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Legal Updates, Insights and Summary Judgements

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Insight and Foresight: our perspective on key global developments

Key Highlights from the 54th GST Council Meeting

Key Highlights from the 54th GST Council Meeting - White and Brief - Advocates & Solicitors brings to you a precursor!

Key focus areas include:

The GST Council continues to simplify tax regulations and boost efficiency across various sectors. Some notable updates include:

Reduced GST rates on cancer drugs – vital medications like Trastuzumab Deruxtecan and Osimertinib now have a lower GST rate of 5%.

Metal scrap transactions under Reverse Charge Mechanism (RCM) – designed to streamline compliance and prevent tax evasion.

Affiliation services now taxable – with certain exemptions for State and Central educational boards.

GST exemption on flying training courses approved by DGCA – a big step towards supporting aviation training in India!

These changes, along with other measures on life insurance, helicopter transport, and more, reflect the Council's ongoing commitment to fostering a trade-friendly environment.

To delve into the specifics, please review the information provided in the following link : https://www.linkedin.com/feed/update/urn:li:activity:7241375398486286336

Ankit Kumar Aggarwal v. Assistant Commissioner of State Tax [2024 (5) TMI 1188]

CASE ALERT

Case: Ankit Kumar Aggarwal v. Assistant Commissioner of State Tax [2024 (5) TMI 1188]

In the present case, the Hon'ble Calcutta High Court addressed the issue that whether the GSTR-9 annual return for the FY 2017-18 could be completely disregarded by the adjudicating authority and demand could be passed thereon without considering the GSTR-9 filed by the assessee.
The appellant, Ankit Kumar Aggarwal, made errors in GSTR-3B filings from October 2017 to March 2018 by omitting input and output cess. These discrepancies were later corrected in the GSTR-9 annual return. The Hon'ble Calcutta High Court ruled that the adjudicating authority must consider GSTR-9 and not dismiss such errors if they are subsequently corrected.
The Hon'ble High Court observed that two crucial aspects warranted sending the matter back to the adjudicating authority:
1. The Hon'ble Court recognized that GSTR-9, filed within the extended deadline due to COVID-19 notifications, holds importance and should be reviewed to reflect the true tax liability.
2. The appellant's claim that the error was revenue-neutral (i.e., no loss to the tax authorities) was also acknowledged by the court, supporting the need for a reassessment.
The court directed the Assistant Commissioner of State Tax to reconsider the submissions, provide a personal hearing, and make a fresh decision.

W&B Comment: This ruling highlight the growing judicial recognition of rectifiable GST filing errors. It reinforces the importance of accurate reconciliation between GSTR-1, GSTR-3B, and GSTR-9. Courts have consistently allowed taxpayers to correct mistakes in initial filings, focusing on substantive justice over procedural lapses. This trend reinforces the need for businesses to properly reconcile their monthly returns and file the GSTR-9 appropriately. In recent cases, courts have emphasized the importance of allowing corrections in GST filings when discrepancies arise between GSTR-1, GSTR-3B, and GSTR-9. Hon'ble Madras High Court in Abi Technologies directed the refund of IGST despite errors in GSTR-3B, stressing that procedural mistakes should not deny legitimate export incentives. In the Amarjyothi Carrying Corporation, the Hon'ble High Court emphasized that errors in GSTR-1, which were correctly reported in GSTR-3B and GSTR-9 (annual return), should be reconsidered by the authorities.
In line with this approach, the Hon'ble Calcutta High Court'sobservation in the present case may offer relief to businesses that have made genuine errors but corrected them in their annual filings, aligning with a broader trend in GST litigation.

In the favourable ruling of Ankit Kumar Aggarwal v. Assistant Commissioner of State Tax [2024 (5) TMI 1188], the Hon'ble Calcutta High Court directed the GST department to consider figures reported in Form GSTR-9 (annual return) in a case where the assessee had failed to make declarations in its monthly returns, but had disclosed the same in Form
GSTR-9.

To delve into the specifics, please review the information provided in the following link : https://www.linkedin.com/feed/update/urn:li:activity:7241865858262679552

K-9 Enterprises vs. State of Karnataka [TS-573-HC(KAR)-2024-GST

CASE ALERT

Case: K-9 Enterprises vs. State of Karnataka [TS-573-HC(KAR)-2024-GST]

The Hon'ble Karnataka High Court in the present case decided on the question of law whether the Electronic Credit Ledger ("ECL") can be blocked by revenue authorities under Rule 86A of the CGST Rules, 2017 ("CGST Rules"), without granting a pre-decisional hearing and without the fulfillment of necessary conditions under the provision. The Hon'ble High Court set aside the earlier judgment of the Learned Single Judge that had upheld the revenue authorities decision to block the ECL, noting several procedural lapses, including the failure to grant a hearing and the improper reliance on findings from another authority without independent inquiry.

The appellant, engaged in the business of lead and lead scrap, had their ECL blocked under Rule 86A of the CGST Rules, on the basis of a field report issued by the investigation wing. This field report alleged that some suppliers were non-existent or not conducting business. Based on this internal report, the adjudication officer mechanically blocked the appellant's ECL without conducting any independent verification or inquiry into the appellant's specific transactions. The Learned Single Judge upheld this blocking of the ECL, leading to the present Writ Appeal.

The Hon'ble High Court set aside the earlier order of the Learned Single Judge on essentially two points as follow:

a) Compliance with principles of natural justice for granting a personal hearing to the taxpayer before blocking of the ITC in ECL
- As per the judgment of the Gujarat High Court in Samay Alloys India (P) Ltd., even though Rule 86A of the CGST Rules does not specifically provide for a pre-decisional hearing, such a requirement must be inferred due to the serious civil consequences involved. A post-decisional hearing would not be sufficient. The High Court emphasized that compliance with the principles of natural justice is a sine qua non, and while Rule 86A does not explicitly provide for or prohibit it, there is a need to read this requirement into the rules.

- The Hon'ble Court pointed out that providing a pre-decisional hearing would not have resulted in immediate or instantaneous utilization of the ITC by the appellants, unlike bank accounts from which money can be withdrawn quickly. The process of utilizing ITC takes time, allowing the revenue authorities to supervise and monitor the proceedings, including the ECL, even during the pre-decisional hearing process.

b) Independent application of mind by the proper officer
- Rule 86A requires the officer to have "reasons to believe" that fraudulent or ineligible Input Tax Credit (ITC) has been availed. Such "reasons to believe" must be formed through the proper officer's own independent inquiry and not based on borrowed satisfaction from another authority's findings. The ECL was blocked by the proper officer due to the fact that he felt compelled to obey the command of another officer. The Hon'ble High Court observed that it was not the manner in which the law expects the power under rule 86A to be exercised. The Hon'ble Court held that when a thing is directed to be done in a particular manner, it must be done in that manner or not at all is the well-established principle of administrative law.

In the favourable ruling of K-9 Enterprises vs. State of Karnataka [TS-573-HC(KAR)-2024-GST], on the GST Department's power to blocking of Electronic Credit Ledger (ECL) under Rule 86A of the CGST Rules, the Division Bench of the Hon'ble Karnataka High Court held that the same requires "reasons to believe" and strict compliance with the provision. The Hon'ble Court emphasized that pre-decisional hearings are mandatory for blocking the ECL and the ITC cannot be blocked solely based on communications from other officers.

To delve into the specifics, please review the information provided in the following link :https://www.linkedin.com/feed/update/urn:li:activity:7245305556578553858

Case Alert: M/s. Barkataki Print and Media Services vs. Union of India & Ors.

CASE ALERT

M/s. Barkataki Print and Media Services vs. Union of India & Ors. [WP(C)/3585/2024]

The Hon'ble Gauhati High Court in the present case addressed the validity of Notification No. 56/2023-CT dated 28.12.2023 (hereinafter referred to as "Notification No. 56/2023") issued under Section 168A of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"). The tax demands confirmed by the GST Department under Section 73(9) of the CGST Act, beyond the statutory time limit qua the Notification No. 56/2023 were challenged by the taxpayers in the batch of Writ Petitions. The appellants contended that Notification No. 56/2023 was issued without a proper legal basis, violating conditions of Section 168A of the CGST.

The Hon'ble Gauhati High Court held that the Notification No. 56/2023 extending the time limits prescribed under Section 73(10) of the CGST Act for passing orders under Section 73(9) of the CGST Act was ultra vires in the absence of a recommendation by the GST Council, which was a pre-requisite under Section 168A of the Act, and also in the absence of a force majeure.

The Hon'ble High Court allowed the batch of Writ Petitions while making the following observations:

(a) GST Council recommendation is sine qua non

The Hon'ble Gauhati High Court held that the GST Council's recommendation is sine qua non for exercising the power under Section 168A of the CGST Act. During the COVID-19 pandemic, various tax administrations had requested an extension for the FY 2017-18, 2018-19, and 2019-20. Consequently, the GST Council in its 49th meeting recommended the extension of the time limit under Sub-Section (10) of Section 73 of the CGST Act for the abovementioned FYs by only three months. It was clearly noted by the GST Council that no further extension would be recommended in the interest of taxpayers. This led to the issuance of Notification No. 09/2023-CT on 31.03.2023 (hereinafter referred to as "Notification No. 09/2023"), extending the time limit for passing orders for the FY 2017-18 up to 31.12.2023, for the FY 2018-19 up to 31.03.2024, and for the FY 2019-20 up to 30.06.2024.

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The Gauhati High Court ruled GST Notification No. 56/2023 ultra vires due to the absence of a GST Council recommendation and lack of force majeure grounds. This decision is a crucial precedent for taxpayers impacted by extended timelines under invalid notifications.

White and Brief's Comment: The judgment underscores the importance of adhering to statutory procedures under Section 168A of the CGST Act, offering potential relief for affected businesses.

To delve into the specifics, please review the information provided in the following link: https://www.linkedin.com/feed/update/urn:li:activity:7246044385287520257

India’s AI Legislation Journey

Exciting times ahead as India prepares for groundbreaking AI legislation! Key highlights include:

- New AI law focusing on innovation while avoiding penal consequences.
- AI content labelling for platforms like Facebook, Instagram, and YouTube.
- Focus on Indian languages and context-specific AI models.

-Government initiatives to tackle deepfakes and promote public awareness.

Assurance that innovation will not be stifled by regulations.

Stay tuned as India balances regulation and growth in the AI space!
To delve into the specifics, please review the information provided in the following link :

https://www.linkedin.com/posts/white-and-brief-advocates-solicitors_india-ai-activity-7247939965685276672-hVOj?utm_source=share&utm_medium=member_desktop

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Update on Competition Law!

Introducing the Deal Value Threshold (DVT) under the Competition Amendment Act 2023 brings India's merger regulation in line with global standards. This new provision, effective September 10, 2024, will significantly impact Mergers and Acquisitions (M&As), particularly in the digital and emerging sectors.

Key Highlights:

DVT applies to deals exceeding Rs 2,000 crore or where the target company has substantial business operations in India. It aims to capture M&A deals in digital markets, where traditional thresholds may fall short. India now joins the ranks of the US, Germany, Austria, and South Korea, which have successfully implemented similar thresholds. This is a critical step forward in ensuring a competitive and fair marketplace, especially in data-driven industries.

Stay tuned as the CCI rolls out further regulations to guide this groundbreaking change!

To delve into the specifics, please review the information provided in the following link:

https://www.linkedin.com/posts/white-and-brief-advocates-solicitors_dvt-activity-7248009938914942976-Q8Ij?utm_source=share&utm_medium=member_desktop

Supreme Court Calls for POCSO Act Amendment!

In a landmark development on September 23, 2024, the Supreme Court of India has urged Parliament to amend the Protection of Children from Sexual Offences (POCSO) Act. The court has recommended a critical change in terminology: replacing the term 'child pornography' with 'child sexual exploitative material' to better reflect the gravity of the crime and its exploitative nature.

Key Highlights:

- The new terminology aligns with international standards, addressing the abuse and exploitation involved.
- A more robust legal framework to enhance the prosecution of offenders.
- The court emphasized the urgent need for public awareness campaigns to combat child exploitation in the digital age.

This proposed amendment is a major step towards strengthening child protection laws in India.

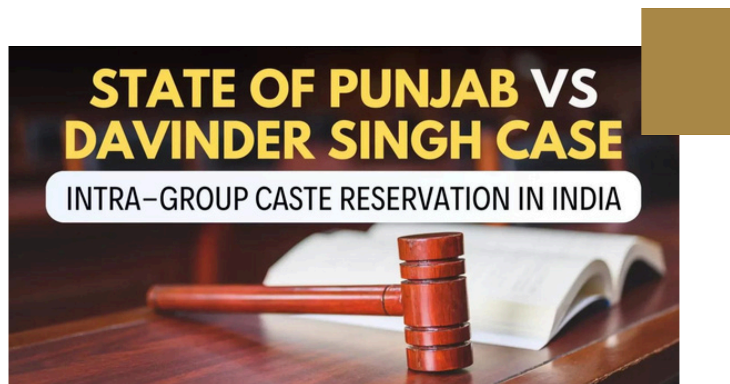
To delve into the specifics, please review the information provided in the following link:

https://www.linkedin.com/posts/white-and-brief-advocates-solicitors_pocso-activity-7248011164960337920-t-vK?utm_source=share&utm_medium=member_desktop

Recent Judgements

CIVIL

The State of Punjab V. Davinder Singh (2024 SCC OnLine SC 1860)



In the instant case, the seven judge Constitution Bench ruled by a majority of 6:1 that sub-classification within the Scheduled Castes (SCs) among reserved categories is permissible for granting separate quotes for more backwards within SC categories.

This decision addresses the Punjab Scheduled Castes and Backward Classes (Reservation in Services) Act 2006 ('the Act'), which allocated 50% of SC reserved vacancies to Balmikis and Mazhabi Sikhs. This provision was challenged and declared unconstitutional by the Punjab and Haryana High Court based on the precedent in E.V.

Chinnaiah v. State of A.P., (2005) 1 SCC 394, wherein, it was held that SCs cannot be further classified for the purpose of reservation because they constitute an internally homogenous class by virtue of their inclusion in the Presidential list and thus, as a class, groups within the SCs cannot be treated differently and any further classification and consequent preferential treatment were held to violate Article 14 of the Constitution of India, as it would amount to a constitutionally prescribed 'micro-classification'.

The Supreme Court revisited the Chinnaiah (supra) case and clarified that sub-classification within SCs is permissible under Articles 14, 15 and 16 of the Constitution of India, provided that the class is not homogenous for the purpose of the law. It established that sub-classification must meet two criteria: it should have a rational principle of intelligible differentia, and this principle must be related to the purpose of the statute. Thus, the State in exercise of the power under Articles 15(4) and 16(4) can further classify the Scheduled Castes if (a) there is a rational principle for differentiation; and (b) the rational principle has a nexus with the purpose of sub-classification. The Court emphasized that Article 341 Constitution of India does not create a homogenous class, and that sub-classification does not violate it unless it gives exclusive benefits to certain SC groups over all reserved seats. This decision aligns with the broader principles established in Indra Sawhney v. Union of India and acknowledges the SCs as a socially heterogeneous class, allowing states to further classify them under Articles 15(4) and 16(4) if justified.

Kaushik Patel & Ors V. SJR Prime Corporation Pvt. Ltd & Ors (2024 SCC OnLine SC 1762)

In this case, the Supreme Court ruled that if a party's right to file a written statement is forfeited, they cannot indirectly present their case through evidence or written submissions. While such a party may still participate in the proceedings and cross-examine the complainant, they cannot introduce their case indirectly.

The present case relates to the consumer dispute, wherein pursuant to the Supreme Court's order the Respondent/defendant had forfeited his right to file a written statement, however, liberty was granted to him to decide whether to participate in the proceedings or not. According to Order 6 Rule 7 of the CPC, a defendant can only introduce claims consistent with previous pleadings. When previous pleadings are absent due to the forfeiture of the right to file a written statement, the defendant cannot introduce their case indirectly. Despite not presenting a formal case for cross-examination, the defendant proceeded to cross-examine witnesses and submit documentary evidence. The court observed that the defendant should not have been allowed to produce evidence without having first presented a formal case. Consequently, the defendant was restricted to arguing only the legal questions based on existing laws and authorities and addressing issues such as lapses, or non-admissibility of evidence introduced by the appellants.

The Court declined to intervene in the NCDRC's decision, which did not consider the defendant’s written statements, and affirmed that forfeiture of the right to file a written statement precludes indirect case presentation. The defendant can still participate and cross-examine witnesses.

ARBITRATION

Pam Developments Private Limited V. State of West Bengal & Anr 2024 SCC OnLine SC 2247

In the instant case, the Hon'ble Supreme Court has held that the Arbitrator has the power to award pre-reference & pendente lite interest even when agreement is silent about the same. The facts of the present case are that the State of West Bengal ("Respondent") had issued a notice in 2010 inviting tender for road widening work and strengthening of Egra Bajkul road under the Tamluk Highway Division in Purbo Medinipur District. The Respondent accepted Pam Developments Private Limited's ("Appellant") offer and subsequently, the Respondent issued a Work Order for the project to be completed within a period of 18 months. The project was delayed, (by about 5 months); however, the work was finally completed in November 2012. Accordingly, upon completion of the said project, the Appellant raised a bill for Rs. 77,85,290/- and the same was in addition to seven other claims under different heads, owing to alleged delays on part of the Respondent. The Respondent denied its liability towards making any payment whatsoever to the Appellant. As such disputes and differences arose between the parties and the matter was ultimately referred to the Arbitration. The Ld. Arbitrator passed an award in 2018, and awarded an interest of 12% p.a. from April 2016 to January 2018 and 9.25% p.a. post award interest till date of actual payment.

The Respondents filed a Petition under Section 34 of the Arbitration and Conciliation Act, 1996 ("1996 Act") challenging the said award passed by the Ld. Arbitrator. The Hon'ble District Judge partly allowed the said Petition filed by the Respondent thereby setting aside claim no. 1 for loss of business and claim no. 2 for uneconomic utilization of plant and machinery as the Ld. Arbitrator didn't account for the loss of 135 days at the behest of the Appellant while determining the alleged 200 days of 'wasted machine'.

Being aggrieved the Appellant filed an Appeal under Section 37 of the 1996 Act and the Respondent filed a Cross Appeal whereby it sought to set aside the rest of the claims as well. The Hon'ble Calcutta High Court set aside the claim no. 1 as well as claim nos. 3 and 4 but restored the award with respect to claim no. 2. However, while retaining claim no. 5 as it is, the Hon'ble Calcutta High Court slightly modified claim no. 6 relating to pre-reference interest.Being aggrieved, the Appellant filed an Appeal in Supreme Court. One of the issues of dispute between the parties was regarding the award of pre-reference, pendete- lite and post award interest, despite the contract not providing for an express provision for the grant of pre-reference interest.

The Hon'ble Supreme Court observed that Section 31(7)(a) of the 1996 Act, does not make a distinction between pre-reference and pendente lite interest, and it also sanctifies party autonomy by restricting the power to grant pre-reference and pendente lite interest if the agreement bars the payment of interest. However, if the agreement is silent on grant of interest or does not specifically prohibit the same, arbitrator's power to grant pre-reference and pendente lite interest is not restricted. The Hon'ble Supreme Court observed that the pendente lite interest is a matter of procedural law and pre-reference interest is governed by the substantive law. Therefore, grant of pre-reference interest cannot be sourced solely on Section 37 of 1996 Act. Being substantive law, it has to be based on agreement between the parties (express or implied) or statutory provision. Hence, on the issue of grant of interest, the award was upheld. Accordingly, the Hon'ble Supreme Court disposed of the said Appeals.

Ahluwalia Contracts India Limited V. Union of India through Executive Engineer CPWD & Anr O.M.P. (Misc) (Comm) 477 of 2024

In the present case the Hon'ble Delhi High Court has decided an interesting issue as to whether the ceiling of the Arbitral Tribunal fees under the Schedule IV was to be calculated on the basis of claims and counterclaims together or separately for the claims and counterclaim.

The facts of the present case are that the Hon'ble Court had appointed a sole arbitrator and had directed that the Arbitrator's fee would be determined in terms of the Schedule IV of the Arbitration & Conciliation Act, 1996 ("1996 Act"). After the hearing in the matter was concluded, Ahluwalia Contracts India Limited ("Petitioner) filed a Petition under section 39(2) of the 1996 Act seeking directions to the sole arbitrator to deliver the arbitral award in the matter. The Ld. Arbitrator had passed an order dated 12.08.2023 in the said matter, and the said order records the final computation of the arbitrator's fees. The Ld. Sole Arbitrator in the said order had further recorded that the computation of the fees was based on the judgement dated 10.07.2020 passed by the Hon'ble Delhi High Court in Rail Vikas Nigam Limited V. Simplex Infrastructures Limited. According to the said judgment, the upper limit of the fees payable to the sole Arbitrator under the Fourth Schedule of the 1996 Act is Rs. 62,34,375. This interpretation of the Fourth Schedule of the 1996 Act was prevalent on 24.11.2020 when the said matter was assigned to the Ld. Sole Arbitrator. Furthermore, the Hon'ble Supreme Court's Judgment dated 30.08.2022 in ONGC V. Afcons Gunanusa JV is a subsequent judgment and applicable retrospectively.

The Hon’ble Delhi High Court observed that the judgment in the matter of Rail Vikas Nigam Limited V. Simplex Infrastructures Limited provided that the upper limit of fees payable to a sole arbitrator as per the Fourth Schedule would be calculated assuming that the sum in dispute would be consideration of the claims and counterclaims together.

As such the maximum fee under the Fourth Schedule of the 1996 Act, would be Rs. 62,34,375. The said judgement was subsequently, overruled by ONGC V. Afcons Gunanusa JV which provided that the ceiling would be calculated separately for claims and separately for counterclaims. The Hon’ble Delhi High Court observed that the Ld. Sole Arbitrator passed the aforesaid order in August 2023. However, the judgment in the matter of ONGC V. Afcons Gunanusa JV had already declared that the Rail Vikas Nigam Limited V. Simplex Infrastructures Limited was not good law. Therefore, the Ld. Arbitrator erred in relying upon a judgment which had already been set aside.

Arbitrators do not have the power to unilaterally issue binding and enforceable orders determining their own fees. Any party can file a Petition under Section 39(2) of the 1996 Act, to seek review of the fees demanded by the arbitrators. Thus, the Hon’ble Delhi High Court held that the Ld. Sole Arbitrator had erroneously applied the judgment in the matter of Rail Vikas Nigam Limited V. Simplex Infrastructures Limited. The ceiling limit for both claims and counter claims needs to be applied separately and on the basis of this calculation, some amounts were directed to be refunded to the Petitioner.

GENERAL CORPORATE

Case details: Mahesh Gupta v Assistant Controller of Patents and Designs C.A. (COMM.IPD-PAT) 328/2022

In the case of Mahesh Gupta v. Assistant Controller of Patents and Designs, the Delhi High Court upheld the decision of the Respondent- Assistant Controller of Patents and Designs to refuse the appellant's patent application for a Portable Vehicle Management System. The Assistant Controller of Patents and Designs reused the patent stating that it does not meet the inventive step requirement under Section 2(1)(ja) of the Indian Patent Act, 1970, and fails to qualify as an invention under Section 2(1)(j) of the Act.

The Appellant contended that the Respondent failed to apply widely accepted tests for evaluating the inventive step, as outlined in the Manual of Patent Office Practice and Procedure. The Appellant further emphasized the invention's portability which is a key feature that was overlooked by the Respondent. Additionally, the Appellant argued that the Respondent did not properly establish the standard of a Person Having Ordinary Skill in the Art ("PHOSITA") and instead assessed the prior art from the perspective of an overly skilled and innovative researcher.

As per the Appellant, the Patent allowed vehicle owners to monitor their vehicle's operation remotely, a problem not addressed by the prior art, which mainly focused on warning nearby drivers of reckless driving or assessing risks related to using portable devices while driving. The Appellant also claimed that the Respondent's conclusion of obviousness based on prior art documents D4 and D5 was not communicated to them which basically means they were denied a fair opportunity to respond. They also cited Hoffmann-La Roche Ltd. & Anr. v. Cipla Ltd. and Enercon (India) Limited v. Aloys Wobben concerning hindsight bias.

The central issue before the Court was whether the claims of the Subject Patent demonstrated an inventive step in light of the teachings of prior art documents D4 and D5. Upon comparing the technical advancements of the Subject Patent with those disclosed in D4 and D5, the Court found that the invention did not reveal any substantial improvements over the prior art. It noted that the features and functionalities claimed in the Subject Patent, such as real-time monitoring, anomaly detection, alert generation, emergency response, and sensor integration, were comprehensively covered by D4 and D5. While face detection and masking weren't explicitly mentioned in the prior art, the court deemed this an obvious addition for a Person Skilled in the Art (PSITA) given the widespread use of such technology.

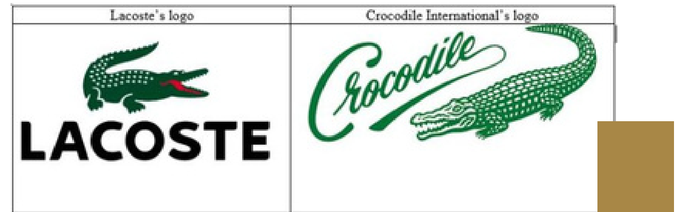
The court discussed the concept of "mosaicking" which is combining multiple prior art references and concluded that integrating the teachings of D4 and D5 would lead a PSITA to a solution very similar to the subject patent, representing a natural progression rather than a significant leap in technology.

Addressing non-obviousness, the court defined a PSITA in this context as someone proficient in on-board diagnostics design and current with the latest developments. It determined that such a person would likely arrive at the claimed invention given the existing technologies and industry needs.

The court also considered the issue of hindsight bias, emphasizing the importance of evaluating prior art from the perspective of a PSITA at the time of invention. It concluded that D4 and D5 provided a clear path to the claimed invention without relying on hindsight.

Ultimately, the court upheld the rejection of the patent application, holding that the claimed invention lacked an inventive step as required under Section 2(1)(ja) of the Indian Patent Act and the features of portability, comprehensive monitoring, and anomaly detection were either disclosed in or could be inferred from the prior art. The Court concluded that the claimed invention lacked an inventive step. The features of portability, comprehensive monitoring, and anomaly detection were either disclosed or could be reasonably inferred from prior art. Consequently, the Court upheld the rejection of the Subject Patent application under Section 2(1)(ja) for failing to demonstrate an inventive step.

Lacoste & Anr. v. Crocodile International Pte Ltd & Anr. [2024: DHC: 6150]



Delhi High Court has recently brought closure to a 23-year legal battle between two global fashion powerhouses in its judgment titled Lacoste & Anr. v. Crocodile International Pte Ltd & Anr. [2024: DHC: 6150]. The case involved Lacoste S.A. (Plaintiff), a French luxury sportswear brand, and Crocodile International Pte Ltd (Defendants), a Hong Kong-based company. The dispute involved the use of a crocodile logo trademark.

The dispute dates back to the early 1980s wherein Lacoste applied to register its crocodile device mark and logo trademark in India for Class 25 products in 1983. In 1993 Lacoste began using its trademark in India. In the year 1952, the founder of Crocodile International brand applied for trademark registration in India which was assigned to it the next year. In 1997, Crocodile International launched products and advertisements in India using the logo which led to the controversy between the parties.

In the instant dispute, the court examined several critical aspects including Trademark infringement, Copyright infringement, passing off, and validity of a 1983 co-existence agreement between the parties.
Regarding the jurisdiction of the court to try the dispute, the court affirmed its jurisdiction based on Section 62(2) of the Copyright Act, 1957, on the ground that Defendant offered apparel displaying the logo trademark mark in retail outlets across India and the Plaintiff owns a valid copyright, subsisting the world over, including India.

To analyse the issues involved in the dispute, the court focused on two main factors: the distinctiveness of Lacoste's logo and the similarity between the two logos and potential for consumer confusion. The court found substantial similarities between the marks, supporting Lacoste's claim of trademark infringement. As far as the claims of passing off are concerned, while the court acknowledged similarities in the logos, it did not find sufficient grounds for claims of passing off or copyright infringement.

The court noted that Lacoste's reputation was not well-established when Crocodile International began using its similar mark. Similarly, the Court did not find merits in the issue of copyright infringement by the Defendant, stating that both logos are derived from a common abstract concept i.e., a crocodile which has limited variations possible.

The court further took note of a 1983 international agreement between the parties which became a significant point of contention. The court's analysis revealed that the agreement had specific geographical limitations and tt did not explicitly include India in its scope. The court further explained the importance of concept of territoriality stating that it is pertinent to consider the principles of trademark law, particularly the concept of territoriality, which plays a decisive role in determining the scope of trademark agreements. Trademark rights are inherently territorial which means they are confined to the jurisdictions in which they are granted and enforced and this principle of territoriality ensures that a trademark registered in one country does not automatically confer rights to the holder in another, unless explicitly stated through international agreements or treaties. Since the 1983 Agreement explicitly listed certain countries which do not include India, it is clear that the parties intended to limit the scope of the Agreement to those territories only. Hence, obligations cannot be presumed to extend beyond the territories for which they were specifically negotiated.

While the court did not find grounds for passing off or copyright infringement, it ruled that the similarity between the logos constituted trademark infringement. As a result, a permanent injunction was issued against Crocodile International, and the company is barred from producing, marketing, or selling goods with the disputed trademark. It was further ruled that Crocodile International must account for profits from sales of goods with the infringing mark since August 1998. This ruling marks a significant victory for Lacoste in protecting its iconic crocodile trademark and underscores the importance of distinctive branding in the global fashion industry.

C.N. Shantha Kumar Versus M.S. Srinivas (Arising Out Of Slp (Criminal) No. 4370 Of 2023)

The Supreme Court of India recently in a judgment, addressed a criminal appeal arising from SLP (Criminal) No. 4370 of 2023 wherein the case involved a complaint filed under Section 138 of the Negotiable Instruments Act, 1881. Initially, the trial court convicted the appellant. However, on appeal, this conviction was overturned, and the accused was acquitted. The matter then reached the High Court through a revision petition, where the High Court reversed the appellate court's acquittal and convicted the appellant.

The primary legal issue in this case involved the scope of the High Court's revisional powers under Section 401 of the Code of Criminal Procedure, 1973 (CrPC). The appellant argued that under sub-section (3) of Section 401, the High Court lacks the authority to convert a finding of acquittal into a conviction while exercising its revisional jurisdiction. The respondent, on the other hand, argued for the merits of the conviction.

The Supreme Court, in its decision, focused on the procedural aspect rather than the merits of conviction. It emphasized that Section 401(3) of the CrPC explicitly prohibits the High Court from converting an acquittal into a conviction in its revisional capacity. The court found that the High Court had overstepped its authority in doing so in its judgment.

As a result, the Supreme Court deemed the decision of the High Court unsustainable. It noted that if the High Court was convinced of a wrongful acquittal, the proper course of action would have been to remit the matter back to the appellate court for re-appreciation, rather than directly ordering a conviction.

Hence, the Supreme Court remitted the case back to the appellate court which was the Additional District and Sessions Judge, and ordered both parties to appear before this court within four weeks from the date of the order. The appellate court was instructed to render an appropriate decision after considering the contentions of both parties.

This judgment underscores the importance of procedural correctness in the criminal justice system, particularly regarding the limits of revisional powers of higher courts. It reaffirms the principle that even if a higher court disagrees with an acquittal, it must follow the proper legal procedure rather than exceeding its powers.

CRIMINAL

Case: Rabina Ghale & Anr v. UOI & Ors [WP (Crl) No. 265 of 2022] & Anjali Gupta v. UOI & Ors [WP (Crl) No. 250 of 2022].

This Supreme Court of India in a recent judgement addressed two writ petitions filed under Article 32 of the Constitution. The petitioners are the wives of Indian Army officers who sought to quash a First Information Report (FIR) and related proceedings against army personnel, including their husbands. The case stems from a tragic incident on December 4, 2021, in Nagaland, where army personnel from the 21 PARA (SF) unit were involved in a situation that resulted in the death of six civilians. The incident escalated, leading to more civilian casualties and the death of one army personnel. Subsequently, a suo moto FIR was registered against the army personnel under various sections of the Indian Penal Code.

The legal issues revolved around the applicability of the Armed Forces (Special Powers) Act, 1958 (AFSPA) in the area where the incident occurred. Section 6 of AFSPA mandates that no prosecution, suit, or other legal proceedings can be instituted against any person for actions done in the exercise of powers conferred by the Act, except with prior sanction from the Central Government. The court noted that as of July 19, 2022, no such sanction had been granted, leading to an interim order staying further proceedings related to the FIR.

On March 7, 2024, the court was informed that the competent authority had declined sanction under Section 6 of AFSPA on February 28, 2023. Despite the court's initial inclination to close the matter and quash the FIRs, the Advocate General for the State of Nagaland requested time to file an affidavit, which was granted. The final hearing took place on August 6, 2024.

In its decision, the Supreme Court allowed both writ petitions, effectively closing the proceedings pursuant to the impugned FIRs.

However, the court made a crucial caveat: if sanction under Section 6 of AFSPA is granted at any future stage, the proceedings may continue in accordance with the law. The court also addressed a separate writ petition (Criminal Diary No. 17297 of 2024) filed by the State of Nagaland challenging the rejection of sanction, acknowledging that if this petition leads to a grant of sanction, the proceedings could be revived.

The court refrained from issuing any directions regarding potential disciplinary proceedings against the officers within the Armed Forces, stating that such decisions fall within the sole discretion of the Armed Forces themselves. This judgment highlights the complex interplay between civilian law enforcement and military operations in areas under special laws like AFSPA, emphasizing the importance of proper sanctions in prosecuting armed forces personnel for actions taken in the line of duty.

TAX

M/s. Ankit Kumar Aggarwal vs. Assistant Commissioner of State Tax [2024 (5) TMI 1188]

In the present case, the Hon'ble Calcutta High Court addressed the issue that whether the GSTR-9 annual return for the FY 2017-18 could be completely disregarded by the adjudicating authority and demand could be passed thereon without considering the GSTR-9 filed by the assessee.

The appellant, Ankit Kumar Aggarwal, made errors in GSTR-3B filings from October 2017 to March 2018 by omitting input and output cess. These discrepancies were later corrected in the GSTR-9 annual return. The Hon'ble Calcutta High Court ruled that the adjudicating authority must consider GSTR-9 and not dismiss such errors if they are subsequently corrected.

The Hon'ble High Court observed that two crucial aspects warranted sending the matter back to the adjudicating authority:

1. The Hon'ble Court recognized that GSTR-9, filed within the extended deadline due to COVID-19 notifications, holds importance and should be reviewed to reflect the true tax liability.
2. The appellant's claim that the error was revenue-neutral (i.e., no loss to the tax authorities) was also acknowledged by the court, supporting the need for a reassessment.

The Hon'ble High Court directed the Assistant Commissioner of State Tax to reconsider the submissions, provide a personal hearing, and make a fresh decision.

W&B Comments: This ruling highlight the growing judicial recognition of rectifiable GST filing errors. It reinforces the importance of accurate reconciliation between GSTR-1, GSTR-3B, and GSTR-9. Courts have consistently allowed taxpayers to correct mistakes in initial filings, focusing on substantive justice over procedural lapses. This trend reinforces the need for businesses to properly reconcile their monthly returns and file the GSTR-9 appropriately. In recent cases, courts have emphasized the importance of allowing corrections in GST filings when discrepancies arise between GSTR-1, GSTR-3B, and GSTR-9. Hon'ble Madras High Court in Abhi Technologies[1] directed the refund of IGST despite errors in GSTR-3B, stressing that procedural mistakes should not deny legitimate export incentives. In the Amarjyothi Carrying Corporation,[2] the Hon'ble High Court emphasized that errors in GSTR-1, which were correctly reported in GSTR-3B and GSTR-9 (annual return), should be reconsidered by the authorities.

In line with this approach, the Hon'ble Calcutta High Court's observation in the present case may offer relief to businesses that have made genuine errors but corrected them in their annual filings, aligning with a broader trend in GST litigation.

[1] 2022 (5) TMI 1136
[2] 2024 (3) TMI 1030

K-9 Enterprises vs. State of Karnataka [TS-573-HC(KAR)-2024-GST]

The Hon'ble Karnataka High Court in the present case decided on the question of law whether the Electronic Credit Ledger ("ECL") can be blocked by revenue authorities under Rule 86A of the CGST Rules, 2017 ("CGST Rules"), without granting a pre-decisional hearing and without the fulfillment of necessary conditions under the provision.

The Hon'ble High Court set aside the earlier judgment of the Learned Single Judge that had upheld the revenue authorities decision to block the ECL, noting several procedural lapses, including the failure to grant a hearing and the improper reliance on findings from another authority without independent inquiry.

The appellant, engaged in the business of lead and lead scrap, had their ECL blocked under Rule 86A of the CGST Rules, on the basis of a field report issued by the investigation wing. This field report alleged that some suppliers were non-existent or not conducting business. Based on this internal report, the adjudication officer mechanically blocked the appellant's ECL without conducting any independent verification or inquiry into the appellant's specific transactions. The Learned Single Judge upheld this blocking of the ECL, leading to the present Writ Appeal.

The Hon'ble High Court set aside the earlier order of the Learned Single Judge on essentially two points as follow:

(a)Compliance with principles of natural justice for granting a personal hearing to the taxpayer before blocking of the ITC in ECL.

As per the judgment of the Gujarat High Court in Samay Alloys India (P) Ltd., even though Rule 86A of the CGST Rules does not specifically provide for a pre-decisional hearing, such a requirement must be inferred due to the serious civil consequences involved. A post-decisional hearing would not be sufficient. The High Court emphasized that compliance with the principles of natural justice is a sine qua non, and while Rule 86A does not explicitly provide for or prohibit it, there is a need to read this requirement into the rules.

The Hon'ble Court pointed out that providing a pre-decisional hearing would not have resulted in immediate or instantaneous utilization of the ITC by the appellants, unlike bank accounts from which money can be withdrawn quickly. The process of utilizing ITC takes time, allowing the revenue authorities to supervise and monitor the proceedings, including the ECL, even during the pre-decisional hearing process.

(a)Independent application of mind by the proper officer

Rule 86A requires the officer to have “reasons to believe” that fraudulent or ineligible Input Tax Credit (ITC) has been availed. Such “reasons to believe” must be formed through the proper officer’s own independent inquiry and not based on borrowed satisfaction from another authority’s findings. The ECL was blocked by the proper officer due to the fact that he felt compelled to obey the command of another officer. The Hon’ble High Court observed that it was not the manner in which the law expects the power under rule 86A to be exercised. The Hon’ble Court held that when a thing is directed to be done in a particular manner, it must be done in that manner or not at all is the well-established principle of administrative law.

Even Circular No. CBEC-20/16/05/2021-GST/1552, dated 02.11.2021 (“Circular”) outlines the process and requirements for blocking the ECL. The Circular mandates that before disallowing the use of credit, the concerned officer must apply their mind and consider all the facts, including the nature of the fraud or ineligible ITC.

Blocking an ECL restricts the assessee’s ability to utilize the ITC for up to one year. Such action directly impacts the liquidity of businesses and can cripple operations, especially in sectors like scrap dealing, where cash flow and credit utilization are critical. Hence, such a measure must be taken with extreme caution and only when there is concrete evidence of fraudulent transactions. In this case, the absence of such evidence warranted setting aside the blocking of the ECL.

The bonus lies on the revenue to show that the appellants had deliberately availed fraudulent or ineligible ITC however, in the instant case, the ECL of the appellants had been blocked by the respondents without verifying the genuineness of the transaction and a bonafide purchaser cannot be denied ITC on account of a supplier’s default and the recipient cannot be made to suffer denial of ITC for the wrong doings of the supplier.

In this case, the blocking of the ECL was mechanical and lacked the required independent inquiry and fulfillment of conditions for invoking Rule 86A of CGST Rules, rendering the action illegal. The Hon'ble Court noted that the ECL was blocked solely based on communication from another officer (from the investigation wing), without any tangible material to form a belief that the ITC in the appellant's ECL was on account of any fake invoice.

The Hon'ble High Court emphasized that the power of disallowing debit of amount from the electronic credit ledger must not be exercised in a mechanical manner. Careful examination of all the facts of the case is important to determine cases fit for exercising power under Rule 86A. The remedy of disallowing debit of amount from electronic credit ledger, being extraordinary by nature, has to be resorted to with utmost circumspection and with maximum care and caution.

The Hon'ble Karnataka High Court directed the revenue authorities to reconsider the matter, ensuring compliance with the principles of natural justice and conducting an independent inquiry before taking any further action under Rule 86A

W&B Comments: The ruling highlights the original intent behind the use of Rule 86A of the CGST Rules, which allows the blocking of ITC and provides the department a manner in which the power under the rule should be utilized. While the rule is intended to curb fraudulent practices, the power must be exercised with caution and grounded in independent inquiry. Various High Courts across the country, have consistently ruled that there is no legal basis for blocking future credits under Rule 86A where the conditions under the rule have not been meet. The present ruling reinstates the necessity of principles of natural justice, even though they are not mentioned in the language of the rule itself. The Hon'ble Karnataka High Court has stated that the department's usual practice of mechanically blocking the ECL based on departmental orders should not be followed. This decision will be helpful for all assessees where the department has invoked Rule 86A without adhering to the proper procedure and law.

CGST M/s. Barkataki Print and Media Services vs. Union of India

The Hon'ble Gauhati High Court in the present case addressed the validity of Notification No. 56/2023-CT dated 28.11.2023 ("Notification No. 56/2023") issued under Section 168A of the Central Goods and Services Tax Act, 2017 ("CGST Act"). The Hon'ble High Court held that the Notification No. 56/2023 extending the time limits prescribed under Section 73(10) of the CGST Act for passing orders under Section 73(9) of the CGST Act was ultra vires in the absence of recommendation by the GST Council, which was a pre-requisite under Section 168A of the Act and also in the absence of force majeure.

The Hon'ble High Court held that the Notification No. 56/2023 is ultra vires provisions of Section 168A of the CGST Act and not legally sustainable, while making the following observations:

(a)GST Council recommendation is sine qua non

The Hon'ble Court held that a recommendation from the GST Council is essential for any action taken under Section 168A of the CGST Act. It highlighted that wherever the provisions of the CGST Act stipulates that an act is required to be done on the recommendation of the GST Council, the act can be done only when there is a recommendation. The 49th GST Council Meeting recommended that the time limit prescribed under Section 73(10) of the CGST Act to issue orders for FY 2017–2018, 2018–2019 and 2019-20 may be extended by three months only. Accordingly, the time limit for FY 2018-19 and 2019-20 was extended to 31.03.2024 and 30.06.2024, respectively. This time limit was further extended to 30.04.2024 and 31.08.2024, respectively, by issuing the challenged Notification No. 56/2023. The Notification No. 56/2023 mentioned that the extension was 'on recommendation by the GST Council', which was not so.

The Hon’ble Court held the fact that recommendations of the GST Council are not binding cannot be construed to mean that the government can act without a GST Council recommendation if the CGST Act or the SGST Act stipulates that the government can exercise on the GST Council recommendation. The Central Government knew that there was no recommendation from the GST Council and this aspect is clearly admitted. Yet the Notification No. 56/2023 mentioned that this was issued ‘on the recommendation of the GST Council’.

(a)Absence of force majeure

It was observed by the Hon’ble High Court that in order to exercise the power under Section 168A of the CGST Act, the government is required to show that, on account of the force majeure, it was beyond the control of the authorities to complete or comply within the time limit prescribed under the CGST Act. The GST Council had no occasion to consider existence of force majeure in as much as the same was never placed before the GST Council before issuance of the same. Accordingly, the Notification No. 56/2023 was issued without assessing the existence of a force majeure. Accordingly the High Court set aside the orders issued. Moreover, the Hon’ble High Court observed that the government has the powers under Section 168A(2) of the CGST Act to issue retrospective notifications and that this judgment by the High Court does not prejudice such right.

W&B Comments: This significant judgment by the Hon’ble Gauhati High Court highlights an overreach by the government, which may have far-reaching implications for all orders issued during the extended time period under Notification No. 56/2023. The show cause notices and orders for the financial years 2018-19 and 2019-20 issued after the respective due dates may now be considered time-barred. The cases where the adjudication proceedings under Section 73 are pending at the adjudication stage or appellate stage, the taxpayers may raise the said grounds by the way or additional submission to the reply or appeal, as the case may be. In the cases where only SCN or Order has been issued, such taxpayers may explore the option of challenging the respective SCN or Order before the jurisdictional High Courts.

Even though the Hon'ble Gauhati High Court's observations come as relief to the taxpayer, the Allahabad High Court[1] and the Kerala High Court[2] in separate judgments have held the similar notifications – Notification No. 09/2023-CT dated 31.03.2023, issued before Notification No. 56/2023, to be valid. In view of the divergent views by various High Courts, this issue is expected to be raised before the Supreme Court. A challenge to this judgement of Hon'ble Gauhati High Court by the GST Department before the Hon'ble Supreme Court is also expected.

[1] Graziano Trasmissioni vs. Union of India reported in [2024] (6) TMI 233
[2] Faizal Traders v. Deputy commissioner reported in [2024] (5) TMI 1183

M/s. Vulcan Metallurgical Works vs. Joint Commissioner of Commercial Taxes (Appeals) [2024 (8) TMI 578]

In the present case, the Hon'ble Karnataka High Court addressed the critical issue of granting a personal hearing under Sections 74 and 122(2)(b) of the CGST and KGST Acts. The petitioner, a registered partnership firm, filed a writ petition challenging an order issued after an inspection, claiming that the authorities failed to provide a personal hearing, thus breaching the principles of natural justice.

The Hon'ble High Court emphasized that, as per Section 75(4) of the CGST Act, the respondents are obliged to provide an opportunity for a personal hearing before passing any adverse order, irrespective of whether the taxpayer explicitly requests such an opportunity. The Hon'ble Court determined that the failure to offer a personal hearing violated natural justice principles, leading to the quashing of the orders dated 29.06.2019 and 04.08.2020. Additionally, the Hon'ble Court instructed the second respondent to grant the petitioner a personal hearing and to issue a new order within four weeks, considering all relevant arguments.

W&B Comments: This ruling underscores the judiciary's emphasis on the principles of natural justice in tax proceedings. It's unfortunate that such lapses happen repeatedly, despite the law being crystal clear. By reinforcing the obligation for tax authorities to provide a personal hearing, regardless of a request, the High Courts have multiple times ensured that taxpayers' rights are upheld.

Articles

Analysis Of GST Demands Against It Industry, And Way Forwards

I.Basis for issuance of the demand notices

The GST enforcement authorities have been issuing multiple notices to several IT companies regarding remittances made by the Indian head offices to their foreign branches for services received from these branches. These transfers are being treated as 'import of services' for which authorities are demanding payment of IGST under RCM (Reverse Charge Mechanism). This has led to a wave of avoidable litigation and concerns for IT businesses with international operations regarding cross-border financial transactions within the same company.

Infosys SCN of Rs. 32,000 crores

Last month's buzzing issue was when DGGI (Directorate General of Goods and Service Tax Intelligence) issued the show cause notice dated 30.07.2024, demanding ₹32,400 crore tax dues for five years, from FY 2017-18 to FY 2021-22, for services that Infosys received from its overseas branches. The notice stated that the adjudication proceedings are being initiated against Infosys due to non-payment of IGST for services that it has received from its overseas branches between July 2017 to FY 2021-22. As the company creates overseas branches to service clients as part of its agreements, those branches and the company are treated as 'distinct persons' under the IGST Act. Further it was stated in the notice that in lieu of receipt of supplies from overseas branch offices, the company has paid consideration to the branch offices in the form of overseas branch expenses. Hence, as per DGGI, Infosys was liable to pay GST under the RCM on supplies received from branches located outside India.

Later, after the representations made by Infosys to the department, the tax demand amounting to Rs. 3,898 crores for FY 2017-18 was dropped by the department. It was a clear case of mechanical issuance of show cause notice without application of mind. Ultimately, this back-and-forth by the department led to significant reputational damage to the company. Presently, the demand of Rs. 28,502 crores for FY 2018-19 to FY 2021-22 still looms over the company. The industry was expecting to receive some sort of clarification or relief from the GST Council in its 54th Meeting; however, no such relief was provided by the Council.

Mechanical issuance of notices by the Department

Interestingly, the IT companies have frequently been targeted by the department for issue of non-compliance with the GST provisions. The issuance of show cause notices has become quite prevalent in the IT industry, with the department issuing summon or initiating adjudication proceedings against the companies in even the smaller state jurisdiction offices across the country. For example, prior to the DGGI notice, in April this year only, Infosys faced a penalty amounting to Rs 1.46 lakh for the availment of ineligible input tax credit.

It's not just Infosys that has been targeted. In March, a show cause notice amounting to Rs. 387 crores was issued against LTIMindtree, the country's sixth largest IT major, by the department for alleged non-payment of IGST on export turnover towards services provided to clients abroad. The company received a similar notice for another GST registration from the same authority. Over the past six to seven weeks, top IT companies, such as Tata Consultancy Services, Infosys, Tech Mahindra and LTIMindtree, have faced numerous penalties and tax orders from the GST departments across the country. These companies and their subsidiaries have got at least 21 penalty notices from GST offices in Punjab, Uttar Pradesh, Delhi, Visakhapatnam, Rajasthan, Bhubaneswar, Chennai, Bengaluru, and Mumbai. While the penalties and tax amount might not be significant – ranging from few thousands to some crores of rupees, which are very small amounts for these cash-rich firms – in almost all these cases, IT firms have declared the intent to contest the notices.

It can be observed that this surge in notices is also a fallout of the expansion of Indian IT services firms into smaller cities. For instance, between July and September so far, TCS has received six notices from five of its locations; Chennai, Goa, Visakhapatnam, Uttar Pradesh, Bengaluru. The highest order is from Visakhapatnam for Rs. 1.17 crore. Similarly, Infosys has also received six notices from Odisha, Chennai, Punjab, Bengaluru. While TechM has got seven notices, LTIMindtree has got two in the same time period.

II.Merits and demerits of the alleged GST demand

The domestic entity and foreign affiliate of a same company are treated as separate persons under the GST laws and are thus separate legal entities. Therefore, as per Entry 4 of Schedule 1 of CGST Act, "the import of services by a person from a related person or from any of his other establishments outside India, in the course or furtherance of business." is a supply under GST. The levy comes from the concept of deemed supply between related parties, invoking valuation method under Rule 28(1) of CGST Rules. The department has time and again questioned the invoice values, alleging it to be incorrect open market value, leading to violation of valuation rules and consequential issuance of demand notices.

The IT industry representatives sought clarification from the government on the valuation mechanism issue for this import of services, which led to the 53rd GST Council Meeting recommending clarification regarding the valuation of supply of import of services from the foreign affiliate to its domestic entity (related parties) where recipient is eligible to full input tax credit.

Consequently, the clarificatory Circular No.210/4/2024-GST dated 26.06.2024 ("Circular") was issued to clarify that in cases where the foreign affiliate is providing certain services to the related domestic entity, for which full input tax credit is available to the said related domestic entity, the value of such supply of services declared in the invoice by the said related domestic entity may be deemed as open market value in terms of second proviso to Rule 28(1) of CGST Rules. Further, in cases where full input tax credit is available to the recipient, if the invoice is not issued by the related domestic entity with respect to any service provided by the foreign affiliate to it, the value of such services may be deemed to be declared as Nil, and may be deemed as open market value in terms of second proviso to Rule 28(1) of CGST Rules.

If we go into the merits of the proposed GST demands, there is a clear violation of the Circular by the department literally within the next week after its issuance. It is a settled position in law that the circulars issued by CBIC are binding on the department, hence the non-compliance of the Circular can also be contested by the companies. It can also be argued by the IT industry that as situation is completely revenue neutral – given that the ITC is fully eligible against the self-invoice issued by the domestic entity and payment of tax under RCM – the mechanical issuance of the demand notices appears to be just an extension of the legal proceedings to harass taxpayers.

III.Limitation period for issuance and adjudication of demand notices

GST authorities have deadlines for issuing notices, during which they must scrutinize companies' returns. As the timelines for adjudication approaches, the department issues demand notices without adequately checking the nature of the services involved. Most notices in the case of IT Companies also originate from State tax offices, which, stemming from the previous VAT regime, have a different - or 'flawed'—understanding of the GST provisions. All these factors have led to a surge of notices issued before the due date.

The due date for passing orders related to notices issued under Section 73 for FY 2019-20 was 31.08.2024. Consequently, the number of GST orders increased significantly towards the end of the period. This pattern is likely to continue for IT companies, as the deadline for show cause notices under Section 73 of the CGST Act for FY 2020-21 is 30.11.2024. Section 73 provides the adjudication process for the bonafide taxpayer, while Section 74 is invoked in case of fraud, willfull misrepresentation and/or suppression of facts, offering an extended limitation period to the department. The due date for issuance of show cause notices under Section 74 for the FY 2017-18 expired on 05.08.2024. However, for the FY 2018-19 & FY 2019-20, the department has time till 30.06.2025 and 30.09.2025 respectively to issue show cause under Section 74. Therefore, the companies can anticipate receiving further notices from the GST department under Section 73 for FY 2020-21 onwards and under Section 74 for FY 2018-19 onwards. It is also a possibility that the IT companies may be audited in smaller locations (state registration) where fewer large firms are present. The simple logic behind it is that if the number of assessees in a particular state is low, the likelihood of large firms being audited in that state increases.

IV.Differential treatment between two industries qua the import of service

During the same period, various foreign airlines received notices amounting to Rs. 10,000 crores approx., including British Airways, Emirates, Lufthansa, Singapore Airlines operating in India, for non-payment of GST under RCM on the import of services. However, during the 54th GST Council Meeting, it has been recommended by the GST Council to exempt import of services by an establishment of a foreign airlines company from a related person or any of its establishment outside India, when made without consideration. The notification effecting this exemption is yet to be implemented.

It's interesting how the GST Council has created two classes of services: one for the import of service in the foreign airlines industry, which will be exempt under GST and the second for all the other industries importing services from their foreign entity, which will be under constant scrutiny and dispute by the department even after the issuance of the Circular. Such differentiation classification lacks nexus and reasonable justification and hence, is violative of Article 14 of the Constitution of India.

V.Way forwards

In such a situation, it may not be a smart move for the companies to subject themselves to the adjudication process as the industry has a strong case on merits. The proposed demands are completely without jurisdiction and authority of law, thus, challenging these demands in Writ Petitions would be a more strategic move. It will be appropriate to invoke the Writ jurisdiction of High Court under Article 226, without any hinderance qua the alternate remedy, as these demands are in violation of the fundamental rights provided under Article 14, 19(1)(g) and Article 265 & 300A of the Constitution of India.

If the companies decide to engage in the long drawn adjudication under Section 73/74 and the subsequent appellate process under Section 107 of the CGST Act, they will have to be cautious that these demands might become contingent liability in their books of accounts. Over that, the mandatory requirement to pay 10% of tax demand as pre-deposit for filing the first appeal, along with additional the pre-deposit payment for the stay in case of second appeal, will also hamper the working capital of the companies. The declared contingent liability may also create a deterrence for foreign investors from investing, leading to difficulty in receiving fundings. This will particularly be challenging in the current economy, where the Indian IT ecosystem is facing a setback. While the established IT giants will be able to handle these finical burdens, but for the Start-ups, these demand notices may heavily impact their pockets if they decided to navigate through the adjudication and appellate processes.

To protect the working capital impact from adverse effects adjudication and appellate process, seeking an interim stay from High Courts would be advisable, more so in light of the recent precedents. Therefore, filing a Writ Petition to contest the legality and validity of the notices is the appropriate course of action for the companies at this time.

Apart from that, companies may also explore the option of making representations before the CBIC and the GST Council, in the hopes that they will consider industry practices and may receive similar relief qua exemptions provided to the airline industry.

Navigating Section 3(k): Why BlackBerry's Wireless Management Patent Was Rejected by the Delhi High Court

The Delhi High Court recently in the case of Blackberry Limited v. Controller Patents and Designs (2024:DHC:6572) declined an appeal by BlackBerry Limited(“Appellant”) against the decision of the Assistant Controller of Patent rejecting the patent application of the Appellant in wireless communication. The appellant has applied for the patent for "Administration of Wireless Systems," which proposed a method for managing wireless systems by configuring client devices using primary and secondary wireless servers. The Assistant Controller of Patents and Designs rejected this application under Section 3(k) of the Indian Patents Act of 1970 stating that the application for the patent was directed towards a set of instructions that were purely functional and lacked any inventive hardware features.

Appellant is a corporation specializing in telecommunication products and solutions. It filed a patent application in India in 2009 for a method titled "Auto-Selection of Media Files". The patent aimed to address challenges related to the management of media content in digital devices. The invention involved automatically selecting media files based on a confidence level that measures the user’s preferences (likability), thereby optimizing storage use on a given device.

As per the appellant, their invention addressed the technical problem of conflicts between multiple wireless servers, ensuring proper device operation. They contended that the process prioritized servers and resolved conflicts between instructions from different servers. BlackBerry claimed this demonstrated a technical effect and practical application, thus avoiding the Section 3(k) objection.

It was further the argument of the appellant that the subject patent was not merely a computer program or algorithm but a technical invention that solved a significant technical problem. It allows for the automatic selection of media files based on the available storage space and user preferences, a solution that is technical in nature and involves more than just software. This optimizes media file management in devices, significantly improving the device's functionality. This enhancement of device capability constitutes a technical effect and should be eligible for patent protection.

The appellant's application was initially refused by the Indian Patent Office on the ground that it violates Section 3(k) of the Patents Act, which prohibits the patenting of computer programs and algorithms. The company appealed to the Intellectual Property Appellate Board (IPAB) which was transferred to the Delhi High Court after the Tribunals Reforms Act, 2021, abolished the IPAB.

In evaluating the appeal, the Court examined the claims, nature, scope, and substance of the invention by reviewing the complete specification. The Court found that the invention primarily organized information flow between wireless systems and servers. The patent application essentially described a structured approach to managing operations within wireless systems, based fundamentally on algorithmic processes.

The Court determined that the claims pertained to the general concept of managing mobile wireless clients using primary and secondary servers.
In its analysis, the Court referred to previous judgments, including Ferid Allani v. Union of India & Ors. (2019) and Raytheon Company v. Controller General of Patents and Designs (2023) wherein it was clarified that computer-related inventions should not be evaluated based on hardware requirement alone, but on their technical contribution or effect.

The Court found that despite being technical, the core functionality relied on logical instructions and reflected an instructional nature. The Court held that to overcome Section 3(k) limitations, a patent must demonstrate a specific and credible technical effect beyond general computer functioning.

Inventions integrating elements to enhance system functionality could be patentable if meeting all criteria. This means there is a necessity to demonstrate a further technical effect through the incorporation of algorithms within a system in order to qualify for patent protection. Mere algorithms, sets of instructions, and mathematical or business methods cannot be patentable.

The Court concluded that while the application made a technical contribution, it primarily arose from an algorithmic process regulating information flow through a sequence of instructions, without demonstrating a further technical effect upon implementation. The claims and specification indicated that the invention's core functionality relied on conditional logic and procedural steps, falling under the exclusion criteria of Section 3(k) of the Indian Patents Act. Consequently, the Court dismissed the appeal, upholding the refusal of the patent application.

Analysing the impact of SEBI's Efforts to Regulate Financial Advice in the Digital Age

In recent years, a new category of social media influencers has gained prominence, they are famously referred to as "finfluencers". The name indicates a combination of "financial" and "influencers." The Advertising Standards Council of India (ASCI) defines these individuals as those who use digital and social platforms to share information and guidance on various financial matters, including investment strategies, personal finance management, and insurance options.

With the increase in popularity of social media, the community of influencers in various categories has also increased. Popular segments include personal care, Health Care, Food and Beverage, Fashion and Lifestyle, Edutech etc. One such well-known category is financial education/information on which finfluencers create and publish content. A significant portion of the followers of these influencers consists of individual investors seeking easily accessible financial advice to support their investment objectives. This trend has drawn the attention of regulatory bodies like the Securities and Exchange Board of India (SEBI), who express concerns that the recommendations provided may not always stem from transparent, well-researched, or expert sources.

The Securities and Exchange Board of India (SEBI) addressed the issue of financial influencers in its 2023 consultation paper, "Association of SEBI Registered Intermediaries/Regulated Entities with Unregistered Entities (including Finfluencers)." This document proposed regulating finfluencers through registration and disclosure requirements. It also suggested penalties for misleading claims along with guidelines for regulated entities' interactions with unregulated parties.
The 206th SEBI Board meeting this year in June 2024, approved the recommendations outlined in Consultation Paper. The approved recommendations include:

1. Prohibiting SEBI-regulated entities and their representatives from associating with individuals who provide advice or make performance claims about securities, either directly or indirectly. This ban covers financial dealings, client referrals, and shared IT infrastructure.
2. This restriction exempted individuals authorized by SEBI from engaging in such activities, as well as those focused solely on investor education without offering specific advice or performance claims.
3. Further, associations through certain digital platforms that have measures in place to prevent the dissemination of unauthorized advice or performance claims related to securities were also exempted.

As per SEBI's definition provided under SEBI (Investment Advisers) Regulations, 2013 ("IA Regulations"), individuals who provide investment advice for a fee are investment advisers. At first glance, finfluencers might not seem to fit this category as they often don't charge their audience directly. However, the situation becomes more complex when we consider finfluencers who offer paid courses or personalized advice related to securities trading.

A recent SEBI order addressed a case involving a popular finfluencer. The individual allegedly used social media to promote paid courses promising personalized investment guidance. SEBI determined that such activities fall under the purview of investment advice IA Regulations.

SEBI aims to ensure that regulated financial entities only partner with finfluencers who are officially permitted to give investment advice. This may lead regulated entities to require registration from finfluencers they work with. Finfluencers who want to maintain sponsorship relationships with these entities will likely need to meet SEBI's regulatory standards.

The new guidelines aim to protect consumers from inefficient advice by regulating the emerging trends of finfluencers activities. However, the new requirements pose several challenges. Regulated entities may need to significantly enhance their customer onboarding processes to identify potential finfluencers which will increase due diligence requirements. In order to regulate, initially it is important to identify these finfluencers but identifying finfluencers who operate anonymously on platforms like Telegram or Reddit could be particularly difficult. Before engaging with finfluencers, entities will need to verify whether identified finfluencers are properly registered or permitted by SEBI. These additional due diligence requirements could increase operational costs for regulated entities.

Conclusion

The proposed regulations aim to bring finfluencers under closer regulatory scrutiny. However, the practical implementation of these rules may present significant challenges for both finfluencers and regulated financial entities. Further clarification from SEBI regarding the extent of due diligence required and methods of its implementation will be crucial for entities to navigate this new regulatory landscape effectively.

Analysing SEBI's Push for Transparency in Related Party Transactions

Related party transactions (RPTs) often lead to conflicts between listed companies and their related parties. Since many Indian listed companies are promoter-driven or closely held, SEBI has consistently updated the regulatory framework governing RPTs to mitigate the risk of its misuse. The framework for RPTs in listed entities is primarily laid out in the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (LODR Regulations). These regulations focus on ensuring transparency, disclosure, and compliance. SEBI has taken significant steps to reinforce the regulatory framework for RPTs. one such step is SEBI Working Group Report on RPTs, published on January 27, 2020. This report noted that while companies were adhering to the letter of the law, they often violated its spirit.

As a result, SEBI expanded the scope of RPT regulations to include transactions with unrelated parties if such transactions have the "purpose and effect" of benefiting a related party. In addition to that, recent enforcement actions involving Linde India Limited (LIL) and Reliance Home Finance Limited (RHFL) prove that SEBI is moving towards stricter enforcement of the RPT framework. The regulator now focuses on examining the purpose and effect of transactions carried out by listed companies and their subsidiaries to determine compliance with RPT regulations.

In the case of RHFL, SEBI issued a detailed order on August 22, 2024, penalizing 27 companies. RHFL, a non-banking financial company (NBFC), had transferred significant funds to borrowers with weak financials and little or no cash flow, bypassing standard due diligence procedures. SEBI alleged that these actions were part of a deliberate scheme created by RHFL's promoters and key management personnel to provide funds to entities connected to the promoters. RHFL argued that these loans were given in the ordinary course of business, at arm's length, and therefore did not constitute RPTs. However, SEBI found that these transactions were part of a coordinated effort to benefit related entities at the expense of public shareholders. SEBI's investigation revealed connections between RHFL and the borrowing entities through common directorships, addresses, and cross-holdings. RHFL also claimed that SEBI lacked jurisdiction to act, as the company was regulated by the National Housing Bank and the Reserve Bank of India. SEBI refuted this, asserting its authority over RHFL as a listed company. SEBI concluded that RHFL had violated the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Markets) Regulations, 2003, by misleading investors about the diversion of funds, which also breached the LODR Regulations due to inadequate disclosures.

SEBI passed an order on Linde India Limited on July 24, 2024, relating to agreements between LIL, a listed company, and Praxair India Private Limited (PIPL), an unlisted company, following the global merger of Linde AG and Praxair Inc. These agreements involved commercial transactions and a joint venture/shareholder agreement detailing business allocation. Investors raised concerns that these agreements constituted RPTs that were not in the best interest of public shareholders. . LIL contended that shareholder approval was unnecessary because the transactions did not meet the materiality threshold of 10% of turnover, as required under Regulation 23 of the LODR Regulations.

LIL further argued that only transactions executed under a "common contract" should be aggregated when calculating the materiality threshold. SEBI disagreed, ruling that all RPTs with a related party must be aggregated for assessing materiality, regardless of whether they were under different contracts. SEBI also rejected LIL's argument that allocating business opportunities did not constitute an RPT, noting that future business allocation is effectively a transfer of assets and should be subject to the same scrutiny. Furthermore, SEBI found that the board had approved the allocation without obtaining a valuation report or assessing the potential financial impact on public shareholders.

In the RHFL case, SEBI took into account the circumvention of due diligence, involvement of connected entities, and lack of disclosure as evidence of a scheme to defraud investors. In the Linde case, SEBI criticized LIL's board for proceeding with the RPT after receiving legal opinions that shareholder approval was unnecessary, despite shareholders having initially rejected the transaction.

SEBI's recent enforcement orders underscore the importance of transparency and robust governance in managing RPTs. Companies should consider the financial impact of all obligations when determining whether RPT compliance is required. Apart from that, independent valuations should be conducted when appropriate. Furthermore, agreements that involve the relinquishment of rights or business opportunities to related parties should be carefully assessed. It is no longer sufficient to follow the formal requirements of the law; companies must also consider the substance and potential consequences of their actions. Boards are expected to act with prudence and care, ensuring that public shareholders' interests are not adversely affected by RPTs.

SEBI's evolving approach to regulating RPTs indicates that higher standards of governance are now the norm. The regulator has shown that it will enforce stringent compliance measures to protect public shareholders. Hence, the companies must adopt a forward-thinking approach to governance. The companies must carefully balance the interests of the business with those of public shareholders to ensure long-term success and compliance.

Balancing Innovation and Security: An Analysis of State Monopoly in Nuclear Energy Regulation in light of recent ruling

The Supreme Court has recently upheld the provisions of the Atomic Energy Act 1962 which bars private entities from obtaining licenses for working on nuclear energy in Sandeep TS v. Union of India Writ Petition(s)(Civil) No(s).564/2024. The Court was of the belief that these provisions serve a "salutary public purpose" that ensures nuclear energy is used only for peaceful purposes under stringent government control.

The Petitioner challenged the ban imposed on private entities seeking licenses for nuclear energy purposes under the Atomic Energy Act, of 1962. The court's judgment not only affirmed the legal validity of this restriction but also shed light on the broader implications for India's nuclear energy policies, and the delicate balance between innovation and security. The court also highlighted the role of governmental control in critical sectors like atomic energy.

The petitioner who is an Indian physicist residing in the United States, developed a technological innovation designed to trigger nuclear fission with minimal radioactive waste, positioning it as an advanced alternative to traditional nuclear fusion reactors. His invention involved producing clean energy, which is a priority for global energy sustainability efforts. However, under Section 14 of the Atomic Energy Act, 1962, private entities are prohibited from obtaining a license to work in nuclear energy production or engage in atomic energy-related activities. This provision restricts such licenses only to the Department of the Central Government, government corporations, or government-controlled entities.

The petitioner argued that his technology could significantly contribute to India's clean energy goals. He further argued that the statutory restrictions under the Atomic Energy Act were unjustly prohibitive. They deny him the opportunity to innovate and contribute to the sector. Based on this he sought relief under Article 32 of the Constitution which guarantees enforcement of fundamental rights by the Apex Court.

The primary issue before the court was to determine whether the statutory limitations were necessary to uphold national security and public welfare or if they represented an unjust infringement on individual rights and entrepreneurship.

The petitioner argued that there is a need to strike a balance between state control and private-sector innovation. He argued that the government's tight control over nuclear energy licensing, as outlined in Section 14 of the Atomic Energy Act, prevented potential innovators like him from contributing to the clean energy transition. His technology was designed to produce cleaner energy with minimal radioactive byproducts compared to traditional methods.

The court ultimately upheld the constitutionality of the Atomic Energy Act, of 1962 and dismissed the petitioner's plea for license authorization.

As far as Section 14 of the Act is considered, it empowers the Central Government to prohibit certain activities related to mines, minerals, and substances unless a license is granted. Prohibited activities are those for which a license is not provided. These include the working of any mine or minerals, being a mine or minerals from which in the opinion of the Central Government any of the prescribed substances can be obtained or the acquisition, production, possession, use, disposal, export or import of Prescribed substances, Specific minerals or substances that can yield prescribed substances, Plants designed for atomic energy production, development, use, or related research, Prescribed equipment.

Licenses for plants related to atomic energy can only be granted to any Departments of the Central Government, Authorities, institutions, or corporations established by the Central Government or Government companies.

This regulation aims to control and restrict activities related to nuclear materials and technology, ensuring that only authorized entities can engage in these sensitive areas. The government maintains strict oversight to prevent misuse and ensure safety and security in the nuclear sector.

At the same time the government is empowered to allow the use for the working of any mine or minerals specified in the order, being a mine or minerals from which in the opinion of the Central Government any of the prescribed substances can be obtained- the acquisition, production, possession, use, disposal, export or import (a) of any of the prescribed substances;

or (b) of any minerals or other substances specified in the rules, from which in the opinion of the Central Government any of the prescribed substances can be obtained; or (c) of any plant designed or adopted or manufactured for the production, development, and use of atomic energy or for research into matters connected therewith; or (d) of any prescribed equipment.

The court observed that the restrictions under Section 14 of the Act are not arbitrary. Instead, they serve a critical public function by ensuring that the use of atomic energy is confined to peaceful purposes and remains under the strict control of the state. The title of the Act explicitly outlines that the regulation is in place for the "development, control, and use of atomic energy for the welfare of the people of India" and for other peaceful purposes, emphasizing the importance of stringent safeguards.

The court highlighted the calibrated approach envisaged by the Act, wherein nuclear power can only be exploited under state supervision due to the immense potential for misuse and accidents. Therefore, the prohibition on private licensing was justified as a preventive measure to avoid any potential security risks or environmental disasters. The Court concluded that the petitioner's fundamental rights were not violated by the provisions of the Act, and hence, the petition did not warrant further consideration under Article 32.

The Supreme Court's decision reaffirmed the state's tight control over nuclear energy, which remains a heavily regulated sector in India. While the decision aligns with the global practices of many countries that impose restrictions on nuclear technology, it raises important questions regarding the future role of innovation and private enterprise in the nuclear space.

Countries like France, Russia, and China have long maintained state monopolies over their nuclear energy sectors, with private participation limited to auxiliary roles or heavily regulated collaborations. The risks of nuclear proliferation, accidents, or even potential misuse necessitate state control over atomic energy. However, a public-private partnership in research and innovation in the future could stimulate the sector, provided there is sufficient governmental oversight to prevent any misuse.

A Closer Look at Our Recent Features

Three- tier GST rate up for debate ; maintaining revenue-neutrality a challenge , say experts

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Prateek Bansal
Partner

Three-tier GST rate up for debate; maintaining revenue-neutrality a challenge, say experts

"The industry is anticipating tax rate rationalisation. However, The GoM on GST rate rationalization has decided to maintain the current tax slabs. The important objective is to understand that the GST was introduced with the object of simplifying the tax structure, however, multiple tax rates undermine the spirit of GST as there have been slew of advance rulings given and/or demands raised on the classification issues . In many instances, we have witnessed contrary rulings by different States on the same supply of goods or services. Given this and uncertainty regarding tax positions / compliances, it is apposite that the current rate structure be simplified, such as merging the 12% and 18% slabs or adopting a three-rate framework.
It cannot be lost sight of that any tinkering with the GST rate slabs will have a large-scale implication, especially in terms of the GST collections which are at all-time high. Therefore, such changes would need to ensure that GST revenue adjusts to a revenue-neutral rate ."

We are delighted to share that our Partner, Prateek Bansal , has been featured in ETLegalWorld article titled - "Three- tier GST rate up for debate ; maintaining revenue-neutrality a challenge , say experts "

To read the full article, please click on the link.

https://legal.economictimes.indiatimes.com/news/law-policy/three-tier-gst-rate-up-for-debate-maintaining-revenue-neutrality-a-challenge-say-experts/112954135

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Reliance Industries and Walt Disney merger approved by competition commission of India

We are delighted to share that our Managing Partner, NILESH TRIBHUVANN , has been featured in The Economic Times article titled - "Reliance Industries and Walt Disney merger approved by competition commission of India "

Read the full article here : https://economictimes.indiatimes.com/industry/media/entertainment/media/reliance-industries-and-walt-disney-merger-approved-by-competition-commission-of-india

India's much-awaited Media, Advertising & Entertainment - Legal Discussions are back!

We are delighted to share that our Partner Prateek Bansal is speaking at the 9th Annual Media, Advertising & Entertainment Legal Summit 2024, scheduled for 18th October 2024 at the Taj Santacruz, Mumbai.

Key Discussion Themes:

- Navigating Complexities in OTT & Broadcasting
- Advertising Regulations in the 21st Century Media Landscape
- IPR & Content Rights in the M&E Sector
- New Age Media: Challenges in a Digital-First World

Tax reforms in 100-days: Simplification, ease of compliance, key themes

1.We are delighted to share that our Partner, Prateek Bansal , has been featured inFinancial Express (India) article titled - “Tax reforms in 100-days: Simplification, ease of compliance, key themes“

Read the full article here :
https://www.financialexpress.com/money/tax-reforms-in-100-days-simplification-ease-of-compliance-key-themes-3611643/

Streaming platforms battle fresh concerns of government control , regulations

1.We are delighted to share that our Managing Partner, NILESH TRIBHUVANN , has been featured in LiveMint article titled - Streaming platforms battle fresh concerns of government control , regulations.

To read the full article click here : https://www.livemint.com/industry/media/ic-814-netflix-ott-platforms-government-control-regulations-it-rules-film-series-cinema-11726987986151.html

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GST demands facing the IT industry

We are delighted to share that Our Partner Prateek Bansal article has been published in ETLegalWorld offering deep insights into the GST demands facing the IT industry.

His article discusses:
- The surge in GST notices against IT companies.
- Infosys's case and its implications for the sector.
- Effective legal strategies to counter these tax challenges.
- Discrepancies in GST treatment across industries.

A must-read for those navigating GST issues in the IT sector.

To read the full article click here : https://legal.economictimes.indiatimes.com/news/opinions/analysis-of-gst-demands-against-it-industry-and-way-forward/113625254

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