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Table of Contents

Article	2
Analysing Budget 2024 from the lens of Ease of Doing Business	3
Notifications & Circulars.....	7
Ratio Decidendi.....	13
News Nuggets.....	19



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exceeding expectations



Article

Analysing Budget 2024 from the lens of Ease of Doing Business

By Noorul Hassan and Aman Gupta

Out of ten parameters of Ease of Doing Business introduced by the World Bank, this fiscal the Union Budget has focused on a certain few namely, starting a business, getting credit, paying taxes, resolving insolvency, and to an extent registering property. The article in this issue of Corporate Amicus analyses the Budget proposals and discusses changes relating to attracting foreign investments, benefits proposed in tax regime, evolution in insolvency resolution, flexible company structures, credit enhancement to MSMEs, easy exits to companies, decriminalisation of offences, and proposal to incentivize states if they lower the stamp duty rates. According to the authors, there are still certain parameters where we need to improve.

Analysing Budget 2024 from the lens of Ease of Doing Business

By Noorul Hassan and Aman Gupta

India has recently witnessed the Union Budget presented by Finance Minister in the Parliament session. Presently, India is ranked 63 out of 190 chosen countries in the Ease of Doing Business rankings released by the World Bank.¹ Out of ten parameters of Ease of Doing Business introduced by the World Bank, this fiscal the budget has focused on a certain few namely, Starting a Business, Getting Credit, Paying Taxes, Resolving Insolvency, and to an extent Registering Property. There are yet certain parameters where we have staggered for growth due to comprehensive legislation as well as internal checks and balances.

Building on that, this year's budget is another attempt to streamline the focus to strengthen the nation's economy and improve at Ease of Doing Business world rankings.

Analysis of Budget proposals

Attracting foreign investments

India as a manufacturing and services hub is expected to multiply its foreign investment in the upcoming fiscal.

¹ World Bank Report available [here](#)

² Press Note 3 available [here](#)

Accordingly, the budget has proposed liberalization in Foreign Direct Investment (FDI) and Overseas Investment (OI) regulations. We may expect inclusive amendments with more policy, procedural, and conditional relaxations on the flow of investments. Although, in the Economic Survey 2023-24 (prior to the presentation of the budget), a recommendation for reviewing 'Press Note 3'² to reconsider Chinese investments was laid down, however, the Ministry of Commerce and Industry has recently clarified that there is no rethinking at present to support Chinese investments in the country.³

Taxation benefits

To benefit the companies, the budget has announced the most awaited abolition of the 'Angel Tax' effective from FY 2024-25, providing relief, especially to startups. Going ahead, these companies would be exempt from tax payment towards the issuance of shares on premium to the investors i.e., above the fair market value. This will ease the working capital pressure on the companies. To cater to the taxation benefits, the government has

³ Press Note 3 was released during COVID-19 times prohibiting opportunistic acquisition of Indian entities by entities from land-bordering nations.

simplified Long Term Capital Gains (LTCG) reducing it from 20% to 12.5% (without indexation benefits) on immovable properties to horizon on long-term investments. Overall, we have witnessed a hike in other classes of assets for payment of LTCG and also towards Short Term Capital Gains (STCG) on specified financial assets.

On the taxation front, the biggest development to attract foreign capital is to reduce the Corporate Tax from 40% to 35% for foreign companies. Further, specific sectors have been focused on, such as foreign shipping companies and the diamond industry for tax relaxation to attract more tourism and hence foster business opportunities. Equalisation levy of 2% on e-commerce supply and services has also been abolished to boost online trade and transactions.

Evolution in insolvency resolution

Evolved in 2016, the insolvency legislation in India is measuring steady recovery rates every fiscal, while so, there is still a need to revitalize the resolution process. Recently, the CRISIL Report, declared that India witnessed 42% growth in FY 2024 with 269 cases getting the NCLT nod for resolution plans over 189 cases in the last fiscal year.⁴ In this regard, it is proposed

to set up new NCLTs and strengthen the existing appellate tribunals. Further, new tribunals are to be established, which shall be exclusively dealing with cases under the Companies Act. This will ease the pressure on the NCLTs and also speed up the process of the matters filed before the NCLTs under the Companies Act.

Flexible company structures

As of today, Indian company law has provided various corporate structures for the business to operate. Borrowing from the jurisdiction of Singapore and the UK, this budget has proposed a new 'variable company structure' to pool funds of private equity. It provides options for entrepreneurs and especially fund managers to explore and expand the fund management industry in India. It unleashes the capability to bring India to the pedestal of one of the most attractive destinations for international fund management especially in the APAC region.

Credit enhancement

The budget proposed that MSMEs can now avail up to INR 100 crore of term loans without collateral/third-party guarantees for infrastructure development and credit guarantee

⁴ CRISIL Report is available [here](#).

to MSMEs even at the stage of Special Mention Account. This will not impede MSMEs' focus on business development while handling their financial arrangements. More SIDBI branches in MSME clusters and E-commerce export hubs to enable MSMEs to sell their products in international markets are some other proposals to reinforce the MSME sector.

Easy exits

The office of the Centre for Processing Accelerated Corporate Exit (C-PACE) was established in May 2023 to centralise the strike-off process of companies, which was a move towards ease of doing business and ease of exit for the Companies. It is proposed that these services would also be extended for the voluntary closure of Limited Liability Partnerships (LLPs) to reduce the closure time.

Decriminalisation of offences

Owing to the positive response of the Jan Vishwas (Amendment of Provisions) Act of 2023 for decriminalising and rationalising offences to enhance trust-based governance for ease of living and doing business, the budget announced Jan Vishwas Bill 2.0 to seek further congruence of rationalisation and governance for ease of doing business. Unnecessary litigation

may see a recall with the introduction and enactment of the bill, which shall put the burden off the companies and streamline efforts toward business.

Stamp Duty

Last but not the least, the Budget has indicated the government's proposal to incentivize states if they lower the Stamp duty rates, especially for properties being purchased by a woman. This shall boost women entrepreneurship directly and to an extent cater to one of the parameters of property registration.

The outlook and way forward

From the varied budget proposals, we understand that while the government has streamlined its proposal towards attracting investments in India and overseas investment, obtaining credit, taxation benefits to a certain extent and especially towards startup ecosystem, and liberalization towards insolvency resolution, there are yet certain parameters such as Ease of Starting Business (rank 136), Registering Property (rank 154), Paying Taxes (rank 115), Trading across Borders (rank 68), and Enforcing Contracts (rank 163) where we lag behind and that need to be focused upon to improve individual rankings. India

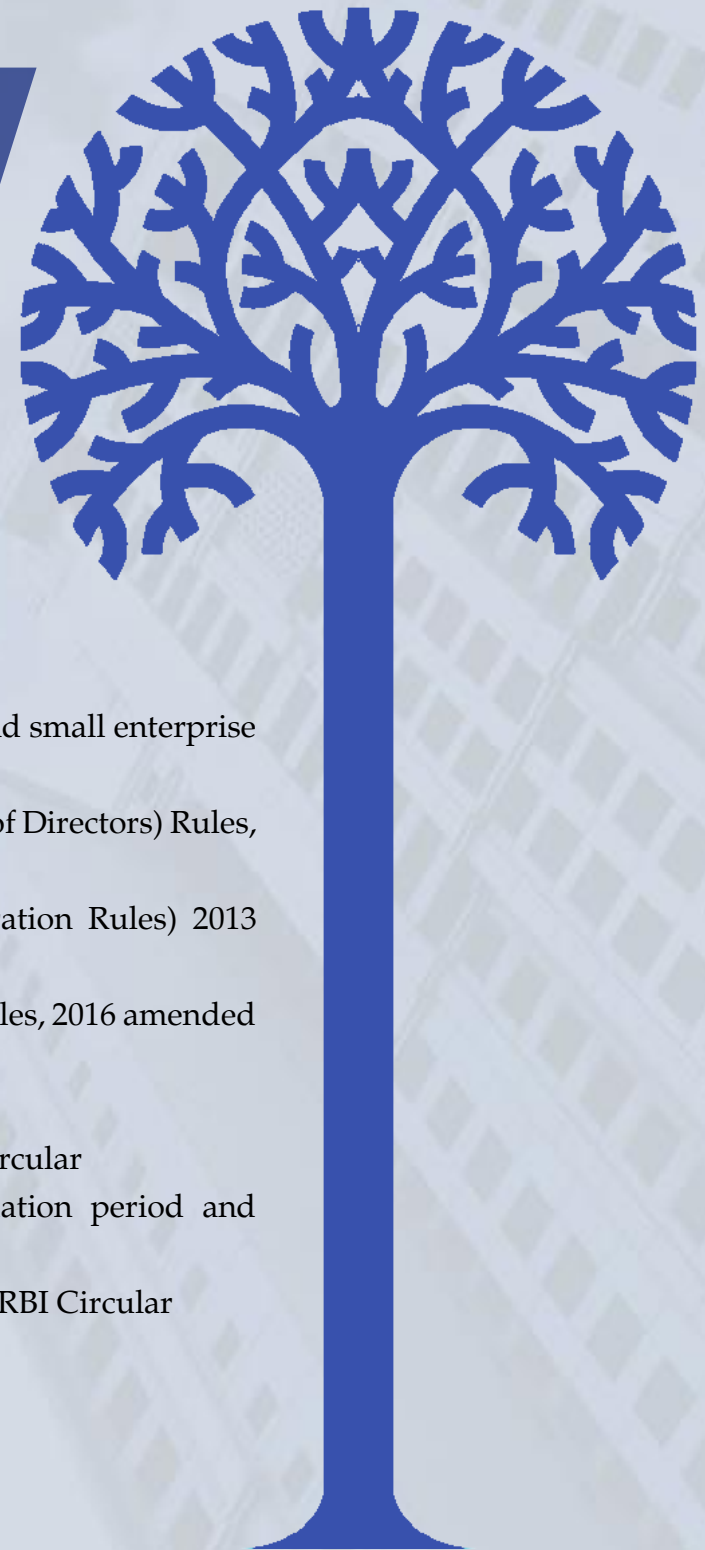
may analyze the implications, challenges, and solutions adopted by other jurisdictions to better its position.

Through this budget, we may sense the government's approach more towards free market economics where the budget attempts to meet the demands of the economy. We are

yet to witness corresponding amendments to various legislation to incorporate these demands.

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Notifications & Circulars



- Form MGT-6 of the Companies (Management and Administration) Rules, 2014 amended
- E-form BEN-2 of the Companies (Significant Beneficial Owners) Rules, 2018 amended
- Payment to MSEs – Specified Companies (Furnishing of information about payment to micro and small enterprise suppliers) Order, 2019 amended
- Directors to update their details by 30 September – Companies (Appointment and Qualification of Directors) Rules, 2014 amended
- Nidhi companies not required to use 'Nidhi', subject to conditions – Companies (Incorporation Rules) 2013 amended
- Investor Education and Protection Fund Authority (Accounting, Audit, Transfer and Refund) Rules, 2016 amended
- Master Direction on Priority Sector Lending amended
- SEBI (Foreign Portfolio Investors) Regulations, 2019 amended
- Facility for Basic Services Demat Account for Financial Inclusion and Ease of Investing – SEBI circular
- Information to be filed by schemes of AIFs availing dissolution period/additional liquidation period and conditions for in-specie distribution of assets of AIFs – SEBI Circular
- Remittances to International Financial Services Centres under Liberalised Remittance Scheme – RBI Circular

Form MGT-6 of the Companies (Management and Administration) Rules, 2014 amended

The Ministry of Corporate Affairs *vide* Notification No. G.S.R. 403, dated 15 July 2024, notified amendments to e-Form MGT-6 under the Companies (Management and Administration) Rules, 2014, making the following additional disclosures mandatory:

- a. Classification on the type of shares and class of shares concerned in the application under MGT-6;
- b. Personal details of the registered owner and beneficial owner of shares *viz.* PAN, passport details, mobile numbers and e-mail IDs;
- c. Beneficial Owner Identification Number, if available;
- d. Dates of declarations made by the registered owner and the beneficial owner; and
- e. Date of receipt of the abovementioned declarations by the respective company.

E-form BEN-2 of the Companies (Significant Beneficial Owners) Rules, 2018 amended

The Ministry of Corporate Affairs *vide* Notification No. G.S.R. 404(E), dated 15 July 2024, notified amendments to e-form BEN-2 under the Companies (Significant Beneficial Owners) Rules,

2018 to include entries declaring 'change in particulars of the existing Significant beneficial Owner', 'change of existing holding reporting company' and 'ID of the Significant Beneficial Owner'.

Payment to MSEs – Specified Companies (Furnishing of information about payment to micro and small enterprise suppliers) Order, 2019 amended

The Ministry of Corporate Affairs *vide* Notification No. S.O. 2751(E), dated 15 July 2024, has notified amendments to e-form MSME-1 under the Specified Companies (Furnishing of information about payment to micro and small enterprise suppliers) Order, 2019 to include detailed particulars of the name of Micro and Small Enterprises (MSEs) suppliers and the amounts of all payments due where amount has been paid within and/or after 45 days and to declare whether the same has been outstanding for 45 days or less and/or for more than 45 days. All these details are to be incorporated in the tabular format given within the said e-Form. Additionally, an amendment has been made to paragraph 3 under the original Specified Companies (Furnishing of information about payment to micro and small enterprise suppliers) Order, 2019, containing

a proviso to state that MSME-1 would need to be filed only when companies have outstanding payments to micro and small enterprises for a period beyond 45 days.

Directors to update their details by 30 September – Companies (Appointment and Qualification of Directors) Rules, 2014 amended

The Ministry of Corporate Affairs *vide* Notification No. G.S.R. 412(E), dated 16 July 2024, notified amendments under Rule 12A of the Companies (Appointment and Qualification of Directors) Rules, 2014 stating that every individual holding a Director Identification Number may update their personal mobile number or e-mail address by submitting e-Form DIR-3 KYC, on or before 30th September during the financial year. Additionally, if an individual wishes to update these details post the timeline specified during the financial year, they shall do the same by submitting e-Form DIR-3 KYC along with a payment of INR 500 to the MCA.

Nidhi companies not required to use ‘Nidhi’, subject to conditions – Companies (Incorporation Rules) 2013 amended

The Ministry of Corporate Affairs *vide* Notification No. G.S.R. 411(E), dated 16 July 2024, notified the omission of the word

‘Nidhi’ as a suffix to the names proposed for Nidhi Companies under Rule 8A(1) of the Companies (Incorporation) Rules, 2014. Consequently, the Ministry *vide* Notification dated 16 July 2024 also notified the insertion of a proviso under Rule 4(5) of the Nidhi Rules, 2014 stating that companies shall not use the words ‘Nidhi Limited’ in their names unless declared under Section 406(1) of the Companies Act, 2013.

Investor Education and Protection Fund Authority (Accounting, Audit, Transfer and Refund) Rules, 2016 amended

The Ministry of Corporate Affairs *vide* Notification No. G.S.R. 414(E), dated 16 July 2024, has notified the substitution of ‘IEPF 4’ in place of ‘IEPF 3’ and ‘IEPF 1’ in place of ‘IEPF 7’ throughout the Investor Education and Protection Fund Authority (Accounting, Audit, Transfer and Refund) Rules, 2016, due to integration of forms in the manner specified. Further, under Rules 6(13), 6(13A) and 6A (12), the notification made amendments with respect to payments stating that companies can remit amount required to be credited towards the Investor Education and Protection Fund online, to the IEPF Authority within 30 days from the date such amount becomes due.

Master Direction on Priority Sector Lending amended

The Reserve Bank of India *vide* Circular No. RBI/2024-25/44, FIDD.CO.PSD.BC. No.7/04.09.01/2024-25 dated 21 June 2024 has notified certain amendments to the Master Direction on Priority Sector Lending ('PSL'), dated 4 September 2020 ('MD'). The key amendments are listed below:

- ***Adjustments for weights in PSL Achievement:***

Under Para 7 of the MD, the weights for PSL credit based on district level credit flow have been adjusted upon review and will remain valid until FY 2026-27. Effective from FY 2024-25, districts with a per capita PSL below INR 9000 will now receive a higher weightage of 125%, while those with a per capita PSL above INR 42,000 will receive a lower weight of 90%. The lists of districts with updated weightages are detailed in Annex IA and IB of the MD.

- ***Definition of Micro, Small and Medium Enterprises ('MSME'):***

Under Para 9 of the MD, the definition of MSMEs has been amended to include reference to the Master

Direction on Lending to Micro, Small & Medium Enterprises dated 24 July 2017.

SEBI (Foreign Portfolio Investors) Regulations, 2019 amended

Securities Exchange Board of India ('SEBI') *vide* Notification No. SEBI/LAD-NRO/GN/2024/185 dated 26 June 2024 has notified the SEBI (Foreign Portfolio Investors) (Second Amendment) Regulations, 2024. The amendments outlined in the regulations involve revising the conditions under which certain contributions to an applicant's corpus are permitted. Specifically, the regulations under Regulation 4(c) now stipulate that a single Non-Resident Indian (NRI), Overseas Citizen of India (OCI), or Resident Indian (RI) individual must contribute less than 25% of the total corpus, and that the combined contributions of all such individuals must not exceed 50% of the corpus of the applicant. Additionally, contributions from resident Indians must be made through the Liberalised Remittance Scheme and shall be in global funds with less than 50% Indian exposure. It has also been mandated that these contributors should not control the applicant. New provisos to the said regulation include exemptions for applicants regulated by the International Financial Services Centres Authority and a

confirmation that existing exemptions will remain in force despite the new conditions.

Facility for Basic Services Demat Account for Financial Inclusion and Ease of Investing – SEBI circular

Securities Exchange Board of India *vide* Circular SEBI/HO/MIRSD/MIRSD-PoD1/P/CIR/2024/91 dated 28 June 2024 comprehensively reviews the Facility of Basic Services Demat Account ('**BSDA**') which was provided in the SEBI's previous Circulars dated 27 August 2012 and 10 April 2019, and the Master Circular for Depositories dated 6 October 2023. According to this Circular, the eligibility criteria for a BSDA would include only those individuals having one demat account as the sole or first holder and having only one BSDA across all depositories. Furthermore, the value of securities in the demat account must now not exceed INR 10 lakh for both debt and non-debt securities combined. Depository Participants ('**DPs**') are hence, required to open BSDAs only for eligible Beneficial Owners ('**BOs**') unless the BOs opt for a regular demat account via email consent. DPs must now also reassess existing demat accounts for the notified BSDA eligibility and convert all eligible accounts to BSDAs within two months of this Circular's effect. The Circular also provides for the charges based on Value of Holdings in the Demat Account and

Charges for BSDA being the same as non-BSDA accounts for all services except for the annual maintenance charge and contains details regarding such valuation.

Information to be filed by schemes of AIFs availing dissolution period/additional liquidation period and conditions for in-specie distribution of assets of AIFs – SEBI Circular

Securities Exchange Board of India ('**SEBI**') *vide* circular SEBI/HO/AFD-1/AFD-1-PoD/P/CIR/2024/100 ('**Circular**') dated 9 July 2024, mentioned the following clarifications on the information memorandum to be submitted by the schemes of AIFs entering into dissolution period and/or availing additional liquidation period, along with clarifying timelines and reports to be submitted with respect to in-specie distribution of investments of AIFs:

A. *Information Memorandum for schemes of AIFs entering into dissolution period:*

In the SEBI (Alternative Investment Funds) (Second Amendment) Regulations 2024 ('**2024 AIF Regulations**'), notified on 25 April 2024, AIF schemes were allowed to enter a dissolution period and SEBI's circular *SEBI/HO/AFD/PoD1/CIR/2024/026* dated 26 April 2024, detailed the procedures for the same. According to

Regulation 29B(2) of the SEBI (Alternative Investment Funds) Regulations, 2012, ('**2012 AIF Regulations**') AIF schemes must file an information memorandum with SEBI via a merchant banker before expiry of the liquidation period. This Circular prescribes the format for submission of the information memorandum and the Due Diligence Certificate under its annexures, **Annexure I** and **Annexure II**, respectively.

B. Information to be submitted by schemes of AIFs availing additional liquidation period:

Schemes of AIFs whose liquidation periods have expired/will expire within 3 months from the date of notification of the 2024 AIF Regulations by 24 July 2024, may be granted an additional liquidation period subject to the conditions outlined under the abovementioned SEBI circular, dated 26 April 2024, in accordance with Regulation 29(9A) of the 2012 AIF Regulations. Any scheme availing a fresh/additional liquidation period shall submit information under the format prescribed in **Annexure III** of this Circular.

C. In specie distribution of investments of AIFs

For non-mandatory in specie distribution as per Regulation 29(8) of the 2012 AIF Regulations, approval from at least 75% of investors by value would be required. The manager, trustee, and

KMP are responsible for ensuring compliance with the said provision, and the trustee or sponsor must ensure that the manager's 'Compliance Test Report,' as detailed in Chapter 15 of the Master Circular no. SEBI/HO/AFD-1-PoD/P/CIR/2024/39, is in adherence to the provisions mentioned under this Circular.

Remittances to International Financial Services Centres under Liberalised Remittance Scheme – RBI Circular

The Reserve Bank of India *vide* Circular No. A.P. (DIR Series) Circular No. 15 dated 10 July 2024, has broadened the scope of permissible remittances under Liberalised Remittance Scheme ('**LRS**') to International Financial Services Centres ('**IFSCs**'). The Circular states that Authorised Persons may now facilitate remittances for all permissible purposes under the LRS, including availing financial services or products as per the International Financial Services Centres Authority Act, 2019, within IFSCs. Further, it also notified that remittances can be used for current or capital account transactions in any foreign jurisdiction (excluding IFSCs) through a Foreign Currency Account held in these IFSCs. Resident individuals will continue to be able to open FCAs in IFSCs for all the newly permitted purposes.



Ratio Decidendi

- Properties not acquired through ‘Proceeds of Crime’ cannot be subject to attachment under PMLA – Kerala High Court
- *A force majeure* event does not justify retention of Performance Bank Guarantee without suffering a legal injury – Delhi High Court
- Legal heirs of a deceased, who was party to an arbitration agreement, are classified as ‘Legal Representatives’ under Arbitration Section 2(1)(g) – Telangana High Court
- Application for termination of the Arbitrator’s mandate should be filed with the District Court, not the High Court – Telangana High Court

Properties not acquired through 'Proceeds of Crime' cannot be subject to attachment under PMLA

The Kerala High Court has held that properties subject to attachment under Section 5 of the Prevention of Money Laundering Act, 2002 ('PMLA') must be those acquired using the 'Proceeds of Crime'. The Court emphasized that the provisions of the PMLA cannot be used arbitrarily and unreasonably by the authorities to proceed against properties not connected with any criminal activity.

The case involved an investigation into M/s. Masters FinServ and others, during which the bank accounts of Mr. Satish Motilal Bidri ('**Mr. Bidri**') were frozen by an Order dated 5 September 2023 ('**Order**'). Aggrieved by the said Order, Mr. Bidri approached the High Court under Article 226 of the Constitution, challenging the freezing of his bank accounts and the provisional order of attachment issued under Section 5 of the PMLA. Subsequently, the Enforcement Directorate (ED) also issued a provisional attachment order on 22 May 2024, attaching the same bank accounts and immovable property of Mr. Bidri.

The High Court noted that the immovable property attached was purchased by Mr. Bidri on 5 January 2004, while the alleged

predicate offences took place between 27 January 2021 and 14 November 2022. Therefore, it was found that the property was acquired more than a decade and a half before the alleged offense occurred.

The High Court relied on the judgment of Hon'ble Supreme Court in the case of *Pavana Dibbur v. Directorate of Enforcement*, 2023 SCC OnLine SC 1586 which had held that 'Properties that can be targeted for attachment must have been acquired using money obtained from criminal activities. The aim of the PMLA is to eliminate illegal funds and take action against assets that have been obtained/procured through unlawful means. As a result, any profits associated with these assets will be considered proceeds of crime.'

Based on the information mentioned above, the High Court ruled that the order to seize the property bought in 2004 exceeds the powers granted by the law and is therefore illegal and unjust. The High Court directed the petitioner to pursue the available legal options for the frozen bank accounts as provided by the law.

[*Satish Motilal Bidri v. Union of India* – Judgement dated 28 June 2024 in WP (CRL.) No. 406 of 2024, Kerala High Court]

A *force majeure* event does not justify retention of Performance Bank Guarantee without suffering a legal injury

The Division Bench of the Delhi High Court has held that *force majeure* events, such as Acts of God, which are beyond human control, do not justify the retention of performance bank guarantees. The Bench also held that in such cases, parties cannot keep the money obtained through encashment of Performance Bank Guarantees as liquidated damages without actually suffering a legal injury.

NTPC Vidyut Vyapar Nigam Ltd. ('**Appellant**') entered into a Power Purchase Agreement ('**PPA**') with Oswal Woolen Mills Ltd. ('**Respondent**') for a solar power project. The dispute arose out of the PPA and the Appellant approached the Arbitral Tribunal for (1) reimbursement for the cost of laying transmission lines, (2) recovery of income lost due to transmission losses over 25 years, and (3) the refund of INR 1,82,63,000/- retained by the Appellant by encashing the Performance Bank Guarantee from the Respondent, due to the delay in commissioning the solar power plant. The Arbitral Tribunal passed the order rejecting all the aforesaid claims of the Appellant. Aggrieved by the same, the Appellant had preferred

a Section 34 petition under Arbitration Act. In the appeal, the Single Judge allowed claim nos. 1 & 2 that were dismissed by the Arbitral Tribunal, but upheld the decision of Arbitral Tribunal in rejecting claim no. 3

The Single Judge while declining claim no. 3 observed that delay in commissioning the solar power plant was only on account of a *force majeure* event. Aggrieved by the said decision of the Single Judge, the Appellant had approached the High Court.

The High Court concurred with the view of the Single Judge and held that the liquidated damages should not have been levied since the delay caused was on account of a *force majeure* event. The High Court further observed there was no legal injury caused to the Appellants, nor were any facts presented to indicate any loss due to the delay.

The High Court further relying on the judgment of *Fatehchand v. Balkrishan Das*, 1963 AIR SCC 145, which had held that the sufferance of legal injury was essential for claiming damages and upheld the findings of Arbitral Tribunals finding that in the case of a *force majeure* event, the Appellant could not claim the Performance Bank Guarantee funds for the liquidated damages without suffering any legal injury. Consequently, the appeal was dismissed by the High Court.

[*NTPC Vidyut Vyapar Nigam Ltd. v. Oswal Woolen Mills Ltd.* – Judgement Dated 3 July 2024 in FAO(OS) (COMM) 263/2018 & CMAPPL. 47514/2018, Delhi High Court]

Legal heirs of a deceased, who was party to an arbitration agreement, are classified as ‘Legal Representatives’ under Arbitration Section 2(1)(g)

The Telangana High Court has held that the term ‘legal representative’ under Section 2(1)(g) of the Arbitration Act includes the legal heirs of a deceased person who was party to an Arbitration Agreement.

The case involved a dispute concerning a flat constructed by M/s. Innovation Builders. Mr. Parvez Adi Debara filed a Suit to Recover Possession and Damages for the flat, claiming ownership as the Legal Heir of the Late Rashid H. Debara, who had entered into an Agreement for the flat (‘Suit’).

The Respondent argued that the Appellant had unlawfully occupied the flat and sent a legal notice to hand over possession. As the Appellant refused, the Respondent filed a suit for recovery.

The Appellant stated that his late uncle had entered into an Agreement of Sale for the flat and completed the payment.

Following his uncle's death, the Appellant inherited the property and continued to occupy it, paying all taxes and charges. The Appellant filed a petition under Section 8 of the Arbitration Act, seeking to resolve the dispute through arbitration as per the agreement. The Trial Court dismissed the Suit, stating that the agreement was not between the Respondent and the Appellant. Aggrieved by the same, the Applicant approached the Hon'ble High Court under Section 37 of the Arbitration Act challenging the decisions of the Trial Court.

The High Court in its findings emphasized that the term ‘legal representatives’ also includes persons who manage the estate of the deceased. The High Court observed that Section 2(1)(g) of the Arbitration Act, which provides for ‘legal representatives’ also includes persons who intermeddle with the estate of the deceased. Section 40 of the Arbitration Act and the definition of ‘legal representative,’ when read together, imply that the enforceability of the arbitration agreement will not get extinguished by the death of the deceased.

Basis the aforesaid, the High Court held that the Trial Court should have decided the issue considering whether the dispute was one where the arbitration clause was applied and whether the Appellant fell within the definition of a legal representative under Section 2(1)(g) taking into account the provisions of

Section 40. Consequently, the order passed by the Trial Court was set aside, and the appeal was allowed. The High Court also held that the parties are permitted to invoke arbitration clause for the arbitration proceeding under the terms of the agreement.

[*Sri Parvez Ali Debara v. Innovation Builders* – Judgement dated 24 July 2024 in Civil Miscellaneous Appeal No. 289 of 2023, Telangana High Court]

Application for termination of the Arbitrator's mandate should be filed with the District Court, not the High Court

The Telangana High Court has clarified that the application for termination of the Arbitrator's mandate under Section 14 of the Arbitration and Conciliation Act, 1996 should be filed before the District Court and not the High Court. The High Court further highlighted that, despite High Courts having the power to appoint an Arbitrator under Section 11(6) of the Arbitration Act, they do not have jurisdiction to deal with an application for terminating an arbitrator's mandate under Section 14 of the said Act.

During the pendency of the arbitration proceeding, the applicant had filed an application under Section 14 of the Arbitration Act ('**Application**') before the arbitrator *inter alia* on the ground that

the Arbitrator was formerly an in-house counsel of the Respondent and was appointed as an Arbitrator in six other cases connected to the Respondent. The Arbitrator did not advert to the said Application. Thereafter, the Applicant filed the present application before the High Court, seeking to terminate the mandate of the arbitrator and appoint a substitute arbitrator. It was contended that since the High Court has the power to appoint an arbitrator under Section 11(6), the High Court alone has the power to terminate the mandate of the arbitrator.

The High Court however observed that if Section 14(2) is read in conjunction with Section 2(1)(e) of the Arbitration Act, it is evident that 'Court' means a Court of original jurisdiction in a District and includes a High Court in the exercise of its ordinary original civil jurisdiction, having jurisdiction to decide the questions forming the subject matter of the arbitration. The High Court further relied on the case of *Swadesh Kumar Agarwal v. Dinesh Agarwal and Ors*, (2022) 10 SCC 235, wherein the Hon'ble Apex Court had held that in case of dispute on the mandate of the arbitrator under Section 14(1)(a), such a dispute has to be raised before the 'Court' defined under Section 2(1)(e) of the Arbitration Act.

The High Court in this regard also noted that the dispute had arisen between the parties under Section 14(1)(a), as, according

to the applicant, the arbitrator had become *de jure* or *de facto* unable to perform his functions or for other reasons fails to act without undue delay.

[*Naolin Infrastructure Private Limited v. Infinity Projects –* Judgement dated 10 July 2024 in Arbitration Application No. 43 of 2024, Telangana High Court]

News Nuggets



- Employment linked incentive schemes introduced
- Budget 2024-25 provides the much-needed push to MSMEs
- Angel tax abolished
- MCA mandates companies to disclose biannually their dealings with MSMEs
- MeitY considers proposing to exclude ex-ante measures from the Digital Competition Bill
- FSSAI mulls mandating labelling of certain nutritional information in bigger and bolder fonts
- CCI to shortly introduce revised norms under the competition rules
- Telangana eyes at having its first MSME oriented policy
- SEBI considering relaxing certain disclosure norms for listed entities

Employment linked incentive schemes introduced

In its long-awaited efforts to boost the employment in India, the government has introduced certain schemes and initiatives in its Union Budget on 23 July 2024. Accordingly, the following schemes have been launched with a validity period of two years each:

- **Scheme A: First Timers Wage Subsidy** – An individual joining employment for the first-time with a monthly salary of up to INR 1 lakh shall be eligible to get up to INR 15,000 in three instalments via direct transfer from the Central Government. However, for drawing the second instalment, such individual shall be required to undergo an online Financial Literacy course. Further, in case there is cessation of employment of the employee within 12 months of his recruitment, the aforesaid subsidy is to be refunded by the employer.
- **Scheme B: Job creation in manufacturing sector** – The employers in the manufacturing sector with at least a three-year Employee Provident Fund Organisation (EPFO) contribution history hiring at least 50 non-EPFO workers or 25% of their previous year's EPFO employee count, whichever is lower shall be eligible for subsidy on

their monthly contributions to EPFO in respect of such new joiners over a period of 4 years at the prescribed rates. Under this scheme too, in case there is cessation of employment of the employee within 12 months of his recruitment, the aforesaid subsidy is to be refunded by the employer.

- **Scheme C: Support to Employers** – Companies that increase their workforce by at least two employees (for those with fewer than 50 employees) or five employees (for those with 50 or more employees) shall be eligible for a reimbursement of the EPFO employer contributions up to INR 3,000 per month. However, the employers availing benefits under the Scheme B (and not A) shall not be entitled to avail the benefits under this Scheme.

[Source: [Business Today](#), published on 23 July 2024]

Budget 2024-25 provides the much-needed push to MSMEs

The Union Budget 2024-25 has proposed the following actions thereby providing a huge relief to the Micro Small and Medium Enterprises (MSMEs):

- A credit guarantee scheme for facilitating term loans for purchase of machinery and equipment for the MSMEs without collateral or third-party guarantee and a guarantee from a government-promoted fund to provide credit support during stress period has been proposed.
- The loan limit under the 'Tarun' category of the Mudra loans has been doubled to INR 20 lakh.
- A separately constituted self-financing guarantee fund has been proposed that will provide, to each applicant, a guarantee cover up to INR 100 crore, while the loan amount may be even higher.

[Source: [The Hindu](#), published on 23 July 2024]

Angel tax abolished

The Finance Minister, as part of her speech in the Union Budget 2024-25, has announced the abolition of angel tax on class of investors providing a huge sigh of relief to the Indian start-up ecosystem. Notably, angel tax is a provision under the Income Tax Act, 1961 that considers the investment received by startups from external investors as 'income from other sources' and the same is then taxed at a rate of 30 per cent.

[Source: [Business Today](#), published on 23 July 2024]

MCA mandates companies to disclose biannually their dealings with MSMEs

The Ministry of Corporate Affairs (MCA) has introduced the Micro, Small and Medium Enterprise-1 (MSME-1) form on its V3 portal mandating the companies dealing with MSMEs to now disclose the information relating to the payments made or to be made to such MSMEs. The MSME-1 form requires the companies to disclose details of the payment amount paid within the statutory limit of 45 days, the payment amount paid after the statutory limit of 45 days, the mode of payment, any payment amount outstanding for less than or equal to 45 days, any payment amount outstanding for more than 45 days and reason for delay in such cases.

[Source: [Business Standard](#), published on 17 July 2024]

MeitY considers proposing to exclude ex-ante measures from the Digital Competition Bill

Amidst rising concerns from the stakeholders, the Ministry of Electronics and Information is mulling to propose to the MCA to exclude *ex-ante* (pre-emptive) provisions of the Digital Competition Bill, 2024 for the time being at least. As of now, the Competition Act, 2002 is an ex-post framework which means

that the appropriate authority takes action only after an event has occurred.

[Source: [Outlook](#), published on 15 July 2024]

FSSAI mulls mandating labelling of certain nutritional information in bigger and bolder fonts

The Food Safety and Standards Authority of India (FSSAI) has approved amendments to the Food Safety and Standards (Labelling and Display) Regulations, 2020 with regard to the labelling of nutritional information. Accordingly, it has been proposed that the nutritional information regarding total sugar, salt and saturated fat on the label of a packaged food product shall be in bold letters and relatively increased font size.

[Source: [Money Control](#), published on 6 July 2024]

CCI to shortly introduce revised norms under the competition rules

The Competition Commission of India is considering tweaking the norms under the Green Channel introduced in 2019 for facilitating expeditious approvals in case of Mergers and Acquisitions (M&A), in order to further reduce the compliance burden falling on the stakeholders. Further, the CCI also plans

to amend the rules on *de minimis* exemptions, that basically allow exemption from the mandatory approval to be obtained from CCI on certain M&A deals subject to meeting certain thresholds.

[Source: [Economic Times](#), published on 28 June 2024]

Telangana eyes at having its first MSME oriented policy

As per the statement of the Minister of Industries and Information Technology, Telangana may soon have its first ever MSME policy, possibly even tabled in the next assembly session of the State thereby giving the required boost to the industries across various sectors in the State.

[Source: [Times of India](#), published on 27 June 2024]

SEBI considering relaxing certain disclosure norms for listed entities

As per its recent consultation paper published on 23 June 2024, the Securities and Exchange Board of India (SEBI) is considering easing certain disclosure norms for listed entities. Accordingly, the SEBI has proposed allowing listed entities more time to publicly disclose litigations or disputes that they are involved in. Further, it has also been proposed that public companies be

exempted from seeking approvals from their respective audit committees for directors and executives' remuneration, or

disclosing their compensation on a half-yearly basis as is required at present in terms of related party transactions.

[Source: [Outlook](#), published on 27 June 2024]

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exceeding expectations