward the president to refusing to give the executive branch a "blank check." How did that change come about?

SGB: In my own opinion, I think it really shows a couple of things. It came about because Roman politician and lawyer, Marcus Tullius Cicero said, "In time of war, the court should stay out of it." Just don't decide; let the other branches decide in time of security crisis, in times of war. But that led during World War II to 70,000 American citizens of Japanese origin removed from their homes and put in camps. And the Supreme Court approved that 6–3. Three justices - Jackson, Murphy, and Roberts - were horrified at this. There was no rationale for it. There was no basis. But Justice Black, who was a great civil libertarian, wrote the opinion, and he said in conference, "Well, somebody has to run this war, either us or Roosevelt. And we can't, so Roosevelt has to." That's Cicero for you. And it led to, however, a result that most people feel is just terrible.

So the Steel Seizure case is very interesting - a fascinating case. It is during the Korean War. And Jackson writes the best-known opinion, and he says, no, there has to be a limit. There has to be a limit. He was trying to limit President Roosevelt. Of course, President Roosevelt was dead, and it was much easier at that time to limit President Truman because he wasn't as popular as President Roosevelt. And they did limit President Truman. Given that, the Guantanamo Bay cases, where our Court did interfere and said there is no blank check, are not surprising to me.

ASJ: Why?

SGB: Because we only have a couple of choices. You want to put 70,000 American citizens of Japanese origin for no reason in camps? Absolutely not. That's one thing that's changed. And your choice is either do that or write what Retired Associate Justice of the American Supreme Court, Sandra O'Connor said in those cases - no blank check. The trouble with that is, well, what kind of check does it write? And the court will have to be involved to decide that kind of thing. But today, perhaps because of desegregation, perhaps because of Brown, perhaps because people have more confidence in courts, for that or other reasons, they are more willing to do what courts say.

And I think that is true throughout the world because people as a general matter since the end of World War II have come to the conclusion that rule of law does mean sometimes accepting cases you don't like and following them. Why? Because the alternatives to the rule of law are worse.

Not everyone thinks that. There are vast areas of the world where they don't. So it is in a sense an intellectual battle, or a battle for the hearts and minds of people, between those who have some confidence in the rule of law and those who do not. And part of this is, again, aimed to describe what the problems are for those who have confidence in the rule of law and say we better win.

ASJ: You write about the intellectual battle and about clusters, or pockets, of legally like-minded nations, where judges learn things from one another. Given that these exchanges are taking place and increasingly so, do you think there is a danger that this is going to increase polarization? Say liberal-minded nations versus fundamentalist regimes?

SGB: Your clusters will differ depending on the questions. As I said at the outset, one of the nations that is most interested in looking abroad is India. Another is South Africa. Another is Canada. And we do sometimes, and sometimes we don't. And they will shift over time. It depends on what the issue is. It also depends on who's written on this issue.

Even when writing on the death penalty, I have found one of the most interesting opinions years ago written by a judge in what was then Rhodesia. It is now Zimbabwe. Well, Zimbabwe, by the time I wrote, was no longer a democracy. But the opinion that I wrote about was done in a country that respected the rule of law. My point is that members of a cluster can change; things change over time. I would hope that it would not promote polarization.

ASJ: Part four of your book is entitled "The Judge as a Diplomat." How do you see yourself and your colleagues as diplomats in this world?

SGB: Well, sometimes it means, as legendary American filmmaker Woody Allen said, just showing up. Sometimes it means sitting around and talking a bit. The Indian Supreme Court has been here several times; I've been there several times. And sometimes you find we have the Canadians, who were just here. Sometimes in those discussions, you find something very practical. We talked about amicus briefs, and they have a process somewhat different. We talk about the shape of the table. We talk about a lot of different things.

It also means if you read some foreign opinions - you don't have to read them all the time, but if they are called to your attention by the lawyers - you learn something. And that's helpful. An appellate judge mostly has a job where he sits in a room and reads and writes. And what he reads and writes is in part affected by the lawyers. Though this is written from the point of view of the judge, it is absolutely apparent to any attorney that the judge isn't going to know anything about anything unless he tells him in the brief. And, therefore, it is imperative that the lawyer knows how to find out what is relevant and what is going on beyond our shores. And lawyers won't unless the law schools teach them where to look and how to find it. And law schools won't do it unless they know lawyers use it. And lawyers won't do it unless they know that the judges feel it could be significant.

Therefore, it is a circle. I think a virtuous circle. The circle of our profession is law professors and lawyers and judges. The judges write the opinions, the lawyers help them write the

opinions, the law professors evaluate. Each reads the work of the others and, gradually, we hope for improvement.

ASJ: In your book, you discussed India's experiment of incorporating alternative dispute resolution mechanisms into its legal system and the procedural changes that the country made thereafter. Justice O'Connor and you had several meetings with Indian judges on this issue. Do you think those meetings had a role in the development of the Indian system?

SGB: You'd have to ask the Indian judges. From afar, I thought they may have because I think they might have given some of the judges of their court more confidence in the various procedures that exist in different states, in the federal government, for alternative dispute resolution. The lawyers were very nervous about it in India. And I think this led to different trips by Indian judges and lawyers to see where it was working, such as to the United States. I think all that interchange may have given them some confidence that it would help, and I think they are trying it now, and I think it was a success story for international cooperation.

ASJ: Indeed. On a different topic, you have been an outspoken advocate for the need for judicial education in science, that judges need to be trained in how to evaluate scientific testimony.

SGB: They're going to have cases where there is science in front of them, and they are going to have to deal with it.

ASJ: Do you think it's time our judges will have to develop a similar understanding or outlook about how foreign legal systems work?

SGB: Yes, in this sense: Judges are generalists, almost all of them. And therefore, they have to be able to solve legal problems that can touch on almost anything. There is a vast difference between a tort case involving a drug that someone says was not adequately checked and a case of human rights involving misbehavior in Ghana, for example, with the parties back in the United States. Both could come before the court in certain circumstances. And that is why generalist judges depend upon not their own knowledge of everything but how to deal with the arguments of the lawyers. It's the lawyers who have to understand. The trial lawyers are experts at being generalists.

Good trial lawyers can teach anything. They will break it into parts. They will explain it so a jury could understand it. And that's what they are good at. And so they are the ones that have to in part be convinced so when judges say, to quote one of the greatest English authors who lived in Victorian times, Charles Dickens, "Barkis is willing," they say, OK, fine, we'll help.

You're not going to turn judges into scientists, and you're not going to turn judges into experts on the law of South Africa. But you will make them open and receptive to knowing what's going on in these places that is relevant when the lawyers tell them.

ASJ: It's just one more tool in the toolbox.

SGB: Correct.

ASJ: Your book makes such a strong case about American law and the new global realities that I am wondering whether American courts really have a choice in the matter?

SGB: No, I think they don't.

ASJ: There was an incident that you mentioned in your book - about watching the unfortunate events of 9/11 unfold on television during your and Justice O'Connor's visit to India. You saw that Indian judges were as horrified as the two of you were. And you realized that their reaction represented more than empathy. You remarked that the important divisions in this world are not geographical, racial, or religious, but are between those who believe in the rule of law and those who do not. Can you please elaborate?

SGB: I mean the same thing I said when I said we have a choice. Those who believe in the rule of law as a way of solving human problems, the problems of people who live together in communities, had better be on their toes to demonstrate that we can help with those problems after all.

Some time ago, I told that to the chief justice of Ghana, and she said, "Well, what is the secret to getting people to do what you want?" She's trying to bring about more democracy and more protection of human rights through the courts. I said there is no secret. I don't know the secret. I can just give you examples over the course of 200 years.

We did have the Civil War, we did have slavery, we did have legal segregation - we had all kinds of things in this country. But gradually, we overcame some of them, and gradually, the rule of law has taken hold. That's what we're trying to do. Why? The alternative is you go turn on the television and you see people killing each other. That's a very bad way to solve the problem.

ASJ: Right, and we didn't have it overnight. We did have the [Cherokee Nation v. Georgia] case, and then we gradually arrived at Bush v. Gore - a decision many Americans found to be seriously flawed but accepted nonetheless.

SGB: That's correct.

ASJ: Justice Breyer, thank you very much for this opportunity.

It has truly been a privilege.

SGB: Thank you.

Disclaimer *– The author is the owner of Joshi: Attorneys + Counselors and is the Editor-in-Chief of Litigation.*

Valuation Of Assets Under The Insolvency And Bankruptcy Code, 2016: Understanding The Term 'Liquidation Value'

It is crucial for insolvency professionals, and more importantly, for registered valuers, to have a correct understanding of the definition of liquidation value under the Code read with CIRP Regulations

Jyoti Singh
Partner
Phoenix Legal

Vishnu Shriram
Senior Associate
Phoenix Legal

Arushi Mishra
Associate
Phoenix Legal

Valuation of assets is one of the core features of the Corporate Insolvency Resolution Process under the Insolvency and Bankruptcy Code, 2016 (**Code**). However, there are various clarifications that are yet to be provided by the Insolvency and Bankruptcy Board of India (**Board**) in relation to provisions pertaining to valuation of assets as provided under the Code and the Regulations. One of the prominent controversies in relation to valuation of assets is the lack of clarity surrounding interpretation of the term 'liquidation value' under the Code.

The term "liquidation value" is defined under Regulation 35(1) of the Insolvency and Bankruptcy Board of India (Insolvency Resolution for Corporate Persons) Regulations, 2016 (**CIRP Regulations**) as *'the estimated realizable value of assets of the corporate debtor if the corporate debtor were to be liquidated on the insolvency commencement date'*. Regulation 35(2) of the CIRP Regulations prescribes the method for determining liquidation value. From a bare reading of the said definition, it emerges that liquidation value is the notional realizable value that assets of the corporate debtor would fetch, should the corporate debtor be liquidated on the insolvency commencement date (and not the value that may be actually realized under a resolution plan). However, the ambiguity arises with respect to determining "estimated realizable value" in the context of the insolvency resolution process as opposed to valuation in an out-and-out liquidation of assets. Typically, a valuation report often comprises more than one sale value for an asset based on valuation under different scenarios. For instance, a valuation report may provide for a fair market value, realizable value and distressed sale value of an asset. The multitude of jargon and terminology in valuation only adds to the already difficult task that registered valuers (appointed under the Code) and the insolvency professional discharging his/her function as an interim resolution professional (IRP)/resolution professional (RP) face in determining character of asset value that should be considered as liquidation value for purposes of Regulation 35 read with Regulations 36 and 38 of the CIRP Regulations. The determination of 'liquidation value' of assets is an extremely crucial exercise, keeping in view its practical implication on the resolution plan, claims of creditors and prospective investors.

Objective

One of the most important pieces of information that forms part of the Information Memorandum[1] is liquidation value. The purpose of having to provide for a liquidation value as part of the Information Memorandum during the Corporate Insolvency Resolution Process is in turn to enable compliance with provisions of Regulation 38 of the CIRP Regulations which requires identification (and

[1] Refer to Regulation 36 of the CIRP Regulations

subsequently payment) of specific sources of funds for payment of dues of operational creditors and dissenting financial creditors at liquidation value in priority to recovery of dues of other financial creditors who approve the resolution plan. In the event a resolution plan is reached and approved, operational creditors and dissenting financial creditors will have to be paid at this "notional" liquidation value in Regulation 35(1) since the corporate debtor would not actually go into liquidation.

Duty of an IRP/RP vis-à-vis the liquidation value of the corporate debtor

One of the key tasks of an IRP/RP is to appoint two registered valuers (as per Regulation 27 of the CIRP Regulations), who in turn will determine liquidation value (as per Regulation 35 of the CIRP Regulations) of the corporate debtor and submit the same to the IRP/RP. The registered valuers are required to provide an estimate of liquidation value *"computed in accordance with internationally accepted valuation standards, after physical verification of the inventory, and fixed assets of the corporate debtor."*[2]

> *The determination of 'liquidation value' of assets is an extremely crucial exercise, keeping in view its practical implication on the resolution plan, claims of creditors and prospective investors*

It is incumbent upon the IRP/RP to observe if there is a significant difference between the two estimates of liquidation value submitted to him/her, in which case, the IRP/RP may appoint a third registered valuer who will submit an estimate of the liquidation value computed in the same fashion as the two valuers first appointed. Thereafter, the IRP/RP will have to consider average of the two closest estimates as liquidation value.

Pursuant to this, the IRP/RP is required to note the said liquidation value of the corporate debtor as well as the liquidation value due to an operational creditor (arrived as per the waterfall mechanism under Section 53 of the Code) in the Information Memorandum prepared in terms of Regulation 36 of the CIRP Regulations.

Thus, it is to be noted that the duty of determination of liquidation value is based on the registered valuer and the duty of the IRP/RP in this regard is summarized herein below:

(a) Appointment of two registered valuers (as per Regulation 27);

(b) Observing any discrepancy in the two values submitted by the registered valuers and subject thereto, appointing a third valuer to provide another estimate of the liquidation value, so that the estimate of the two closest values may be taken as the liquidation value (as per Regulation 35(2);

(c) Incorporating the said liquidation value (as provided by the registered valuers) in the Information Memorandum (as per Regulation 36).

(d) Ensuring that every resolution plan identifies sources of funds, and provides for making payment of claims of operational creditors at liquidation value in priority to financial creditors and within 30 days of its approval (Regulation 38(1)(b) of the CIRP Regulations); and

(e) Ensuring that every resolution plan identifies sources of funds to make payment of claims of the dissenting financial creditors at liquidation value in priority to recovery by other financial creditors who approve the resolution plan (Regulation 38(1)(c) of the CIRP Regulations).

Liquidation value vis-à-vis Realizable value

The term 'Liquidation value' as generally understood is the value of an asset which is arrived at when a seller is under extreme compulsion to sell. As mentioned earlier, Regulation 35 of the CIRP Regulations, which defines the term 'liquidation value' specifies that the said value is to be a notional value, which should be arrived at considering a hypothetical scenario of liquidation of the corporate debtor on the date of insolvency commencement. In other words, it will be an estimated value calculated by registered valuers if the corporate debtor were to be liquidated on the insolvency commencement date. This is similar to the concept of "vertical comparison" under Chapter 11 of the United Stated Bankruptcy Code, and an accepted definition for arriving at liquidation value under English insolvency laws.

It is observed that the definition of the term 'liquidation value' uses the term *"realizable value"*, thereby indicating that liquidation value is the notional realizable value arrived at the time of liquidation of the corporate debtor, in terms of provisions of the Code. In view of the aforesaid, it may be pertinent to consider the procedure to realize assets during liquidation of the corporate debtor, as more particularly provided under Chapter III of the Code, read with the Insolvency and Bankruptcy Board of India

[2] Refer to Regulation 36(2)(a) of the CIRP Regulations [3] http://www.business-standard.com/article/pti-stories/resolution-professional-others-booked-for-cheating-hotelier-117082000681_1.html

"Valuation is a quintessential part of the corporate insolvency resolution process, and a proper understanding of liquidation value is crucial to protect the interest of stakeholders and to formulate a compliant resolution plan

(Liquidation Process) Regulations, 2016 (**Liquidation Process Regulations**). In this regard, Regulations 32 and 33 and Schedule 1 of the Liquidation Process Regulations, provide that a liquidator appointed as per the Code, may sell the assets either on a stand-alone basis or sell the assets in a slump sale/a set of assets collectively/the assets in parcels. However, it is stated that the mode of sale shall ordinarily be through auction unless:

(1) the asset is perishable; or

(2) likely to deteriorate in value significantly if not sold immediately; or

(3) is fetching a better price than the reserved price of a failed auction; or

(4) has the permission of the Adjudicating Authority, in which case the liquidator shall sell the assets by means of a private sale.

The Schedule I to the Liquidation Process Regulations, under part (1) item (4), specifies that for the purposes of auction, the reserve price would be the value of the asset determined by the registered valuers in terms of Regulation 35.

Thus, it becomes evident that identification of an asset plays a crucial role in determining liquidation value. In ordinary circumstances, the liquidation value of an asset is likely to be the notional reserve price at which such an asset would be sold in an auction. However, if the nature of the asset is perishable or such that its value may depreciate significantly if not sold immediately, then the value of such an asset may be determined on the basis of a private sale. It may be stated herein that the methodology to be adopted for determining the aforesaid values is to be as per internationally accepted valuation standards, after physical verification of assets of the corporate debtor.

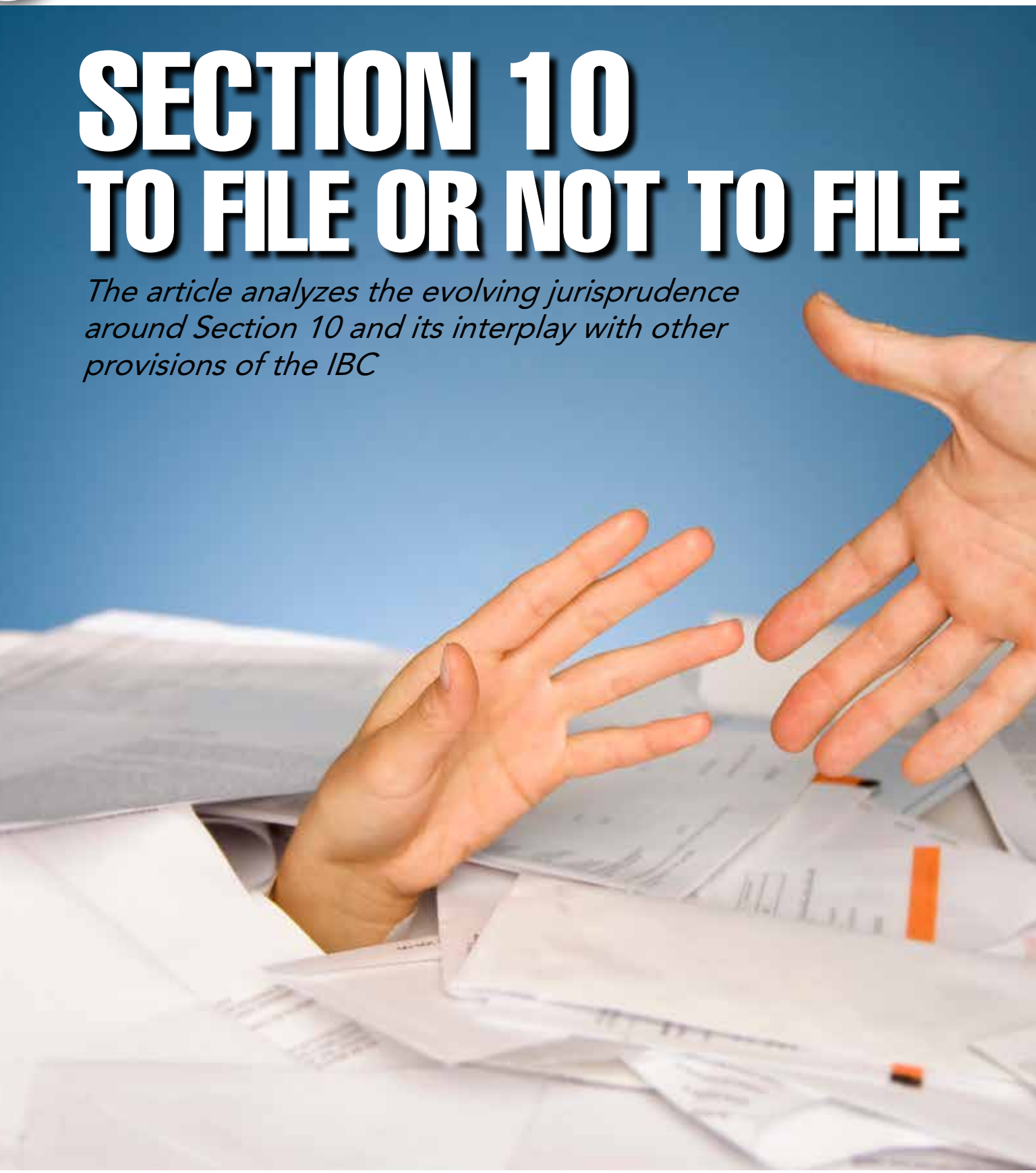
Conclusion

Valuation is a quintessential part of the Corporate Insolvency Resolution Process, and a proper understanding of liquidation value is crucial to protect the interest of stakeholders and to formulate a compliant resolution plan. Any errors in determining liquidation value in the Corporate Insolvency Resolution Process can have far-reaching consequences, including the effect of undermining of reversing any resolution plan that may be approved on the basis of an incorrect liquidation value. In fact, a case of allegedly incorrect determination of liquidation value under the CIRP of Hotel Gaudavan Private Limited has already resulted in a criminal complaint against officers of a private securitization company and the resolution professional[3].

It is therefore crucial for insolvency professionals, and more importantly, for registered valuers, to have a correct understanding of the definition of liquidation value under the Code read with CIRP Regulations. While one expects the understanding of valuers and a customization of valuation methods to more accurately determine liquidation value in the Corporate Insolvency Resolution Process, any clarification on liquidation value under the CIRP Regulations and the Code by the Board or the Adjudicating Authority would be a welcome move that would help bring about consensus on this much debated issue.

SECTION 10
TO FILE OR NOT TO FILE

The article analyzes the evolving jurisprudence around Section 10 and its interplay with other provisions of the IBC



Pooja Mahajan

Partner
Chandhiok & Associates,
Advocates and Solicitors

Under the Insolvency and Bankruptcy Code, 2016 ("**IBC**"), a creditor or the corporate debtor itself, can initiate the Corporate Insolvency Resolution Process ("**CIRP**") of the debtor. While financial and operational creditors can initiate corporate debtor's CIRP by filing an application with the National Company Law Tribunal ("**NCLT**") under Sections 7 and 9 respectively, a 'corporate applicant' (which includes the corporate debtor) can initiate corporate debtor's CIRP under Section 10 of the IBC.

Since December 2016, many debtors have initiated their own CIRP under IBC. This right given to the debtor is very welcome as it gives an opportunity to the debtor to bring about resolution of its insolvency in cases where its creditors may be reluctant to do so.

In India, such a right to voluntarily initiate resolution process existed even before the IBC, albeit in very different forms - mainly as the right of an 'industrial firm' to make a reference under the Sick Industrial Companies (Special Provisions) Act, 1985 ("**SICA**"), for its revival. Admittedly, SICA was a failed experiment for various reasons. SICA was also routinely abused by the promoters who continued to be in possession of the assets and enjoyed the unending moratorium and protection provided by SICA.

Since admission of CIRP under the IBC also leads to moratorium for the benefit of the debtor, the possibility of abuse of Section 10 of the IBC by corporate debtors cannot be ruled out. Nevertheless, Section 10 needs to be read in light of Section 65 (*fraudulent or malicious initiation of proceedings*) and Section 66 (*fraudulent trading or wrongful trading*) of the IBC. This article analyzes the developing jurisprudence around Section 10 and its interplay with other provisions of the IBC.

Section 10 Requirements

Section 10 application can be filed by a 'corporate applicant' (which includes the corporate debtor as also its members and individuals in charge/control in certain circumstances). Under Section 11 of the IBC, debtors undergoing a CIRP or whose CIRP was completed 12 (twelve) months preceding the date of the application or who have violated a prior resolution plan or in respect of whom a liquidation order has been made are barred from making Section 10 application.

The trigger threshold for filing Section 10 application is low – a payment default of INR 1 lakh or more by the corporate– a threshold most companies, even if solvent, will not find difficult to cross. However, while the trigger threshold is low, the application requirements under Section 10 are quite cumbersome, as compared to an application by the creditors. To reduce the information asymmetry (between the debtor and the creditors) as a part of triggering the CIRP, the corporate applicant is required to provide extensive information such as details of creditors, evidence of debt and default, books of accounts, balance sheets, statement of affairs etc.

NCLT's Discretion To Reject Section 10 Application

A question arises that if there is a payment default and the debtor is not barred under Section 11, does the NCLT have discretion to reject the debtor's application? Admittedly, except for non-completion of the CIRP application, Section 10 does not provide any ground for rejection.

In the context of financial creditor's application under Section 7, in *Innoventive Industries Ltd. v. ICICI Bank*[1], the Hon'ble National Company Law Appellate Tribunal (**"NCLAT"**) held that once NCLT is satisfied as to the matters in Section 7, it is required to admit the case and beyond that, it is not required to look into any other factor. If the same rationale is applied, even in Section 10 cases, the NCLT should not look beyond Section 10 requirements (i.e. payment default and application being complete).

However, interestingly, NCLTs are issuing notices to creditors under Section 10 and are hearing their objections to admission of debtor's application. Section 10 applications are being heard by NCLTs in detail and debtors are being asked to explain why their application should be admitted. And there are at least four cases of rejection of Section 10 application by NCLTs on grounds that the debtor made a filing with an ulterior motive to take advantage of the moratorium provisions of IBC.

In *Leo Duct Engineers and Consultants Ltd.*[2] and *Antrix Diamond Exports Pvt. Ltd*[3], NCLT, Mumbai noted that the admission of Section 10 application will stay/stall the proceedings against the debtor and its guarantors, and this, rather than turnaround of its business, *appears* to be the motivation of the debtor to approach NCLT. NCLT further held that it is not sufficient to meet the requirements of Section 10 and that it has to consider the merits of each case and *see beyond what meets the eye*. NCLT dismissed the application on the basis that irreparable loss will be caused to creditors and admission will provide uncalled for protection to the debtor and guarantors.

Similarly, in *Unigreen Global Private Limited*[4], Principal Bench, Delhi, observed that corporate debtors were trying to abuse the IBC for only taking benefit of moratorium on actions against the corporate and its directors. In *Krishna Kraftex Private Limited*[5], NCLT, Delhi observed that it cannot mechanically admit Section 10 applications as it will open a floodgate of people forming companies, incurring expenses and then enjoying the moratorium. NCLT further held that since no claims were made against the company, the company cannot be declared to be in default and that it barely had any assets which needed resolution under IBC.

Section 65

Under Section 65 of the IBC, penalties may be imposed on the applicant if it initiates CIRP *'fraudulently or with malicious intent for any purpose other than for the resolution of insolvency'* of the debtor. The section is peculiarly worded as it stresses on 'intent' of the applicant linked to 'purpose' of filing - which, as per Section 65, should be *'resolution of insolvency'*. However, the entire IBC proceeds on the premise that a 'payment default' (rather than actual insolvency) should be the trigger point for CIRP admission as non-payment is viewed as an early sign of impending insolvency. Therefore, Section 65 leaves a lot to subjective satisfaction of NCLTs on what may appear to them as the 'intent' of the debtor in filing Section 10 application.

In the cases mentioned above, the fact that proceedings were initiated/will be initiated against the guarantors or directors appears to have weighed in heavily on NCLTs' minds in determining debtors' intent - NCLTs ultimately held that the intent was only to seek moratorium-related protections. However, the question is whether the moratorium really gives protection to the guarantor or directors of the company? Admittedly, a moratorium under Section 14 of the IBC is imposed only for actions against the debtor. In *Schweitzer Systemtek India Private Limited*[6], (where creditors argued that the debtor has filed Section 10 application to thwart their attempts to recover the property of the guarantors), while NCLT, Mumbai recognized that imposition of moratorium has been used to frustrate recovery proceedings in certain cases, it admitted the application on the basis that moratorium would prohibit action only against properties of the debtor (not the guarantors).

[1] Company Appeal (AT) (Insolvency) No. 1 & 2 of 2017, Judgment dated 15 May 2017. [2] C.P. No. 1103/I&BP/NCLT/MAH/2017, Order dated 22 June 2017. [3] C.P. No. 1104/I&BP/NCLT/MAH/2017, Order dated 20 June 2017. [4] Company Petition No. IB-39 (PB)/2017, Order dated 08 May 2017. [5] Company Petition No. IB- 78 (ND)/2017, Order dated 15 May 2017. [6] T.C.P. NO.1059/I&BP/NCLT/MB/MAH/2017, Order dated 03 July 2017.

Further, even if moratorium applies, it only applies during the CIRP period (which as per the IBC, cannot extend beyond 6 (six) to 9 (nine) months). Failure to approve a resolution plan within such period leads to mandatory liquidation. Importantly, during this period, it is the creditors (and not the debtor) who are in possession and decide the fate of the company. The creditors can take a decision to liquidate the company or approve a resolution plan which could entail sale of company's assets or change in control. This is very different from debtor in possession regime under SICA where moratorium could be enjoyed forever. Therefore, to a large extent, the threat of abuse of Section 10 seems unwarranted. It is difficult to envisage a situation where promoters would put an otherwise solvent company into CIRP and run the risk of its liquidation or change in control just to enjoy 6 (six) to 9 (nine) months' moratorium. And if the company is insolvent, then let the creditors who are seeking recoveries decide the fate of the company. The fact that moratorium is sought by the debtor against recovery proceedings cannot itself be a ground to impute fraudulent/ malicious intent – especially when the very purpose of CIRP is to provide a calm period and prevent dissipation of assets of the company during such period.

> While Section 10 is an important tool in the hands of corporates for resolving their insolvency, the success of this provision will depend on how jurisprudence around Sections 65 and 66 develops

Section 66

Lastly, Section 10 must be read in light of Section 66 (2) of the IBC. Under this provision, a director can be made *personally* liable to contribute to the corporate debtor's assets if before the insolvency commencement date, such director knew or ought to have known that there was no reasonable prospect of avoiding the commencement of CIRP; ***and*** such director did not exercise due diligence in minimizing the potential loss to the company's creditors. To make the director liable under this provision, proceedings may be initiated before the NCLT by the resolution professional.

Therefore, for the first time in India, directors can be made personally liable for what is generally known as *wrongful trading* or *insolvent trading*. Section 66 (2) is based on *'wrongful trading'* provision of Section 214 of the UK Insolvency Act, 1986. Wrongful trading occurs when the directors have continued to trade past the point when they knew, or ought to have concluded that there was no reasonable prospect of avoiding company's insolvent liquidation and they did not take every step with a view to minimizing the potential loss to the creditors. During this time, the directors need to be extremely careful when considering whether to continue to trade, or not. Importantly, the liability is not for trading during this period but failure to take steps to minimize the losses to the creditors.

Section 66 (2) of IBC will force directors of Indian companies to evaluate what to do in case of impending insolvency. The insolvency may be a temporary issue in which case the directors may determine that it is beneficial to continue trading, or the directors may take some steps to improve trading conditions. However, at a point when they realize that it may not be beneficial to continue trading as is, they must exercise due diligence to minimize losses to creditors. Such due diligence may be in the form of taking steps for turnaround – and it is in this context that the right to initiate CIRP under Section 10 becomes important. If the directors believe that a turnaround process outside IBC is not feasible or proper, then they must question if CIRP under IBC will help in minimizing losses to the creditors. If the answer is yes, Section 10 almost takes the color of a duty cast on the directors to make an application for initiation of CIRP of the company.

It may be noted that in the UK, while deciding wrongful trading cases, the courts place some weight on whether the directors took professional advise (when the company started going insolvent), and if so, what that advise was. Therefore, it would be useful for directors of Indian companies to seek professional advise on turnaround mechanics to help them decide whether to file or not to file under Section 10 of the IBC.

Conclusion

While there is some fear of abuse of Section 10, it is an important tool in the hands of the corporate debtors when deciding how to resolve their insolvency, especially in cases where creditors are not interested or are dragging their feet on deciding an outside IBC resolution plan. However, the success of this provision will depend on how jurisprudence around Sections 65 and 66 develops. While Section 65 provides a disincentive to file (considering the risk of NCLT determining 'malicious or fraudulent intent' on the part of the debtor), Section 66 provides an incentive to directors to file (to avoid personal liability for wrongful trading). It may be mentioned that some of the cases referred to above are pending in appeal before NCLAT which is actively looking at the question whether NCLT has discretion to reject debtor's application on grounds of potential abuse of the moratorium provisions.

CYBERCRIME
Am I Even A Real Victim?

The author elaborates on the nature of the cyber world and its many pitfalls

#Trolls, #Trolling are the most popular hashtags in cyberspace today. Let's understand what Trolling is, who these trolls are, and what it does to the one trolled.

"Trolling is an act to make a deliberately offensive or provocative online post/tweet with the aim of upsetting someone or creating unrest in an online group or community by posting off topic messages."

Users/individuals who love to add fuel to fire or rather fire the fuel are the ones who are likely to become Internet trolls. Internet/cyberspace gives them the perfect ground to get away with the menace they create or the harm they do and also encourages such acts by providing the attention & audience for these acts.

These traits of trolls have been associated to people who have narcissist or psychopath & sadist tendencies. It is your suffering that brings them pleasure. It is the power of hurting someone that drives them.

"I may not even be a real victim but it did hurt" were the words of journalist Dhanya Rajendran, who was victim of an organized trolling attack by fans of Tollywood actor Vijay.

Within a few minutes of her above tweet going live, she was bombarded by vulgar tweets and sexual and death threats. There have been around 45,000 tweets over the following three days and a derogatory hashtag trended on Twitter.

The alleged trolls have also dug out her tweets in the past that they say targeted Vijay. Yet she feels she may not be real victim. Why? Just because this happened in cyber space? Just because it's virtual crime & not real/ physical?

Nirali Bhatia
Cyber Psychologist

A 26-year-old employee reaches out for help from cyber psychologist to help him fight cyber bullies. Our young man makes friends on social media and uses the latest mediums of technology for communication – chats & video calls. Typical of human nature he is trusting & cannot sense any foul play. One evening after a video call with his new found friend, he says adieu to her as it's time for him to hit the bed. Next morning he receives a YouTube link from his friend on private chat. When he clicks the link he is shocked to see his own video from last night when he was changing into comfort wear for bed time. What follows next is a note threatening him to pay up ransom else the video link will be shared with all his social media contacts.

"It's my entire fault. I feel more stupid rather than a real victim. I don't think I have any control now. I am feeling so suicidal. I can't share this with anyone. Please help me", he shares with me in a telephonic session.

Is making friends his fault? Or is trusting friends his fault? His laptop getting hacked is his fault? He is being bullied & threatened and yet he feels he is not a victim of cybercrime as it's all in virtual space.

Cyberbullying is the fastest-growing form of cybercrime in Internet space. Teenagers and adults are going through life being cyber-bullied and may or may not be aware of this. Most who are aware of what is happening to them feel depressed, miserable, have low self-esteem and a sense of worthlessness.

12-year-old Tanya (name changed) is going for counselling sessions for the last 2 months to build up her self-confidence & work on the fear of attending school. Tanya is another child who is a victim of cyber bullying. One nasty comment by anonymous user on her picture with braces on social media attracted many more unpleasant comments making fun of her physical appearance, intelligence, etiquettes etc., murdering her self-confidence with every like received on such comments. Her parents reported that she started staying indoors, became very irritable & sensitive. She would either cry or yell at a drop of a hat and she was just not ready to go to school. Her parents were unaware of the actual trigger but knew something is bothering her & hence sought professional help.

"Psychological impact of cyber bullying & trolling is deep, irreversible and sadly invisible too. Be responsible with your words & actions

Cyber-bullies are highly intimidating. They thrive on having an audience. Display of power, vengeance and thrill are some of the reasons why people bully.

India as a country stands 4th in cyberbullying. Also, what is noteworthy is that if one in 10 children has been bullied online, about 50 percent of children are also the cyber-bullies. Knowingly or unknowingly, people contribute to bullying in virtual space. Somewhere it's the feeling of superiority or simply having fun by demeaning someone that leads to such bullying.

As much is the impact of physical harassment, even more is that of the virtual harassment, intent being more or less the same. Given the magnitude of the Internet/cyberspace, the criminal acts are more dreadful & intense. The 3A's of cyberspace - Anonymity, Authority and Attention - make it very alluring for psychologically sick-minded people to vent or act out their intents. In fact, it also gives a platform to normal people to unleash their dark side & seek pleasure in dark fun.

Cybercrimes like trolling, cyberbullying, hacking are amongst the more common ones.

The list of types of cybercrimes is increasing at a rapid speed along with advancement of technology & its role in our day-to-day lives. Our social lives have spilled over into the virtual space & rather the virtual is taking over the physical or real social scenario.

Let us understand that the damage such crimes can do is humungous and very deep due to the nature of cyberspace. Physical wounds heal faster than mental ones. Firstly, it takes a while for the victim to even realize that he or she is a victim, and thereafter, what to do is not known.

Stay aware & stay safe is the mantra. Some useful tips to keep you alert & aware while in cyberspace:

- Cyber world is a world of perceptions. What we perceive is what we believe. So remember it's all about how we feel & what we think.
- Avoid using social networking platform whenever in emotional distress. Emotional distress clouds the logical mind and we operate out of impulse & overwhelming feelings (be it of hurt, anger, loneliness etc.)
- No face, no eye contact makes it easy to speak up & share details as there is no fear of being judged. But it impacts your ability to make good judgments of other people's intent.
- Take your time & do a good background check (physical check) before trusting anyone you met in cyber space.
- Do not update on real-time location. No one besides your family needs to know where you are.
- Avoid posting pictures of your children. Dark web is the haven of child abusers and pedophiles.
- All social networking sites have privacy settings. It takes 5-10 minutes to go through them. Invest that time for your own safety.
- Virtual world is not REAL. Put in efforts to stay connected to real friends.

Lastly, like any physical hurt, mental hurt also needs attention & professional advise. Do not hesitate to seek help.

GC POWERLIST 2017

Like with most other walks of life, the contours of the legal profession too are fast changing. In such a scenario, complacency is a luxury that legal practitioners of all hues can ill afford.

For instance, today's In-House Legal Teams and General Counsels (GCs) are expected to learn new disciplines and take on additional responsibilities at a speed dictated by their management boards and other stakeholders. GCs in particular are required to maintain a high learning curve, where they not only handle legal matters but also coordinate with multiple regulators, work closely with external advisers, and most importantly, double as business partners.

Legal Era is proud to release **The GC Powerlist 2017** featuring not just the Best GCs but also information on their work & why they made it to the list.

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RATIO DECIDENDI INSOLVENCY AND BANKRUPTCY CODE

The enactment of the Insolvency and Bankruptcy Code, 2016 (IBC) marks a historical step by lawmakers of India in the jurisprudence relating to corporate insolvency. IBC was primarily enacted with the objective of consolidating and amending laws relating to reorganization and insolvency resolution of corporates, firms, and individuals in a time-bound manner to maximize the value and potential of their assets.

IBC is inspired by the UK Insolvency Act, and historically, a large part of the insolvency jurisprudence across the world is based on judicial precedents and that is where tribunals and courts sit to create principles that serve as precedents in times to come.

Insolvency in layman's language means inability of a person or company or corporation to repay its debts when they become due or when the liability of the person or company or corporation exceeds the value of its assets. Bankruptcy is the condition when they have become bankrupt where a revival is not possible and occurs at the end of the insolvency process.

Key Themes Under The IBC

- **Interpretation Of "Dispute"**

Sub-section (6) of Section 5 of IBC defines "dispute" to include any suit or arbitration relating to the existence of a debt; quality of goods or services; or breach of a representation or warranty.

While IBC consolidates scattered and unstructured jurisprudence on insolvency prevalent in the past, in view of various interpretational issues, one is bound to witness a whirlwind of judicial pronouncements that will result in the development of IBC jurisprudence in days to come

Sindhu Kotian
Advocate
Bombay High Court

- **Stages In A Corporate Insolvency Process**

IBC provides a two-stage process for corporate insolvency. The first stage is famously described as the Corporate Insolvency Resolution Process (CIRP) under which any of the financial creditors, operational creditors, or the corporate itself can initiate proceedings on a payment default by way of an application before the respective National Company Law Tribunal (NCLT). IBC recognizes two kinds of creditors who can trigger CIRP: operational creditor and financial creditor.

- **Timelines**

The whole process under IBC has a central underlying theme of time-bound actions. IBC has prescribed timelines for the resolution process right from the admission stage till the completion stage which look like the following:

Financial Creditor ---------> File Application with Adjudicating Authority --------> order of admission/ rejection *(to be passed within 14 days)*

Operational Creditor ---------> Issue Demand Notice to Debtor ---------> Debtor can show existence of a dispute/ pay the debt *(within 10 days)*

In the event of failure of Debtor to respond in 10 days ---------> Operational Creditor can file Application in NCLT to initiate CIRP ----------> admit or reject the application *(within 14 days)*

The completion of the CIRP process by the NCLT shall be 180 days from the date of admission and can be extended for a maximum period of 90 days beyond the 180 days in certain cases.

- **Fast Track Resolution Process for Small Enterprises**

IBC also provides for a fast track corporate resolution process for small companies as defined under Section 85(2) of the Companies Act, 2013, a start-up (other than a partnership firm) or an unlisted company with total assets, as reported in the financial statement of the immediately preceding financial year, not exceeding rupees one crore. The fast track resolution process shall be completed within a period of 90 days, subject to an extension of 45 days in certain cases. This may have considerable impact on the SME sector.

Overview Of Cases

- NCLT clarifies who is an *"Operational Creditor" [Pawan Dubey & Anr V/s J.B.K Developers Pvt Ltd - order dated 31-3-2017 passed by Delhi NCLT]*

In this case, NCLT has provided clarity in respect of who is covered under the definition of "Operational Creditor" and which kind of cases will be subject to the jurisdiction of IBC.

In the present case, the Applicant had booked a residential flat in the Respondent's construction project. Dispute arose due to failure by the Respondent to complete the project and hand over the residential flat to the Applicant within the stipulated time. The Applicant applied for cancellation of allotment of the residential flat and sought refund of deposit along with interest. The Applicant initiated CIRP

under IBC on grounds that the Respondent should be considered as the operational debtor and Applicant as the operational creditor.

NCLT relied on the case of Vinod Awasthy vs AMR Infrastructure Ltd, wherein the NCLT had held that the operational debt as defined under the Code does not include debt other than financial debt and only covers four categories, i.e., goods, services, employment, and government dues and further held that since the claim for refund of advance was associated with the delivery of possession of the flat, it cannot be considered as an operational debt.

In the present case, NCLT, while dismissing the application, held that in view of Section 9 read with Sections 5(20) and 5(21) of IBC, the claim for refund of advance cannot be construed as operational debt within the ambit of IBC, especially since the remedy for delay in handing over the possession of the flat lies under the Consumer Protection Act, 1986.

The appeal filed by the Applicant, was also dismissed by the NCLAT. However the issue of whether the flat buyers can initiate Insolvency Resolution Process against defaulting developers is still an evolving area of law.

- *Can flat buyers initiate insolvency proceedings against builders under the IBC – [Nikhil Mehta & Sons Vs AMR Infrastructure Ltd – decided by NCLAT]*

This issue gains greater significance in current scenarios where many real estate companies are facing insolvency proceedings in various tribunals across the country. This case is one of the earliest cases to consider the locus of a flat purchaser to initiate insolvency proceedings against a builder and the NCLAT has provided some clarity on the issue.

In this case, an appeal was preferred by the flat purchasers against an order of the NCLT, Principal Bench, New Delhi whereby the NCLT had held that the flat purchasers were not "financial creditors" as per Section 5(7) of the IBC.

In this case the flat purchasers had reached different agreements/MOUs with the builder (AMR Infra) for purchase of three units, a residential shop, a flat and an office space. One of the unit was purchased under a "Committed Return Plan", by which the flat purchasers were to pay substantial amount of the total consideration upfront at the time of execution of the agreement, and the builder undertook to pay monthly committed assured returns till the time actual possession was handed over to the flat purchasers.

Though the builder paid assured returns as per the agreements/MOU for some time, later they stopped paying returns, and therefore the flat purchasers approached NCLT, Delhi claiming that since there was assured return, they were covered as "financial creditor". However the NCLT dismissed the flat purchasers' petition holding that the flat purchasers will not come under the category of "financial creditors".

In the appeal, the NCLAT, upon considering that the builder had agreed to pay "assured returns" to the flat purchasers under the agreements/MOU and that the builder in its Annual Returns and tax records treated the flat purchasers as "investors", came to the conclusion that the flat purchasers in the present case shall be considered as "financial creditors" within the meaning of Section 5 (7) of the IBC and set aside the order of the NCLT and remitted the matter back to the NCLT with a direction to admit the application of the flat purchasers under Section 7 of the IBC.

This recent judgment has no doubt upheld that flat purchasers are entitled to be recognized as financial creditors in cases where the developers had promised 'assured returns' as part of the deal. However it remains to be seen how this case will have a bearing on the other applications filed by flat purchasers against developers.

- Interpretation of "Dispute" *[Kirusa Software Pvt Ltd vs Mobilox Innovations Pvt Ltd - decided by NCLAT]*

The issue of what constitutes a "dispute" under IBC is a highly disputed issue by itself before various benches of NCLT. The underlying issue which is agitated time and again is whether a corporate debtor can raise all kinds of disputes under CIRP while issuing the notice or can the notice of dispute be referred to only pending suits or arbitration proceedings.

NCLAT, in a recent judgment in Kirusa Software Pvt Ltd vs Mobilox Innovations Pvt Ltd, put to rest the controversy as to what would constitute a dispute and the existence of dispute for the purpose of determination of an application under CIRP.

In this case, Kirusa Software Pvt Ltd issued a demand notice on Mobilox Innovations Pvt Ltd as an operational creditor demanding the payment of dues. In its reply, Mobilox challenged the demand on grounds that there existed serious and bona fide disputes between the parties.

Kirusa Software Pvt Ltd filed an application before NCLT, Mumbai, for initiation of CIRP against Mobilox Innovations Pvt Ltd. The said application was dismissed by NCLT, Mumbai, on grounds that a notice of dispute was issued by Mobilox. Being aggrieved by the dismissal, Kirusa Software Pvt Ltd filed an appeal before NCLAT claiming that the reply does not constitute a dispute.

While interpreting the definition of what constitutes a dispute, NCLAT, inter alia, held that the definition of dispute under Section 5 of IBC is illustrative and not exclusive and that dispute shall not be limited to only pending suits and arbitration proceedings but its ambit will extend to proceedings initiated before other forums such as consumer court, tribunals, labor courts, etc.

NCLAT further held that the reply notice of the dispute should be clear and not vague and should be only relatable

> "Although it has been upheld that flat purchasers are entitled to be recognized as 'financial creditors' under IBC in cases where developers had promised 'assured returns' as part of the deal, it still remains to be seen how this case will have a bearing on other applications filed by flat purchasers against developers

to the existence of a debt, quality of goods or service, or breach of a representation or warranty and the same should be raised prior to the issuance of a demand notice under Section 8 and not afterwards.

The interpretation of the existence of a dispute as decided in the aforesaid NCLAT order clearly indicates that corporate debtors should be cautious when they are supplied with poor-quality goods and services and they must immediately, at first instance, raise the presence of disputes in writing with their suppliers and vendors in order to protect their rights under IBC.

- CIRP can be initiated for dishonor of post-dated cheques *[Prideco Commercial Projects Pvt Ltd vs Era Infra Engineering Ltd decided by NCLT]*

The issue in the case was whether the issuance of post-dated cheques to any person will amount to the acknowledgment of legally enforceable debt and whether the dishonor of cheques would amount to default under IBC.

The Applicant was awarded a contract by the Respondent, and in consideration, the Respondent issued seven post-dated cheques towards the final settlement of claim under the contract. Six out of the seven cheques were dishonored.

Being aggrieved, the Applicant initiated CIRP before NCLT. NCLT based reliance on the judgment passed by the Kerala High Court in Dr K. K. Ramakrishnan vs Dr KK Parthasaradhy & another, where it was held that the execution of a cheque is an acknowledgment of a legally enforceable liability and a default in payment shall amount to a default under IBC.

NCLT was satisfied that the requirements for initiating CIRP under Section 9 of IBC were being met in terms of the submission of invoices demanding payments, affidavit to show that there was no other dispute raised in relation to the amount, etc. and held that this was a fit case for filling CIRP under IBC.

Overview

IBC consolidates the scattered and unstructured jurisprudence on insolvency prevalent in the past and is clearly very mercurial in its scope. In view of the various interpretational issues, one is bound to witness a whirlwind of judicial pronouncements that will result in the development of IBC jurisprudence in the days to come.

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Disclaimer – The views expressed in this article are the personal views of the author and are purely informative in nature.

Uttar Pradesh's RTE Experience

The state government, in a clear violation of the mandate of Section 23(2), which vests power to relax minimum qualifications in the central government, arrogated to itself a power which it lacked of granting exemption from mandatory qualifications laid down by NCTE for Shiksha Mitras

Priti Iyer
Executive
Wockhardt Hospitals Limited

Early education in India commenced under the supervision of a guru. Initially, education was open to all and seen as one of the methods to achieve Moksha in those days, or enlightenment. As time progressed, due to superiority complexes, education was imparted on the basis of caste and related duties one had to perform as member of a specific caste. The Brahmins learned about scriptures and religion, while the Kshatriya was educated in various aspects of warfare. The Vaishya caste learned commerce and other specific vocational courses, while education was largely denied to the Shudras, the lowest caste. The earliest venues of education in India were often secluded from the main population. Students were expected to follow strict monastic guidelines prescribed by the guru and stay away from cities in ashrams. However, as population increased under the Gupta Empire, centers of urban learning became increasingly common and cities such as Varanasi and the Buddhist center at Nalanda became increasingly visible.

The Indian Constitution has provisions to ensure that a state provides education to all its citizens. The Indian Constitution in its original enactment defined education as a state subject. Under Article 42 of the Constitution, an amendment was added in 1976 and education became a concurrent list subject which enabled the central government to legislate on it in any manner it deemed fit. Besides, India is a signatory to a number of international covenants i.e. Jomtien Declaration, UNCRC, MDG Goals, Dakar Declaration, SAARC SDG Charter for children which makes it binding on the country to make education a reality for all children. Nearly eight years after the Constitution was amended to make education a fundamental right, the Government of India from April 1, 2010, implemented the law to provide free and compulsory education to all children in the age group of 6-14 years.

The Constitution (eighty-sixth) Amendment Act has now inserted Article 21A in the Constitution which makes education a fundamental right for children in the age group of 6-14 years by providing that; "the State shall provide free and compulsory education to all children of the age of six to fourteen years in such a manner as the State may, by law, determine". This act is being enforced from April 1, 2010, to provide free and compulsory education to all children between the ages of six and fourteen years. The 86th Amendment of the Constitution in December 2002 and its enactment since April 1, 2010, has made free and compulsory education for all children in the 6-14 age group a justifiable fundamental right. The 'Right of Children to Free and Compulsory Education Act' or 'Right to Education Act also known as RTE', is an Act of the Parliament of India enacted on August 4, 2009, which describes modalities of the importance of free and compulsory education for children between 6 and 14 in India under Article 21A of the Indian Constitution. 'Compulsory education' casts an obligation on the appropriate government and local authorities to provide and ensure admission, attendance and completion of elementary education by all children in the 6-14 age group. The Children's Right to Free and Compulsory Education Act - The law came into effect in the whole of India except the state of Jammu and Kashmir from April 1, 2010.

The RTE Act provides for the: Right of children to free and compulsory education till completion of elementary education in a neighborhood school. It clarifies that 'compulsory education' means obligation of the appropriate government to provide free elementary education and ensure compulsory admission, attendance and completion of elementary education to every child in the six to fourteen age group.

In the matter of

The state of U.P. & Anr. etc. …Appellants versus Anand Kumar Yadav & Ors. etc.

Facts

U.P. Basic Education Act, 1972 (the 1972, Act) was enacted to regulate and control basic education in the State of U.P. Section 19 of the 1972, Act authorizes the state government to make rules to carry out the purpose of the Act.

U.P. Basic Education (Teachers) Service Rules, 1981 (1981 Rules) lays down sources of recruitment and qualification for appointment of teachers. The National Council for Teachers' Education Act, 1993, (NCTE Act) was enacted by the Parliament for planned and coordinated development for teacher education system.

The Right of Children to Free and Compulsory Education Act, 2009, (RTE Act, 2009) was enacted by the Parliament for free and compulsory education of all children of the age of 6 to 14 years.

Section 23 provides for qualification for appointment of teachers. The NCTE was designated as authority under Section 23(1) to lay down qualifications for appointment of teachers.

The NCTE issued notification dated August 23, 2010, laying down such qualifications. With regard to teachers appointed prior to the said notification, it was stated that they were required to have qualifications in terms of the National Council for Teacher Education (Determination of Minimum Qualifications for Recruitment of Teachers in Schools) Regulations, 2001 (the 2001 Regulations), if the teachers were appointed on or after 3 September, 2001, subject to their undergoing the NCTE-recognized six months' special program in certain situations. Teachers appointed before September 3, 2001, were required to have qualifications as per prevalent recruitment rules. One of the requirements under the said notification is the requirement of passing the Teachers' Eligibility Test (TET) qualifications as per prevalent recruitment rules. Section 23(2) of the RTE Act which was followed by the relaxation order dated September 10, 2012, for certain categories of persons which was to operate till March 31, 2014.

The NCTE by its letter dated January 14, 2011, accepted the proposal of the State of Uttar Pradesh for training of untrained graduate Shiksha Mitras by open and distance learning but it was made clear that no appointment of untrained teachers was permitted.

The Shiksha Mitras were appointed on a contractual basis for a stipulated period of eleven months' renewable subject to satisfactory performance and on an honorarium. The Shiksha Mitras were notified of the fact that this was a Scheme envisaging service by unemployed youth for the benefit of the community against payment of an honorarium. Appointments of Shiksha Mitras were not against sanctioned posts as determined by the Board of Basic Education with previous approval of the state government under Rule 4 of the Service Rules, 1981.

Observations

The Supreme Court held that the manner of appointment was not in conformity with the provisions contained in Rules 14, 15, 16 and 17 of the Service Rules 1981. Shiksha Mitras did not fulfill the qualifications for a regular teacher under the Service Rules of 1981. These aspects leave no manner of doubt that the engagement of Shiksha Mitras was envisaged under an administrative scheme by the state government on a contractual basis with a specified purpose and object and dehors the governing provisions of the applicable Service Rules of 1981. The Scheme of appointing Siksha Mitras doesn't have a statutory character because there has been escape from the requirement of complying with the norms which govern the regular teachers of basic schools as prescribed in the Service Rules of 1981.

The power to issue directions under Section 13 could not have been exercised contrary to the provisions of the Service Rules of 1981 which were made by the state government in exercise of the subordinate law-making power. The engagements of Shiksha Mitras were dehors the recruitment rules and were not in accordance with the Service Rules of 1981 which apply to appointments of basic teachers in the State of Uttar Pradesh. The permission which was granted by NCTE on January 14, 2011, was specifically in the context of the request made on January 3, 2011, for granting permission for training of 1,24,000 untrained graduate Shiksha Mitras.

The state government, in a clear violation of the mandate of Section 23(2) which vests the power to relax the minimum qualifications in the central government, has arrogated to itself a power which it lacks, to grant exemption from the mandatory qualifications which are laid down by NCTE in their application to Shiksha Mitras in the state. Any relaxation of the minimum educational qualifications can only be made by the central government.

Outlook

"A mere talker cannot be the Guru"- Swami Vivekananda

'Are good teachers a good investment?' As is rightly said – "The function of education is to teach one to think intensively and to think critically. Intelligence plus character - that is the goal of true education" - Martin Luther King, Jr. Education is a powerful tool by which economically and socially marginalized adults and children can uplift themselves out of poverty and participate fully as citizens. The gap between discourse and operational framework in all policy efforts in education, and more widely development, has long been cited as a reason for India's poor performance in securing equitable educational opportunity for all. Despite a range of commitments made in the Indian Constitution to equality, addressing the historical disadvantage faced by certain groups, and universal education, policies on the ground have done little to fulfill the ambitious vision developed at the birth of the modern Indian nation-state.

The role of the teacher is that of a mediator of learning, a parent substitute, a controller of students' behavior, an agent of social change, and finally a judge of achievement. The teacher who enters a school imparting elementary education has to act like a group leader who can remove the hindrances of doubts in the mind of an infant and generate creative development. Above all, he has to instill in the mind of a youngster all virtues of courage and honesty as this part of education is a vital portion of the child's development.

The whole purpose of the act was to impart "quality education" to every individual. The appointment of unqualified teachers has led to dilution of the whole intent behind spreading education.

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Legal Era Successfully Concludes CORPORATE FRAUD & FORENSICS INDIA SUMMIT 2017

The very first "Corporate Fraud & Forensics India Summit" organized by Legal Era Magazine from Legal Media Group was well received by industry and academia.

In the inaugural session titled "Fraud And Business: Fraud Cannot Be Ignored!," **Aakriti Raizada**, Founder & Managing Editor, Legal Era Magazine, Legal Media Group, set the tone for the Summit saying, "Legal Era has long been at the forefront of promoting dialogue between the legal and business professions on critical topics. Corporate Fraud remains a worldwide challenge for all businesses. Fraud knows no borders and affects everyone it touches. Fraud includes corruption and corruption often involves fraud. How business detects and responds to fraud and corruption and reputational issues arising in global markets with the scrutiny that comes from increased use of social media to influence policy is a never-ending risk for companies, for executives, and for shareholders, investors, and employees. This Summit brings together exciting panels of Indian, regional, and international speakers."

Robert Wyld, Partner, Johnson Winter & Slattery, Sydney, Australia, and Immediate Past Co-Chair, International Bar Association Anti-Corruption Committee, said, "There is a range of issues that comes up with how you conduct an investigation and how you deal with fraud or how you deal with corruption..."

Christine Uriarte, Anti-Corruption Division, OECD, said, "The OECD Anti-Bribery Convention is the only international treaty that is focused solely on stopping the flow or supply of bribes to foreign public officials in international business transactions."

Chetan Dalal, Founder & CEO, Chetan Dalal Investigation and Management Services, said, "In today's world, we find that in every walk of life, whatever we do or whatever work we are involved in, we are gullible by nature and do not realize that the specter of fraud is staring at our faces."

Anand Desai, Managing Partner, DSK Legal, said, "Corruption is one part of fraud. I would like to divide it into three different baskets: one is corruption involving a public servant which is a crime here in India under the Prevention of Corruption Act; the other part is not called corruption, I call it incentivizing; and the third part is where there is apparently no loss to the government..."

The opening plenary was followed by the first session of the first day titled, ***"Understanding Corporate Culture And Applying Ethics In Business."*** Moderated by **Anubhav Kapoor**, General Counsel and Company Secretary, Tata Technologies, it had participants including **Prashant Saran**, Former Whole-Time Director, Securities and Exchange Board of India; **Sundaraparipurnan N**, Associate Director, Forensic Services,

"Earth provides enough to satisfy every man's needs, but not every man's greed. When you couple this with human aspirations, this mixture forms the basis of economic crime. Economic crime has to be distinguished from other law and order crimes, property crimes, or other crimes. Economic crimes are backed by intelligence, technical knowledge, and technology, and are perpetrated by criminals who may be well qualified, skilled, and very knowledgeable…"

Shri Ashutosh K. Dumbare
Jt. Commissioner of Police
EOW, Mumbai

Opening Plenary

(L-R): Aakriti Raizada, Founder & Managing Editor, Legal Era Magazine, Legal Media Group, Robert Wyld, Partner, Johnson Winter & Slattery, Sydney, Australia, and Immediate Past Co-Chair, International Bar Association Anti-Corruption Committee; Christine Uriarte, Anti-Corruption Division, OECD; Shri Ashutosh K. Dumbare, Jt. Commissioner of Police, EOW, Mumbai; Chetan Dalal, Founder & CEO, Chetan Dalal Investigation and Management Services; and Anand Desai, Managing Partner, DSK Legal

Panel 1

(L-R): Anubhav Kapoor, General Counsel and Company Secretary, Tata Technologies; Prashant Saran, Former Whole-Time Director, Securities and Exchange Board of India; Sundaraparipurnan N, Associate Director, Forensic Services, SKP Business Consulting LLP Sameer Karekatte, Senior Vice President - Legal, Compliance and RCU, Shriram City Union Finance Limited; and Raghuvir Mukherji, Chief Risk Officer, IIFL Wealth & Asset Management

Panel 2

(L-R): Harish Dua, Founder & CEO, Institute of Good Governance; Sanjay Banka, CFO & CS, Bharat Road Network Ltd. Co.; Shankar Jadhav, Head – Strategy, BSE; and Anjan Bhattacharya, Chief Risk Officer, PNB MetLife India Insurance Company Ltd

"Internationally, fraud and corruption are increasingly hot topics that concern governments and that concern international organizations, and they concern governments because they involve a lot of money and impact upon societies. Whether it is fraud, whether it is corruption, whether it is part of the two, or whether it is just other types of economic illegal behavior, it has a serious and very damaging effect on all communities."

Robert Wyld
Partner, Johnson Winter & Slattery, Sydney, Australia, and Immediate Past Co-Chair, International Bar Association Anti-Corruption Committee

SKP Business Consulting LLP; **Sameer Karekatte**, Senior Vice President - Legal, Compliance and RCU, Shriram City Union Finance Limited; and **Raghuvir Mukherji**, Chief Risk Officer, IIFL Wealth & Asset Management.

Kapoor said, *"If we have to establish a culture of compliance, a culture where Indian companies are seen as compliant organizations compliant organizations, we need to do a bit more in terms of building such corporate cultures and building an environment of ethics."*

Saran said, *"Words, culture and ethics are very large philosophical concepts. And the moment you start exploring them, you feel that the concepts are very nebulous".*

"Frauds are perpetrated by individuals, people, human beings. There is always an individual behind this, and of course, the psychology of the individual plays a large role in this." Jadhav said, "Fraud detection technologies have improved a lot. Similarly, people who create frauds have also now become more intelligent. If you understand the practices and how this happens, it is easier to stop fraud."

Harish Dua
Founder & CEO, Insitute of Good Governance

Mukherji said, *"If you are seen to be compromising with your stated cultural values that you have put out, then you create a sense of ambiguity, and then it is difficult to enforce that culture."*

The second session, ***"What Is Fraud And Understanding The Psychology Of Fraud And Corrupt Conduct"*** saw panelists **Sanjay Banka**, CFO & CS, Bharat Road Network Ltd. Co.; **Shankar Jadhav**, Head – Strategy, BSE; and **Anjan Bhattacharya**, Chief Risk Officer, PNB MetLife India Insurance Company Ltd, and was moderated by **Harish Dua**, Founder & CEO, Institute of Good Governance.

The discussion titled ***"Fraud And Corruption - International Developments"*** was moderated by **Robert Wyld**, Partner, Johnson Winter & Slattery, Sydney, Australia, and Immediate Past Co-Chair, International Bar Association Anti-Corruption Committee. The likes of **Ahmad Maulana**, Partner, Assegaf Hamzah & Partners; **Antonia Mottironi**, Senior Associate, Monfrini Bitton Klein, Switzerland; **Christine Uriarte**, Anti-Corruption Division, OECD; **Simran TOOR**, Partner, WongPartnership LLP; and **Tushar Ajinkya**, Partner, DSK Legal participated in the panel.

"Let me start with a quote 'If you forgive the fox for stealing your chickens, it will definitely take your sheep.' So, I think we need to ensure that we have some level of action, some level of investigation which happens and how do we go about the whole thing. The most important question is how do you identify in terms of what is a fraud complaint?"

Shailendra Kothavale
Chief Compliance and Risk Officer
Birla Sun Life Insurance Co. Ltd

(L-R): Ahmad Maulana, Partner, Assegaf Hamzah & Partners; Antonia Mottironi, Senior Associate, Monfrini Bitton Klein, Switzerland; Robert Wyld, Partner, Johnson Winter & Slattery, Sydney, Australia, and Immediate Past Co-Chair, International Bar Association Anti-Corruption Committee; Christine Uriarte, Anti-Corruption Division, OECD; Simran TOOR, Partner, WongPartnership LLP; and Tushar Ajinkya, Partner, DSK Legal

(L-R): Sandip Bhagat, Partner, S&R Associates; Debmalya Maitra, Sr. Director – BFSI, Chokshi Group, and Partner, Chokshi & Co.; Surath Mukherjee, Head - Internal Audit & Risk Assurance, Dalmia Bharat Group; and NKV Roopkumar, EVP & Chief of Risk, Info. & Cyber Sec. Mgmt., SBI Life Insurance Company Ltd.

(L-R): Shailendra Kothavale, Chief Compliance and Risk Officer, Birla Sun Life Insurance Co. Ltd.; Andrew Macintosh, Executive Director - South Asia, Control Risks; Robert Wyld, Partner, Johnson Winter & Slattery, Sydney, Australia, and Immediate Past Co-Chair, International Bar Association Anti-Corruption Committee; Harish Dua, Founder & CEO, Institute of Good Governance; and Sonjai Kumar, Vice President (Business Risk), Aviva India

Maulana said, *"Since its establishment, KPK was formed with the idea that law enforcement agencies are required to eradicate corruption. There is need to have this independent law enforcement agency that reports directly to the president having very wide authority that no other law enforcement agency has."*

Mottironi said, *"There is a real intent of Switzerland in particular to collaborate actively with foreign criminal authorities and they are already proactive in mutual legal assistance. And very often what happens is that they receive requests from abroad that consists of bribery cases or massive fraud cases, and prosecutors open their own criminal proceedings generally for money laundering. So there is a really proactive attitude of prosecutors in Switzerland, first to help other investigations and also to carry out their own investigations."*

"We have a completely outsourced model which is run by KPMG wherein the whistleblower can actually put in his complaint. So there are these toll free numbers, email, post box or you can send a telephonic call on a multi-language portal wherein you can do it. KPMG is mandated to keep the complainant completely anonymous unless and until there is an explicit permission from the person to actually come forward and disclose his name."

Surath Mukherjee

Head – Internal Audit & Risk Assurance
Dalmia Bharat Group

Debmalya Maitra, Sr. Director – BFSI, Chokshi Group, and Partner, Chokshi & Co.; **Surath Mukherjee**, Head - Internal Audit & Risk Assurance, Dalmia Bharat Group; and **NKV Roopkumar**, EVP & Chief of Risk, Info. & Cyber Sec. Mgmt., SBI Life Insurance Company Ltd, were the panelists on ***"Whistleblowers – Corporate Friend Or Enemy?"*** that was moderated by **Sandip Bhagat**, Partner, S&R Associates.

Bhagat said, *"There is a Whistleblower Act in India. The focus of that Act, like the Prevention of Corruption Act, is really on government servants, and that gives some amount of guidance about who a complainant can be. I think the important regulation is what SEBI has also put forward, which is our listed company regulator which has said that every listed company should have a Whistleblower Policy in place."*

The last session of day one of the Summit, ***"The Internal Fraud Investigation"*** had **Shailendra Kothavale**, Chief Compliance and Risk Officer, Birla Sun Life Insurance Co. Ltd as moderator, with panelists including **Harish Dua**, Founder & CEO, Institute of Good Governance; **Robert Wyld**, Partner, Johnson Winter & Slattery, Sydney, Australia, and Immediate Past Co-Chair, International Bar Association Anti-Corruption Committee;

"Any complaint needs to be looked at to some extent, whether it's an in-depth investigation to figure out what the extent of the issue is. You should look into a complaint; it's just the depth to which you go that's going to change."

Andrew Macintosh

Executive Director – South Asia, Control Risks

Andrew Macintosh, Executive Director - South Asia, Control Risks; and **Sonjai Kumar**, Vice President (Business Risk), Aviva India.

Kumar said, *"Complaint from an insurance industry point of view - one that is very important is the complaint coming from the customer, and from the Aviva point of view, this is something called conduct risk, and conduct risk is one of the key parameters of measurement."*

The second and last day of the Summit kicked off with a session on ***"Cyber-Crime: Where Are Your Risks And What Can You Do?"***. With participation from **Vaishali Bhagwat**, Partner, VP Shintre & Associates; **Hemant Dusaane**, Chief Information Security & Risk Management Officer, RAGE Frameworks Inc; **Bharat Gautam**, CISO, Cyber Security Practitioner, Risk Management, Information Security Blogger & Speaker, Mentor, Hero Fincorp; and **Sameer Joshi**, President, Audit, Yes Bank, the session was moderated by **Ritesh Bhatia**, Founder-Director, V4WEB.

"If we talk about the target attacks which are happening right now, the CEO frauds, the person who is sending legit emails knows each and everything about your company; he knows who is the CEO, he knows who is the CFO, he knows who is the company secretary, he knows who has the authority to approve payments and who has the authority to forward payments, and the sender, the phisher, would send a similar email which is being sent by a CEO," said Bharat Gautam.

Joshi said, *"Cybercrime is serious, and if any of us are feeling secured, then we are kind of fooling ourselves. This is the best time for any hacker to be, with all of us having smartphones in hand and wireless access across the globe."*

Following the panel on cyber-crime was the discussion titled ***"Internal Audit: The First Line Of Defence"*** moderated by **Manoj Agarwal**, Head - Internal Audit, Metro Shoes Limited. The participants included **Burzin Dubash**, Partner, Deloitte Haskins & Sells LLP; **Vivek Bajaj**, Chief Risk Officer, United Overseas Bank Limited (UOB), India; **Sanjeev Sood**, SVP, Internal Audit & Chief Risk Officer, Max Life Insurance Company Limited; and **Delzad D. Jivaasha**, Manager-Risk Management, ICICI Lombard General Insurance Company Limited.

(L-R): Ritesh Bhatia, Founder Director, V4WEB; Vaishali Bhagwat, Partner, VP Shintre & Associates; Hemant Dusaane, Chief Information Security & Risk Management Officer, RAGE Frameworks Inc; Bharat Gautam, CISO, Cyber Security Practitioner, Risk Management, Information Security Blogger & Speaker, Mentor, Hero FinCorp; and Sameer Joshi, President, Audit, Yes Bank

"Corruption legislation has been quite all-encompassing; it's a very clear, short, but very all-encompassing piece of legislation. When it was implemented, it was probably one of the most forward-looking types of legislation that covers givers, receivers, intermediaries, and so on, given that it had the concept of extra-territoriality."

Simran TOOR

Partner, Wong Partnership LLP

An interesting session on ***"The Recovery Of Fraudulently Stolen Assets"*** was the last one of day two with panelists **Robert Wyld**, Partner, Johnson Winter & Slattery, Sydney, Australia, and Immediate Past Co-Chair, International Bar Association Anti-Corruption Committee; **Antonia Mottironi**, Senior Associate, Monfrini Bitton Klein, Switzerland; and **Charlie Sorensen**, Senior Associate, Baker and Partners, Jersey. **Shreyas Jayasimha**, Founding Partner, Aarna Law, Mumbai/Delhi/Bangalore, moderated the talk.

The Summit saw a fitting finale in the form of a Masterclass on "***Reputational Risks For Business From Organized And Not-So-Organized Crime"*** conducted by **Chetan Dalal**, Founder & CEO, Chetan Dalal Investigation and Management Services; **Robert Wyld**, Partner, Johnson Winter & Slattery, Sydney, Australia, and Immediate Past Co-Chair, International Bar Association Anti-Corruption Committee; and **Mahesh Bhatki**, Director & Chief Faculty, Chetan Dalal Investigation and Management Services.

(L-R): Manoj Agarwal, Head - Internal Audit, Metro Shoes Limited; Burzin Dubash, Partner, Deloitte Haskins & Sells LLP; Sanjeev Sood, SVP, Internal Audit & Chief Risk Officer, Max Life Insurance Company Limited; Vivek Bajaj, Chief Risk Officer, United Overseas Bank Limited (UOB), India; and Delzad D. Jivaasha, Manager-Risk Management, ICICI Lombard General Insurance Company Limited

(L-R): Shreyas Jayasimha, Founding Partner, Aarna Law, Mumbai/Delhi/Bangalore; Antonia Mottironi, Senior Associate, Monfrini Bitton Klein, Switzerland; Charlie Sorensen, Senior Associate, Baker and Partners, Jersey; and Robert Wyld, Partner, Johnson Winter & Slattery, Sydney, Australia, and Immediate Past Co-Chair, International Bar Association Anti-Corruption Committee

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LEGAL ERA 2017 RISK AWARDS

LEGAL ERA RISK AWARDS 2017, a maiden initiative by **Legal Era Magazine** from Legal Media Group, is an attempt to bring together all sections of industry and recognize Best Risk Management Teams & Top Chief Risk Officers who have set an example in terms of exemplary risk identification and management policies and practices while maximizing revenue and profit.

Legal Era Magazine recognized individuals, teams and firms for their exemplary contribution to the field of risk management.

Rising Star Risk Manager Of The Year was conferred on ***Delzad D. Jivaasha***, Manager-Risk Management, ICICI Lombard General Insurance Company Limited.

Risk Officer Of The Year was presented to ***Sonjai Kumar***, Vice President- Business Risk, Aviva Life Insurance.

Risk Management Team of the Year - Insurance was bagged by ***Birla Sun life Insurance Company Limited***; **Risk Management Team of the Year - BANKING** was awarded to ***YES BANK***; **Risk Management Team of the Year - Mutual Fund** was

Award Goes To

won by ***SBI Mutual Fund***; and **Most Innovative Risk Management Strategy** was presented to ***SBI Life Insurance Company***.

The winners of **"CHIEF RISK OFFICERS 2017"** were ***Anjan Bhattacharya***, Chief Risk Officer, PNB MetLife India Insurance Company Ltd.; ***Aparna Nirgude***, Executive Director and Chief Risk Officer, SBI Funds Management (P) Ltd.; ***Ashish Agarwal***, Senior Group President and Chief Risk Officer, Yes Bank; ***Indranil Sengupta***, Chief Risk Officer, SREI Equipment Finance Ltd.; ***Pavan Kaushal***, Chief Risk Officer, IDFC Bank Limited; ***Raghuvir Mukherji***, Chief Risk Officer, IIFL Wealth & Asset Management; ***Raj Benahalkar***, Chief Strategy & Risk Officer, National Commodity & Derivative Exchange Ltd; ***Sanjeev Sood***, Senior Vice President, Internal Assurance and Chief Risk Officer, Max Life Insurance Company Ltd.; ***Sethu S Raman***, SVP & Chief Risk Officer, Mphasis; ***Shailendra Kothavale***, Chief Compliance Officer & Chief Risk Officer, Birla Sun Life Insurance; and ***Srikanth Mahadevan***, Chief Risk Officer, Tata Motors Finance Limited.

RISING STAR RISK MANAGER OF THE YEAR

Delzad D. Jivaasha

Manager-Risk Management
ICICI Lombard General Insurance Company Limited

RISK OFFICER OF THE YEAR

Sonjai Kumar

Vice President- Business Risk
Aviva Life Insurance

RISK MANAGEMENT TEAM OF THE YEAR - INSURANCE

Birla Sun life Insurance Company Limited

RISK MANAGEMENT TEAM OF THE YEAR - BANKING

YES BANK

RISK MANAGEMENT TEAM OF THE YEAR - MUTUAL FUND

SBI Mutual Fund

MOST INNOVATIVE RISK MANAGEMENT STRATEGY

SBI Life Insurance Company

Anjan Bhattacharya

Chief Risk Officer
PNB MetLife India Insurance Company Ltd.

Anjan Bhattacharya joined PNB MetLife India Insurance Company Ltd. in Oct 2013. A seasoned risk management professional from the BFSI sector with 17+ years of experience in Enterprise Risk Management (ERM), Operational Risk Management, process management, forensics, financial crime management, and risk-based audits & assurance, Anjan currently leads the risk management framework at PNB MetLife while supporting the organization's ERM initiative.

Aparna Nirgude

Executive Director and Chief Risk Officer
SBI Funds Management (P) Ltd.

Aparna Nirgude has been associated with SBI Funds Management (P) Ltd. in different capacities for over 24 years. As an Executive Director, Aparna is member of the Executive Committee providing strategic leadership and driving organization-wide initiatives. As the Chief Risk Officer, Aparna is responsible for setting in place the framework for assessing and managing enterprise risks including investment risk, operational risk and IT security.

Ashish Agarwal

Senior Group President and Chief Risk Officer
YES BANK

As Senior Group President and Chief Risk Officer, YES BANK, Ashish Agarwal is responsible for spearheading Wholesale Banking Credit Risk Management, Credit Portfolio Analytics, Credit Products Development, Information Security Risk Management and Operational Risk Management at the bank.

Bharat Panchal
Head – Risk Management & CISO
NPCI

Bharat Panchal works as Head – Risk Management & Chief information Security Officer, National Payments Corporation of India (NPCI). At NPCI, he is responsible for Enterprise Risk Management, Operational Risk Management, Information Security, Internal Audit and Fraud Management. Having worked for over 22 years, mainly in banking and telecommunications, Bharat earlier worked with reputed organizations such as Kotak Mahindra Bank, Citi, Reliance Communications and AVAYA Global connect. He moonlights as speaker at various information security and risk management conferences across the globe.

Indranil Sengupta
Chief Risk Officer
SREI Equipment Finance Ltd.

An investment banker and corporate with nearly 33 years of experience across multiple functions, geographies and organizations, Indranil Sengupta is presently the Chief Risk Officer of SREI Equipment Finance Ltd. Having held senior positions in organizations with strong risk cultures, he brings to the table business awareness along with risk management experience.

M. Sreenatha Sastry
Dy. Managing Director & Chief Risk Officer, State Bank of India

M Sreenatha Sastry joined State Bank of India as a Probationary Officer in 1983. He holds a Ph.D. in Physics and is also a Chartered Financial Analyst. He has been instrumental in developing a robust risk culture and skills at SBI as part of the preparation for migration to an advanced risk management approach for credit, market and operational risks.

Pavan Kaushal
Chief Risk Officer
IDFC Bank Limited

Chief Risk Officer of IDFC Bank Limited, Pavan Pal Kaushal is a career banker with nearly three decades of experience in leading global banks and consulting. His areas of expertise include Corporate, Retail and Commercial Credit Risk Management, Operations Risk, Market Risk and Treasury. Pavan has extensive experience across both emerging and developed markets, having worked in multiple markets including Australia, Central and Eastern Europe, the United Kingdom, Russia, Asia and India.

Raghuvir Mukherji
Chief Risk Officer
IIFL Wealth & Asset Management

Raghuvir Mukherji is the Chief Risk Officer at IIFL Wealth & Asset Management, and looks after enterprise risks across IIFL's advisory, asset management (both mutual funds and alternative investment funds), distribution, broking and lending businesses. In this role, he is responsible for laying down the risk framework by defining governance and supervision mechanisms for risk approval, monitoring and reporting, and creation of relevant policies to implement this framework, across business verticals.

Robert Oates
Chief Risk Officer
HSBC India

As Chief Risk Officer, HSBC India, Robert Oates is responsible for leading the enterprise-wide Risk function in India. This involves large teams managing wholesale and consumer credit risk, market risk, operational risk, security and fraud risk, risk strategy and compliance across all of HSBC's business in India.

Sethu S Raman

SVP & Chief Risk Officer
Mphasis

A senior risk management professional with 23 years' strategic and operational risk experience in the financial and IT sectors and across geographies, Sethu S Raman is presently the Chief Risk Officer at Mphasis and shoulders global responsibility. As a CRO, he has pioneered the implementation of the ERM framework and has elevated risk discussion to the board level.

Srikanth Mahadevan

Chief Risk Officer
Tata Motors Finance Limited

Srikanth Mahadevan is an experienced Business Head with a demonstrated history of working in financial services. He is skilled in Vendor Management, Market Research, Risk Management, Management, and Business Development. He is a strong business development professional with a PGDBM focused in Strategy and Marketing from XLRI Jamshedpur.

Shivakumar Sriraman

Chief Strategy & Risk Officer, National
Commodity & Derivative Exchange Ltd

As Chief Risk Officer at VISA, India and South Asia, Shivakumar Sriraman plays a critical role to support enterprise and operational risk activities of VISA. As a member of the India & South Asia leadership team, he works with the Group Country Manager and the management team on strategies related to complex business, innovation & regulatory risk. He has more than 15 years of experience in Fraud Risk Management, Credit Analysis, Payment Strategy, Fraud Prevention and Detection. He is also an active speaker at various international conferences.

Shailendra Kothavale

Chief Compliance Officer &
Chief Risk Officer
Birla Sun Life Insurance

Shailendra Kothavale is the Chief Compliance Officer & Chief Risk Officer at Birla Sun Life Insurance (BSLI) and his responsibilities include controlling Enterprise Risk Management, Operational Risk Management, Compliance, Investment Mid-office, Information Security & Business Continuity & mentors Internal Audit. He is a part of the Company Leadership Management Team. He is a Chartered Accountant and a Certified Information Systems Auditor & holds ISO & other certifications in his areas of specialization.

Sanjeev Sood

Senior Vice President, Internal Assurance
and Chief Risk Officer
Max Life Insurance Company Ltd.

A finance professional with over 20 years' experience in internal audit and core finance functions, Sanjeev Sood is a Chartered Accountant (CA), Certified Internal Auditor (CIA), Certified Information Systems Auditor (CISA) and Certified Fraud Examiner (CFE) rolled into one. He also has a certification in Risk Management Assurance (CRMA) and is a certified Six Sigma Black Belt too.

Raj Benahalkar

Chief Strategy & Risk Officer
National Commodity & Derivative
Exchange Ltd

Raj Benahalkar presently works as Chief Strategy & Risk Officer at National Commodity & Derivative Exchange Ltd (NCDEX). He has a vast experience of over 22 years in areas such as Risk Management, Strategy, Innovation, Market Reforms, Commodities, Treasury, Structured Finance, Investment Analysis and Project Finance. At NCDEX, he is responsible for the overall Business Strategy and Risk Management Policy framework both on the financial and physical side of business.

YOGA EDUCATION NOT A FUNDAMENTAL RIGHT

Yoga education cannot be an enforceable fundamental right under the law governing children's right to free and compulsory education, said Prime Minister Narendra Modi despite him leading the celebrations on International Yoga Day.

In 2011, Petitioner-Advocate J. C. Seth persuaded the SC to seek response from the Centre on making yoga a compulsory subject in schools citing Sections 7(6) and 8(g) and (h) of Right of Children to Free and Compulsory Education (RTE) Act, 2009, and the National Curriculum Framework (NCF).

The issue has been pending in the SC for six years, awaiting the Centre's response despite the SC's request to Additional Solicitor General Maninder Singh to look into the matter. An appeal rejecting the plea for introduction of yoga as part of the syllabi and holding of compulsory yoga classes for all school students was made by Seth in the SC.

In its recent affidavit, the Human Resource Development Ministry informed the SC, "RTE Act does not specifically mention about the curriculum of yoga. As such, it cannot be concluded that yoga education has become an enforceable fundamental right. Yoga is an integral part of the curriculum of 'Health and Physical Education', which is a compulsory subject for Classes 1 to 10. To that extent, yoga has not been neglected in school education."

"Implementation of various subject areas, including yoga, depends upon states and UTs concerned," an official said. "NCF 2005 provides that yoga may be introduced from the primary level onwards in informal ways, but formal introduction of yoga exercises should begin only from Class 6 onwards," the official added.

TECH TO ELIMINATE POSSIBILITY OF COMMUNICATION LEAKAGE FROM OFFICIALS' MOBILES

An official from the Ministry of Electronics and IT (MEITY) said that the government is developing technology to eliminate chances of communication leakage of officials from mobile phones.

It has been said that "Gadgets have become a source from where chances of espionage have increased. Mobile phones are most vulnerable and even set top boxes can be compromised. For mobiles, the government is developing a solution to prevent unauthorized access to communication of government officials."

Notably, the problem is that India does not have its own operating system. Therefore, there are apprehensions that mobile communication may be getting leaked. There have been several cases as well where hackers have taken control over phones to access communication of officers.

A MEITY official said that technology will act like a layer between the operating system of a mobile phone and communication of officials.

The official further added that "The technology is being developed, keeping in mind the need of critical communications of security personnel. It will be largely limited to a government officer. There has been no thinking on opening it for the general masses as of now."

"Most of the applications seek permission to access microphone, call record, SMS etc. in a mobile phone. Users often fail to download a mobile application when they deny permit to access microphone etc. The new technology will prevent such downloaded application on the phone from accessing security-sensitive parts of a mobile phone," the official said.

CYBER ATTACKS ON INDIA AT MINIMUM, BUT GOVT ON ALERT

On August 2, IT Minister Ravi Shankar Prasad said that "Cyber attacks on India are 'minimum', but the government has taken a number of steps for protection of the Indian cyberspace with proper synergies with all monitoring agencies."

The IT Minister further said that as per information reported to the Indian Computer Emergency Response Team (CERT-In), a total of 65 incidents involving ransomware were reported between 2014 and 2017 till June. Details of the financial impact of these incidents were not reported to CERT-In, which provides technical support and remediation, the IT Minister informed.

Prasad said that "India is becoming a digital power. We have an elaborate system for cybersecurity. However, the cyber attack on India is minimal, but we are always alert." Terming the hackers as "digital fugitives", the Minister said data protection was very crucial for any country as "data is the new oil".

Various security agencies were working in close coordination for protection of cyberspace and the government has already constituted a 10-member committee, headed by former Supreme Court Judge B. N. Srikrishna, to deliberate on a data protection framework for the country, the IT Minister said. This committee will make specific suggestions to the government on principles to be considered for data protection and also suggest a draft data protection bill.

DEADLY "BLUE WHALE CHALLENGE" BANNED

The central government has banned "Blue Whale Challenge" ('deadly' online game, in which the final task requires the player to commit suicide). The Ministry, led by Union Minister Ravi Shankar Prasad has directed Internet platforms, including Google India, Facebook, WhatsApp, Yahoo India, Instagram and Microsoft India to identify and immediately remove links to "Blue Whale Challenge" and all other similar games.

On August 15, the Ministry of Electronics and IT stated that "Instances of children committing suicide while playing Blue Whale Challenge have been reported in India. It is understood that an administrator of the game [sic] uses social media platform to invite/incite children to play this game [sic], which may eventually lead the child to extreme steps for self-inflicting injuries including suicide."

"Blue Whale Challenge" consists of a series of tasks assigned to the player by administrators during a 50-day period. The ultimate task seeks the player to take the extreme step to complete the challenge.

The order points out that the action on the part of Google, Facebook, etc. is called for since the administrator of the game uses a social media platform to invite/incite children to play this game.

The Government is concerned about the availability of such games on Internet," said the Ministry's communication department.

Copies of this order have been sent to the Ministry of Home Affairs as well as Ministry of Women and Child Development.

The deadly game that overwhelms children has become a talking point after a 14-year-old boy in Mumbai, ended his life recently by jumping off the terrace of a seven-storey building.

Similar attempts by some other teens from different parts of the country were averted in the nick of time by intervention of parents and police.

Reportedly, more than 130 kids across the world lost their lives by playing the deadly game.

FROM OCT 1, DEATH CERTIFICATES WILL NEED AADHAAR

In order to establish the identity of a deceased person, mentioning the Aadhaar card number on the death certificate will become mandatory, from October 1, 2017. More than 1.16 billion people have already enrolled for Aadhaar. States such as Jammu and Kashmir and Meghalaya have received a notification from the Registrar General of India.

At present, any identity proof of the deceased can be presented while applying for the death certificate, however, the use of Aadhaar will result in ensuring accuracy of details furnished by any relative or acquaintance of the deceased.

"It will provide an effective method to prevent identity fraud. It will also help in recording identity of the deceased person. Further, it will obviate the need for producing multiple documents to prove identity of the deceased person", notified the government.

Any false declaration to conceal the Aadhaar number will be considered as an offence under the Aadhaar Act and Registration of Birth and Death Act.

This move is in support of the expired member. All financial accounts at the bank are now being connected to Aadhaar; in this case, outfitting the expired Aadhaar number would empower the bank to close all accounts of the right individual who has passed away and hand it to the heir to recover the due sum.

"Even if any adult or senior citizen does not have an Aadhaar, he can enroll for the same by September 30. UIDAI will help them immediately."

DELHI'S METROPOLITAN MAGISTRATE BECOMES LATEST VICTIM OF CREDIT CARD FRAUD, LOSES $1,150

Recently, in a shocking incident of credit card fraud, the latest victim happened to be a Metropolitan Magistrate of a Saket Court in Delhi. Notably, police officials suspect that the money may have been transferred to accounts based abroad.

The Magistrate (victim) received two transaction alerts on his registered phone number on Sunday: The first message was about a transaction of $630 spent at Neiman Marcus, an American department store owned by the Neiman Marcus Group; The next was about $520 spent shopping at a website, www.bergdorfgoodman.com, which is also a department store owned by Neiman Marcus.

Notably, a total of $1,150 (approximately Rs 74,000) was spent from the victim's card. The Magistrate filed a complaint with the police stating that the messages were sent in the span of a minute — the first was received at 10.55 p.m. and the second at 10.56 p.m.

The victim stated that neither of the two transactions was done with his consent.

As a security measure, the Magistrate blocked his SBI card to prevent more such fraudulent transactions.

The police are yet to make any headway in the case but since the transaction was in dollars and given that the merchants mentioned above are known to have limited operations in India, the police and the victim suspect that the transactions were made elsewhere. Both the transactions were made online and there doesn't seem to be any cloning in the case, preliminary investigations have revealed.

MAHARASHTRA TO DEVELOP A (CYBERSECURITY) THREAT MONITORING SYSTEM

With worldwide concerns over cyber attacks, the state government of Maharashtra has started working on implementing an effective or comprehensive barrier in the cybersecurity infrastructure for machines on its network. The government is also planning to strengthen its digital security infrastructure.

As reported by a leading financial daily, Vijay Kumar Gautam, Principal Secretary (Information Technology), said, "We are planning a (cybersecurity) threat monitoring system to cover machines on the State Wide Area Network (SWAN) and other networks." About 75,000 machines are part of the SWAN. The centre will be set up either in Mumbai or Pune by the Maharashtra State IT Corporation.

Gautam further added that "There are several hits on the system as computers access websites. The centre will identify doubtful hits based on the source or format. Analytics will be used to identify the pattern and check if there are anomalies or if it is benign. If there is something wrong, action will be taken. We will identify threats and initiate action in advance for prevention. This has become the need of the hour."

GOVT TO AMEND COST AUDIT RULES TO ENSURE PARITY BETWEEN FINANCIAL AND COST RECORDS

The central government will amend the cost audit rules under Company Law in order to ensure parity between financial and cost records.

The amendments have been mooted pursuant to implementation of the Indian Accounting Standards (Ind ASs), which is converged with global accounting norms.

The Corporate Affairs Ministry, which is implementing the Companies Act, has come out with a draft of the proposed amendments to the Cost Records and Audit Rules.

Various existing provisions under these rules, including some related to intangible assets, would be done away with, while Ind AS compliance would be required for certain other aspects.

The Ministry said that "Pursuant to implementation of Ind AS, the Companies (Cost Records and Audit) Rules, 2014 are to be amended to bring parity between financial records and cost records."

Ind AS is applicable for certain class companies from the current financial year.

With respect to employee cost, the Ministry has proposed that the same should be ascertained after taking into consideration "the cost of retirement benefits charged in the financial statements in an accounting period."

Under the current rules, employee cost shall be ascertained taking into account the gross pay including all allowances payable along with the cost to the employer of all benefits. As per the draft rules, in case of companies where Ind AS is applicable, any re-measurement of employee costs "recognized in other comprehensive income shall not form part of the employee cost."

One of the current requirements that the useful life of an intangible asset, in any situation, "shall not exceed 10 years from the date it is available for use" would be removed.

Among others, the provision that the method used for calculating depreciation should reflect the pattern "in which the asset's future economic benefits are expected to be consumed by the entity" would be done away with.

ITR FILINGS FOR 2016-17 GROW BY 25%

On August 8, the tax department said that the number of Income Tax Returns (ITRs) filed for 2016-17 grew by 25 per cent to 2.82 crore, as increased number of individuals filed their tax returns post demonetization.

The growth in ITRs filed by individuals is 25.3 per cent, with over 2.79 crore returns having been received up to August 5 as against over 2.22 crore returns filed in the corresponding period last fiscal.

It has been said that "As a result of demonetization and Operation Clean Money, there is a substantial increase in the number of Income Tax Returns (ITRs) filed."

August 5, was the last date for filing of income tax returns by individuals and HUFs, who need not get their accounts audited.

The finance ministry said that the number of ITRs filed showed that a substantial number of new tax payers have been brought into the tax net subsequent to demonetization. The effect of demonetization is also clearly visible in growth in direct tax collections, it said.

Advance tax collections of personal income tax (other than Corporate Tax) as on August 5 showed a growth of about

41.79% over the corresponding period in 2016-17. Personal Income Tax under Self Assessment Tax (SAT) grew at 34.25 per cent over the corresponding period in 2016-17.

"The above figures amply demonstrate the positive results of the government's commitment to fight the menace of black money," the finance ministry added.

The Central Board of Direct Taxes (CBDT), which is the apex policy making body of the I-T department, is committed in its resolve to eradicate tax evasion in a non-intrusive manner and widen the tax base.

GOVT EMPLOYEES NEED NOT VISIT BANKS FOR STARTING PENSION; PPO WILL BE HANDED OVER AT THE TIME OF RETIREMENT

The human resources ministry said that there is no need for central government employees to visit banks to start pension as a copy of their Pension Payment Order (PPO) will be handed over to them at the time of retirement.

Citing existing rules in this regard, the ministry, in a recent order issued to all central government departments, has said that "The pensioner is no longer required to visit the bank to activate the first payment of pension."

The rules also provide for an undertaking to be submitted by the retiring government servants or pensioners to the disbursing banks before the commencement of their pensions.

The order said that "after ascertaining that the bank's copy (of PPO) has been dispatched by the Central Pension Accounting Office, the pensioner's copy is to be handed over to him or her at the time of retirement along with other retirement dues."

An employee posted at a location away from the head of office, or who, for any other reason feels that it would be more convenient to him/her to obtain his copy of the PPO from the bank, may inform the head of office about his option in writing while submitting his pension papers, it said.

On August 1, the order has been issued, stating that "In the recent past, many instances have come to notice wherein the pensioner's copy of the PPO had not been handed over to him/her and instead, had been sent to the bank and was lost in transit sometimes, thereby causing hardship to the pensioner." It further said that in view of these, all ministries/ departments are once again requested to strictly follow the procedure henceforth and hand over the copy of the PPO to the pensioner at the time of retirement along with other retirement dues, except if the pensioner specifically requests for delivering his/her copy of the PPO through the bank.

INVESTORS BANNED FROM TRADING IN BANNED SHELL COMPANIES

Currently, if you hold shares in any of the suspected shell companies that have been banned from trade following the SEBI order, there's a reason for you to worry.

With "surveillance deposit" of three times the trade value, SEBI allowed trading in the security once a month to 331 suspected shell companies who are placed under Graded Surveillance Measure (GSM). Market regulator SEBI, directed the stock exchanges to ban trading for these companies.

Some of the prominent ones among those banned include J Kumar Infraprojects, Parsvnath Developers, Prakash Industries, SQS India BFSI, Gallant Ispat, Adhunik Industries and Assam Company. The market capital commandment by at least five companies is nearly ₹500 crore each.

Experts support the movement and protect investor wealth but they feel that the ban will be harsh on companies that get a clean chit from the regulator post investigation eventually.

"The SEBI order has taken industry and investors by surprise and will lead to erosion of serious wealth. If some of the companies are found to be not shell companies, this order shall still be a death knell on their perception and valuation," says Rajesh Narain Gupta, managing partner, SNG & Partners – a law firm.

Most people seem to not remember that SEBI has barely gone wrong with companies.

G Chokkalingam, founder and managing director of Equinomics Research & Advisory advises that, "For companies that are found to be clean and genuine, there will be rectification and there is no need to panic. For the others, investors have no recourse. Even if they are permitted to trade once a month, there will be no buyers for such a stock. It is advisable to take a hit/ write-off losses".

RBI MAY ISSUE DIRECTIONS TO BANK: GOVT NOTIFIES BANKING REGULATION ACT

The government notified the Banking Regulation (Amendment) Act under which it can empower the RBI to issue directions to banks to establish insolvency resolution process to recover bad loans.

Over Rs 8 lakh crore burdens of non-performing assets (NPAs), Rs 6 lakh crore is with public sector banks (PSBs).

Earlier this month, Parliament had approved the Act, which replaced an ordinance in this regard.

An ordinance authorizing the Reserve Bank of India (RBI) to issue directions to banks to initiate insolvency resolution process was announced by the Government under the Insolvency and Bankruptcy Code, 2016.

Following the ordinance, the RBI had identified 12 accounts each having more than ₹5,000 crore of outstanding loans and accounting for 25 percent of total NPAs of banks for immediate referral for resolution under the bankruptcy law.

The loan defaulters distinguished by the RBI include Essar Steel, Bhushan Steel, ABG Shipyard, Electrosteel and Alok Industries.

Under the Banking Regulation (Amendment) Act, 2017, the RBI can issue directions to banks for resolution of stressed assets and can appoint committees to advise the banks on the same. The bulk of the NPAs are in sectors such as power, steel, road infrastructure and textiles.

GOVT. APPROVES CHANGE IN ELECTORAL LAWS TO ALLOW NRIs VOTE FROM OVERSEAS

On August 2, the government approved changes in electoral laws to permit Non-Resident Indians to cast their vote in both Assembly and Lok Sabha elections from overseas.

If the proposal passes political muster in Parliament, NRIs will be able to exercise their voting rights through "proxy". At present, only service personnel are permitted to vote through proxy.

However, the facility for NRIs will not be the same as that enjoyed by service personnel. For instance, voters in the armed forces can nominate their relatives as permanent proxy to vote on their behalf.

But the Union Cabinet's approval for proxy voting by NRIs carries a caveat: they cannot nominate one proxy for all polls.

At present, voters residing abroad can only cast their votes in respective constituencies. This regulation is seen as restrictive as only a few thousand Indians living overseas have registered as voters, the maximum being from Kerala. Of these, barely anyone has traveled to the country to exercise his or her franchise.

SEBI MAY HALT THE MOVE TO LINK AADHAAR TO STOCK TRADING POST SC'S PRIVACY ORDER

The Supreme Court ruled the right to privacy as a fundamental right under the Constitution and the brokers on Dalal Street heaved a sigh of relief.

Making Aadhaar mandatory for buying shares and mutual funds caused significant jitters on Dalal Street after SEBI proposed the move, as it has increased paper work besides making things difficult for a significant section of investors, who may have issues with their Aadhaar cards or are unwilling to share their personal details in the public domain. Sanjeev Jain, Associate Vice President for Equity Research, Ashika Stock Braking said, "The Supreme Court decision upholding privacy as a fundamental right under the Constitution of India is a welcome development."

"It is too early to say what will be the fate of Aadhaar owing to this judgment. The impact of the ruling on the government's 12-digit unique identification project will be understood only once the detailed judgment is uploaded."

The BSE said that Aadhaar card numbers will have to be submitted to respective brokers by the existing clients by December 31, while the new ones will have to submit the details within 6 months of enabling their demat account. "In case of failure to submit the documents within the aforesaid

time limit, the account shall cease to be operational till the time Aadhaar number is submitted by the client," the SEBI circular said.

"Following today's judgment on right to privacy, we would await direction from the exchanges. Till then, we will have to comply with it. To conclude, we will have to wait till this judgment gets enforced," said Kamlesh Shroff, a spokesperson for BSE Brokers Forum.

The government and SEBI are making Aadhaar compulsory as part of its Prevention of Money Laundering (PML) rules, which focuses at restricting illegitimate money.

Perjure
perjured per·jur·ing : to make a perjurer of (oneself)

Perjured
1: guilty of perjury [a witness] 2: marked by perjury [testimony]

Perjurer
a person guilty of perjury

Perjurious
perjured [statements] [a witness] per·ju·ri·ous·ly adv

Perjury
pl: -ries [Anglo-French perjurie parjurie, from Latin perjurium, from perjurus deliberately giving false testimony, from per-detrimental to + jurjus law]: the act or crime of knowingly making a...

Permanent And Total Disability
a disability that is expected to last at least a year and keeps an individual from any gainful activity.

Permanent Partial Disability (Ppd)
PPD benefits are payable, in most jurisdictions, to an employee who has sustained a permanent, but not complete, disability. Many state statutes have pre-set values for a host of different PPD...

Permanent Resident
any person not a citizen of the United States who is residing in the U.S. under legally recognized and lawfully recorded permanent residence as an immigrant. Also known as "Permanent Resident Alien,"...

Permanent Resident Alien
an alien admitted to the United States as a lawful permanent resident. Permanent residents are also commonly referred to as immigrants. Lawful permanent residents are legally accorded the privilege of ...

Permanent Total Disability (Ptd)
PTD benefits are available if an injured employee is permanently and totally disabled from work.

Permissive
1: based on or having permission [occupancy] [a user of the vehicle] 2: granting permission or discretion (as to the court) [a statute] 3: not compulsory: as a: allowed or made under a...

Permissive Inference
permissive presumption at presumption

Permit
a written warrant or license granted by one having authority [a building]

Perpetual Injunction
permanent injunction at injunction

Perpetuate
-at·ed -at·ing: to preserve or make available (testimony) for later use at a trial by means of deposition esp. when the evidence so gathered would be otherwise unavailable or lost

Perpetuity
pl: -ties 1: the quality, state, or duration of being perpetual [devised to them in] 2 a: the condition of a future estate limited in such a way as not to vest within the period fixed by law for...

Persecution
punishment or harassment usually of a severe nature on the basis of race, religion, or political opinion in one's country of origin [claimed and sought asylum]

Person
1: natural person 2: the body of a human being; also: the body and clothing of a human being [had drugs on his] 3: one (as a human being or corporation) that is recognized by law as the...

Personal
1: of, relating to, or affecting a person: as a: of, relating to, or based on the existence or presence of a person see also personal injury personal jurisdiction at jurisdiction b: of, relating...

Personal Injury
an injury to one's body, mind, or emotions; broadly: an injury that is not to one's property

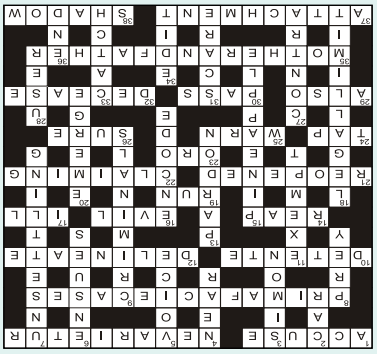
Personal Injury Protection (Pip)
that part of an insurance policy, in many cases a no-fault policy, which provides protection against personal injury and related losses, as opposed to damage to your vehicle, up to a specific...

Personal Representative
one recognized as the representative of another party or his or her interests; specif: an executor or administrator who may bring or be subject to an action or proceeding for or against a...

Personal Right
a right that is based on one's status as an individual and does not derive from property

Mind-Boggling Solutions

Crossword



Sudoku

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COMPLAINCE OFFICER

Company: Minance
Exp: 2-4
Location: Bengaluru/Bangalore
Job Id: 110817900385

DGM - LAND ACQUISITION

Company: KG Foundations Pvt Ltd
Exp: 3-5
Location: Chennai
Job Id: 100817902799

ADVOCATE

Company: AAA Insolvency Professional LLP
Exp: 0-2
Location: Delhi
Job Id: 100817001027

ONMOBILE - MANAGER LEGAL

Company: Onmobile Global Limited
Exp: 6-10
Location: Bengaluru/Bangalore
Job Id: 110817000149

ASSISTANT MANAGER- LEGAL

Company: Suez India Private Limited
Exp: 3-6
Location: Gurgaon
Job Id: 140717000903

MANAGER - LEGAL

Company: SMS India Pvt Ltd
Exp: 3-5
Location: Gurgaon
Job Id: 100817000251

VP - LEGAL

Company: Frankfinn Aviation Services Pvt Ltd
Exp: 18-24
Location: Delhi/NCR
Job Id: 260717002627

RECEPTIONIST, FRONT DESK & ADMIN

Company: Lex Legal & Partners
Exp: 2-7
Location: Mumbai
Job Id: 100817004256

ASSISTANT MANAGER- LEGAL

Company: BPTP Limited
Exp: 3-8
Location: Gurgaon
Job Id: 090817020528

LEGAL ROLE

Company: Luminous Power Technologies Pvt. Ltd
Exp: 4-5
Location: Delhi/NCR
Job Id: 070717005447

MANAGER LEGAL

Company: Largest producer of Organic Darjeeling Tea
Exp: 7-12
Location: Kolkata
Job Id: 180517001681

LAW OFFICER

Company: Ashoka Buildcon Ltd
Exp: 10-12
Location: Mumbai
Job Id: 090817007033

NETWORK PROJECT MANAGER

Company: Shell India Markets Private Limited
Exp: 5-10
Location: Chennai, Coimbatore
Job Id: 280617003279

CHIEF LEGAL OFFICER

Company: SRG Housing Finance Ltd
Exp: 2-7
Location: Udaipur
Job Id: 100617003494

LEGAL MANAGER

Company: Tek Travels Pvt Ltd
Exp: 6-8
Location: Gurgaon
Job Id: 120617001309

LEGAL JOBS

CONTRACT SPECIALIST

Company: Cameron Manufacturing (India) Pvt Ltd
Exp: 10-17
Location: Coimbatore
Job Id: 090817006708

LAND EXPERTS

Company: Wind World (India) Limited
Exp: 5-10
Location: Chennai
Job Id: 270717007386

ASSISTANT MANAGER LEGAL

Company: AU Small Finance Bank Limited
Exp: 1-5
Location: Jaipur
Job Id: 080817008439

LEGAL EXECUTIVE

Company: IndusInd Bank Limited
Exp: 0-5
Location: Hyderabad/Secunderabad
Job Id: 090817006652

LEGAL MANAGER

Company: Brigade Enterprises Limited
Exp: 5-8
Location: Bengaluru/Bangalore
Job Id: 010817000698

PROJECT DEVELOPMENT

Company: Senvion India Private Limited
Exp: 10-15
Location: Mumbai
Job Id: 080817006550

BUSINESS DEVELOPMENT ASSOCIATE

Company: Ediplis Counsels
Exp: 0-2
Location: Bengaluru/Bangalore
Job Id: 090817006614

LEGAL LITIGATOR

Company: Datamatics Global services Ltd
Exp: 4-5
Location: Mumbai
Job Id: 090817002606

DEPUTY MANAGER - CORPORATE COMPLIANCE

Company: R1 RCM Global Pvt Ltd
Exp: 3-8
Location: Gurgaon
Job Id: 080817003969

LEGAL OFFICER

Company: Avighna Group
Exp: 4-9
Location: Mumbai
Job Id: 100217004355

EXECUTIVE- LEGAL

Company: Resync Auto Solutions Pvt Ltd
Exp: 2-4
Location: Mumbai
Job Id: 160617003311

ADVOCATE

Company: Wahi & Co LLP
Exp: 2-4
Location: Delhi/NCR
Job Id: 080817002898

CS TRAINEE

Company: Honda Logistics India Pvt Ltd
Exp: 0-1
Location: Bhiwadi
Job Id: 090817005126

LEGAL OFFICER

Company: Bhima Jewels
Exp: 4-9
Location: Ernakulam/Kochi/Cochin
Job Id: 050717006974

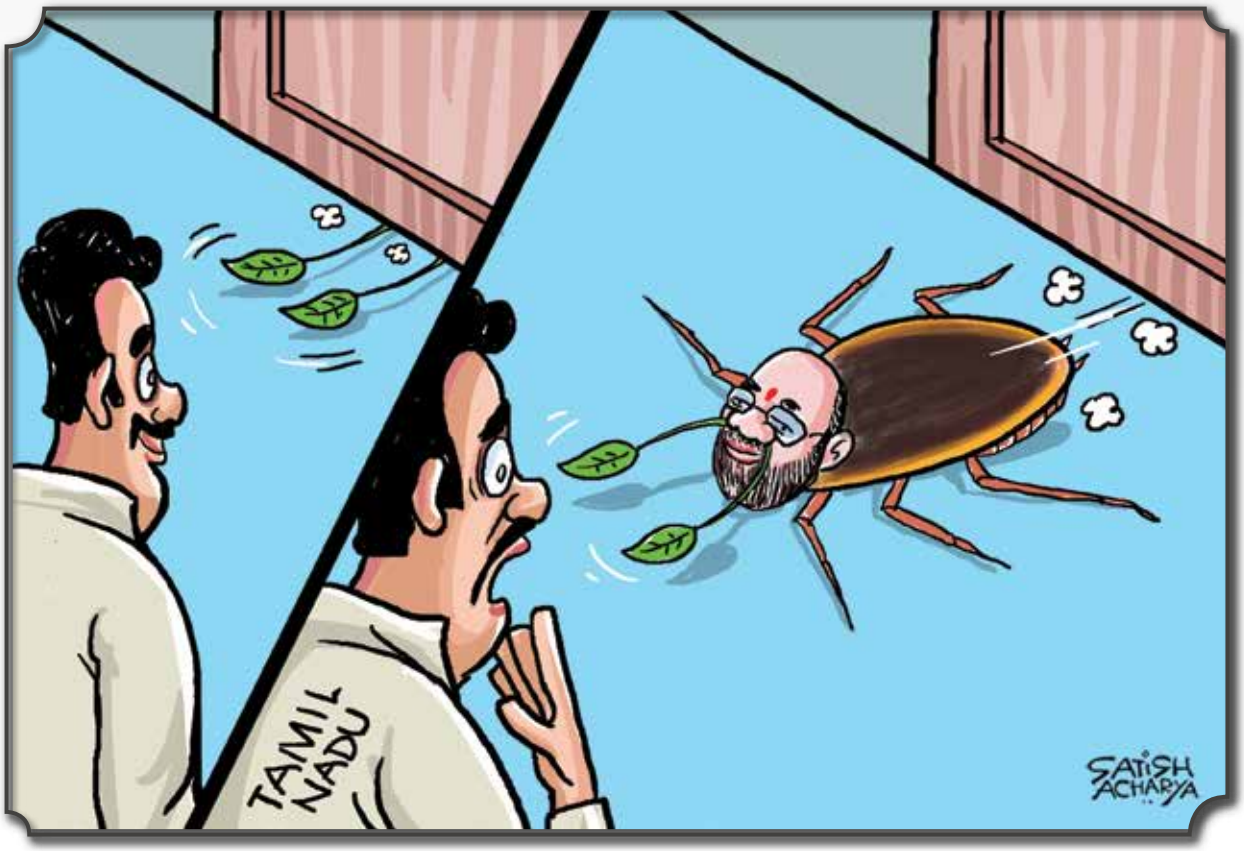
PATENT ATTORNEYS

Company: Sulphur Mills Limited
Exp: 3-8
Location: Mumbai
Job Id: 091216004281

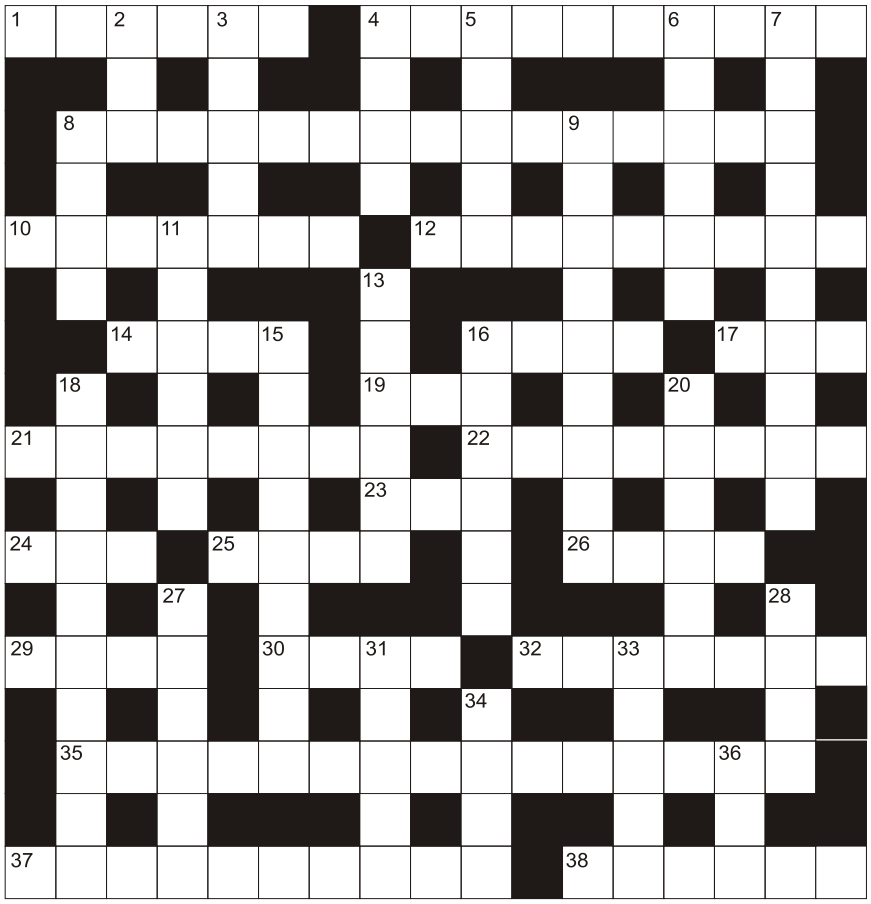

HIP! HIP! HURRAY!


VICTORY!
VICTORY!
VICTORY!
VOTE BANK
POLITICS


NO SHORTAGE OF OXYGEN!
OXYGEN
SATISH ACHARYA


TAMIL NADU
SATISH ACHARYA

Legal Crossword



Nitaa Jaggi

ACROSS

1. Level a charge (6)
4. 'It must not be changed' - inscription on notarized documents (2,8)
8. Complaints registered "on the face" of it (5,5,5)
10. Thaw in hostilities (7)
12. Sketch out a culprit's face (9)
14. Procure (4)
16. Wicked intentions (4)
17. Hostile (3)
19. Slip away (3)
21. Like some cold cases (8)
22. Demanding as due (8)
23. Spanish gold (3)
24. Surveillance device (3)
25. Threaten (4)
26. Trustworthy (4)
29. "Likewise" (4)
30. Disregard (4)
32. Quietus (7)
35. Parents (6,3,6)
37. Legal process of property transfer to the creditor (10)
38. Follow secretly (6)

DOWN

2. ----accident - hit and run case (3)
3. ------Commission - group appointed by the Britishers to report on the working of the Indian Constitution (5)
4. ----miss - close call (4)
5. Declare (5)
6. Follows as a consequence (6)
7. Disturbing answers (10)
8. Victim (4)
9. Ones in joint custody? (9)
11. Excused from court (6)
13. Presidential perogative (6)
15. Hand grenade (9)
16. Make secret (6)
18. Ceiling one should stay under (5,5)
20. Make an appearance (6)
27. Against: Prefix (6)
28. Rehab candidate (4)
31. False alarm (5)
33. Nab (5)
34. Make changes in a document (4)
36. Complete the examination (3)

Sudoku

	4	7	1		2	5		9
	6	9	8	5	7			
1							6	
		8						1
4			3		5			2
9						8		
	7							3
			7	1	3	6	4	
5		1	6		9	7	2	

For answers to the Crossword & Sudoku puzzle, turn to Legal Precepts section on page no. 80


Sunfeast
Dark Fantasy
Choco Fills
ITC
Enduring Value
Can't Wait.
Won't Wait.
Sunfeast
Dark Fantasy
Choco Fills
Choco Fills
Creative Visualisation

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