



SAGA LEGAL

COMMUNIQUE

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COURTS THIS MONTH

- The Supreme Court in the case of *Manubhai Sendhabhai Bharwad and Another vs. Oil and Natural Gas Corporation Ltd. (“ONGC”) & Others (S.L.P.(Civil) No. 13885 of 2022)* has observed that the temporary acquisition of land cannot be continued for 20 to 25 years and if such acquisition continued for a longer period, the meaning and purpose of temporary acquisition would lose its significance. The bench comprising of Justice M.R. Shah and M.M. Sundresh while setting aside the order passed by Gujarat High Court observed that *“...It cannot be disputed that once the land is under temporary acquisition and the same is being used by the ONGC for oil exploration, it may not be possible for the landowners to use the land; to cultivate the same and/or to deal with the same in any manner. To continue with the temporary acquisition for a number of years would be arbitrary and can be said to be infringing the right to use the property guaranteed under Article 300A of the Constitution of India. Even to continue with the temporary acquisition for a longer period can be said to be unreasonable, infringing the rights of the landowners to deal with and / or use the land.”*
- The Supreme Court in the case of *The ESI Corporation vs. M/s. Radhika Theatre (Civil Appeal No. 312 Of 2023)* has ruled that as per Section 1(6) of the Employees’ State Insurance Act, 1948 (“**ESI Act**”), an establishment would be governed by the Act even if the number of employees fell below the specified limit at any time and the same provision shall be applicable to establishments established prior to the provision coming into existence. The Bench comprising of Justice M.R. Shah and Justice C.T. Ravikumar after considering a catena of earlier decisions under the ESI Act observed that *“...ESI Act should be given liberal interpretation and should be interpreted in such a manner so that social security can be given to the employees.”*
- In the case of *Saurav Das vs. Union of India & Ors. (Writ Petition (Civil) No. 1126 of 2022)* the Supreme Court has held Chargesheets and the documents attached along with them are not ‘public documents’ and enabling their free public access by uploading them online violates the provisions of the Criminal Code of Procedure as it compromises the rights of the accused, victim, and the investigation agencies. The Bench comprising of Justice M.R. Shah and Justice C.T. Ravikumar while dismissing a PIL filed by RTI (‘Right to Information’) activist observed that *“...as per Section 75 of the Evidence Act all other documents other than the documents mentioned in Section 74 of the Evidence Act are all private documents. Therefore, the chargesheet / documents along with the chargesheet cannot be said to be public documents under Section 74 of the Evidence Act, reliance placed upon Sections 74 & 76 of the Evidence Act is absolutely misplaced.”*
- The Supreme Court in the case of *Shri Ram Shridhar Chimurkar vs. Union Of India & Anr. (SLP (C) No.21876 of*



2017) has ruled that a child adopted by the wife of a government servant after his demise would not be entitled to get the family pension under Rule 54 (14) (b) of the Central Civil Services (Pension) Rules, 1972, (“**CCS (Pension) Rules**”). The Bench comprising of Justice K.M. Joseph and B.V. Nagarathna affirmed the order passed by the Bombay High Court and observed that “...it is necessary that the scope of the benefit of family pension be restricted only to sons or daughters legally adopted by the government servant, during his/her lifetime. The definition of ‘family’ is narrowly worded under the CCS (Pension) Rules, in the specific context of the entitlement to ‘family pension’ and in relation to the government servant...” “...Any other interpretation would lead to abuse of the provision in the matter of grant of family pension.”

- The Supreme Court in the matter of *The State Of Himachal Pradesh and Others vs. Goel Bus Service Kullu Etc.* (Civil Appeal No(S). 5534-5594 Of 2011) has upheld the constitutional validity of special road tax levied under Section 3A(3) of the Himachal Pradesh Motor Vehicles Taxation Act of 1972 (“**the Act**”). The Bench comprising of Justice Sanjay Kishan Kaul, Justice Abhay S. Oka, and Justice Vikram Nath ruled that state legislatures not only have the power to make laws on the taxation to be imposed on motor vehicles but also have the power to lay down principles on which such taxes are to be levied. The Court further opined that the “*Imposition of such*

additional special road tax was only to keep a check or a discipline on the transport vehicle operators to use their vehicles in accordance with the statutory provisions. This could work as a deterrent for the transport operators to not commit any breach and to follow the mandate of the law...”

In the matter of *M/s Oswal Plastic Industries versus Manager, Legal Deptt N.A.I.C.O. Ltd.* (Civil Appeal No. 83 Of 2023) the Supreme Court has directed the insurer to pay the reinstatement value of the goods damaged instead of depreciated value because as per the policy, the insurance company would be liable to pay the reinstatement value of the insured property if it is unable to reinstate or replace the damaged or destroyed property. The Bench comprising of Justice M.R. Shah and Justice C.T. Ravikumar was hearing an appeal against the decision of the National Consumer Disputes Redressal Commission which had held that the insurance company shall be liable to pay only depreciated value of the property insured and not the reinstatement value.

The Supreme Court in the case of *AMD Industries Limited (Earlier known as M/s. Ashoka Metal Décor Pvt. Ltd.) vs. Commissioner of Trade Tax, Lucknow and Anr.* (Civil Appeal No. 108 of 2013) has observed that to claim an exemption under Section 4-A (5) of the U.P. Trade Tax Act, 1948, the goods manufactured on “diversification” must be “different”, “distinct” and “separate” goods in nature. The Bench comprising



of Justice M.R. Shah and Justice Krishna Murari clarified that *“In a case of “diversification”, the effect has to be that the quality and quantity of the product should have been improved and/or increased but if the ultimate use is the same, the product manufactured on use of modern and/or advanced technology cannot be said to be manufacturing the different goods for claiming the exemption from payment of trade tax...”*

The High Court of Delhi in the case of *CPIO, Central Economic Intelligence Bureau (“CEIB”) vs. G.S. Srinivasan (W.P.(C) 10124 of 2021)* has held that the organizations exempted from the purview of the Right to Information Act, 2015 (“RTI Act”) cannot be asked to disclose the outcome of a complaint that does not relate to corruption or human rights violations. A Single-Judge Bench of Justice Prathiba M. Singh while setting aside an order of the Central Information Commission (“CIC”) directing the CEIB to provide the outcome of the complaint made by the RTI applicant, observed that *“A perusal of the complaint and the RTI Application show that the same relates to information relating to money laundering business, hawala money transactions, acts of tax evasion and smuggling activities. These do not relate to corruption or human rights violations. Thus, the same would not be covered by the exception under the proviso to Section 24(1).”*

- The High Court of Kerala in the matter of *Akshay Raj vs. Ministry of Law and*

Justice & Ors. and other connected matters (OP (MAC) NO. 6 Of 2023) has ruled that if the claim petitions filed before the Motor Accidents Claims Tribunal, (“MACT”) is beyond the period of six months then such petitions could not be dismissed on the threshold. In the present case, a Single-Judge Bench comprising of Justice Amit Rawal was dealing with a series of claim petitions filed under Section 166 of the Motor Vehicles Act 1988 that dealt with the common question of fact and law, being dismissed by MACT on the ground that the same is barred by limitation. The Court observed that *“...Rule 17 of Annexure XIII framed under Rule 150A of the Central Motor Vehicles Rules 1989, the limitation to entertain the claim petition cannot be restricted to six (6) months as there is no provision in the Act excluding the applicability of provisions of Section 29(2) of the Limitation Act.”*

The High Court of Gujarat in the case of *High Court of Gujarat vs. Chandravadan Dhruv & Anr. (R/Special Civil Application No. 20139 of 2017)* has stated that information regarding the salary and allowance of a High Court judge cannot be disclosed under the Right to Information (“RTI”) Act, 2015 as it qualifies as “personal information” under the Act. A Single-Judge Bench of Justice Biren Vaishnav while setting aside the order of the Gujarat Information Commission, opined that *“...the position of a Judge of the High Court is a constitutional post which could fall within the parameters of Section 4(1)(b)(x) of the RTI Act*



which deals with a monthly remuneration of officers and employees...”

The High Court of Kerala in the case of *Dr. Drisya D.T. and Ors. vs. Dr. Kiran & Ors. (Mat. Appeal No. 810 Of 2022)* has observed that a court cannot pass a decree on the basis of a compromise agreement between parties without specifying how the suit is to be decided or executed and what are the terms of the compromise. While dismissing the judgment delivered by the Family Court which had held that all the pending cases between the parties were settled in terms of the compromise, the Division Bench comprising of Justice Anil K. Narendran and Justice P.G. Ajithkumar observed that *“...in what way those cases should be settled has not been mentioned. On the basis of such a clause, either Rule 1 or Rule 3 of Order XXIII of the Code can be invoked. If there is a compromise and a decree based on the same has to be passed, the compromise agreement shall ordinarily be an executed one and not merely an executory one.”*

- In the case of *National Insurance Company Limited vs. Menpa Maistry & others (MFA NO.4286 OF 2014 (MV))*, the High Court of Karnataka has directed that the insurance company is liable to pay compensation to a patient who succumbs when an ambulance in which he was being shifted to a hospital for better treatment meets with an accident. A Single-Judge Bench of Justice T.G. Shivashankare Gowda while upholding the order passed by the

Motor Accident Claims Tribunal noted that *“...If the deceased was carried to provide him with better treatment, if he had treated at Mangalore his ailment could have been cured and walked out of the hospital, jaundice is not a fatal ailment, better treatment is available at higher medical centers like Mangalore and for that reason, he was being carried in an Ambulance. The driver though knew that he is carrying a patient, did not take precaution while driving, instead, he negligently caused the accident, due to the impact, the ailment of the deceased was aggravated and the patient died in the hospital. Hence, there is nexus to accident and cause of death of the deceased, but the percentage may vary and therefore, there is no sound argument on behalf of the insurance company.”*

- In the matter of *GoDaddy.com LLC & Anr. (Applicants) in Bundl Technologies Private Limited vs. AanitAwattam & Ors. (Interim Application (Lodging) No. 38837 Of 2022)*, the High Court of Bombay has refused to stop GoDaddy, an internet domain registrar, from registering future domain names infringing Swiggy’s trademark. The Single-Judge Bench comprising of Justice Manish Pitale observed that a suit for trademark infringement is a suit *in personam*, therefore, in such a suit, directions cannot be issued to restrict third parties, and in each instance of infringement, the proprietor of the mark has to rush to the Court for seeking relief. The Court, however, directed GoDaddy, to inform Swiggy whenever a



domain name containing the mark 'Swiggy' is registered and held that Swiggy will have the liberty to seek relief against each future infringement once it comes to know of the same from GoDaddy.

- The High Court of Delhi in the case of *GMR Pochanpalli Expressways Ltd. vs. National Highways Authority of India (“NHAI”)* (O.M.P.(I) (COMM) 396 of 2020) has denied permanent injunction under Section 9 of the Arbitration and Conciliation Act, 1996 (“**the Act**”) and held that Section 9 does not permit passing of an order in the nature of a permanent measure. A Single-Judge Bench comprising of Justice Chandra Dhari Singh was gearing a petition seeking direction to NHAI to reimburse/release the amount that had been deducted illegally and arbitrarily in breach of the Arbitral Award. The Court observed that “...a bare reading of Section 9 of the Act revealed that this Court had the power to make orders granting interim measure of protection under the Act. An interim relief may be granted by the appropriate court at any

point of time but before the Arbitral award becomes enforceable under Section 36 of the Act. The intention was to grant relief to the party in the intervening period from the till the Award attains finality and was enforced as per the provisions of the Act.”

- The High Court of Kerala in the case of *Muhammad Rashid @Rashid v Girivasan EK &Ors. (MACA NO. 616 OF 2018)* has stated that the Insurance Company is liable to compensate the victim of an accident/third party initially, even if the condition in the policy against driving of a vehicle in an intoxicated state is violated by the driver. A Single-Judge Bench comprising of Justice Mary Joseph observed that “...Undoubtedly, when the driver is in an inebriated state, certainly, his consciousness and senses will be impaired so as to render him unfit to drive a vehicle. But the liability under the Policy is statutory in nature and so the Company is not liable to be exonerated from payment of compensation to the victim.”



NOTIFICATIONS / AMENDMENTS INSIGHTS

- Vide Circular no. 1 of 2023 and F. No. 2251 4912021-ITA-II dated 06.01.2023, the Central Board of Direct Taxes (“**CBDT**”) has extended the time limit for compliance to be made for claiming any exemption under Section 54 to 54 GB of the Income-tax Act, 1961 (“**the Act**”). Accordingly, the compliances to be made by the taxpayers such as investment, deposit, payment, acquisition, purchase, construction or such other action, for the purpose of claiming any exemption under the provisions contained in Section 54 to 54 GB of the Act, for which the last date of such compliance falls between 01.04.2021 to 28.02.2022 (both days inclusive), can be completed on or before 31.03.2023.
- Vide Notification no. 01 of 2023 dated 05.01.2023, the Central Board of Direct Taxes (“**CBDT**”) has issued the Format, Procedure, and Guidelines for the submission of Statement of Financial Transactions (“**SFT**”) for Interest income (Abolishing the limit of Rs. 5,000/- (Rupees Five Thousand only)). Accordingly, the Remarks column point 1 at Annexure A in SFT mentioned *“The information is to be reported for all account/deposit holders where cumulative interest exceeds Rs. 5,000/- (Rupees Five Thousand only) per person in the financial year.”* has been modified to *“The information is to be reported for all account/deposit holders where any interest exceeds zero per account in the financial year excluding Jan Dhan Accounts.”*
- Vide Circular no. SEBI / HO / DDHS / DDHS-RACPOD1 / P / CIR / 2023 / 9 dated 09.01.2023, the Securities and Exchange Board of India, 1992, (“**SEBI**”) has issued a Mode of settlement for trades executed on the Request for Quote (“**RFQ**”) platform. As per the said circular, presently, Stock Exchanges are using Real-Time Gross Settlement (RTGS) channel as a mode of settlement for trades executed on the RFQ platform. Hence, in addition to the existing payment mechanisms, payment mechanisms provided by banks/payment aggregators authorized by the Reserve Bank of India, from time to time, may be used for the settlement of trades executed on the RFQ platform.
- Vide Circular no. SEBI / HO / CFD / PoD-2 / P / CIR / 2023 / 4 dated 05.01.2023, the Securities and Exchange Board of India, 1992, (“**SEBI**”) has provided Relaxation from compliance with certain provisions of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (“**LODR Regulations**”) relating to dispatching hard copy of the statement containing salient features of all the documents as prescribed in section 136 of the Companies Act, 2013 (financial statements, Board’s report, Auditor’s report etc.), to those shareholders who have not registered their email addresses. Accordingly, it has been decided to extend the relaxations till 30.09.2023.



- Vide Circular no. SEBI / HO / MRD / MRD-PoD-3 / P / CIR / 2023 / 11 dated 10.01.2023, the Securities and Exchange Board of India, 1992, (“**SEBI**”) has provided an Introduction of future contracts on Corporate Bond Indices in order to enhance liquidity in the bond market and also to provide an opportunity to the investors to hedge their positions, SEBI had constituted a working group of representatives of NSE, BSE, and MSEI to make recommendations on the matter of ‘Derivatives on Bond Indices. The circular provides details regarding index composition, contract specifications, position limits, risk management framework, etc. for the introduction of future contracts on corporate bond indices.
- Vide Notification Ref. no. RBI / 2022-23 / 165 of FIDD.CO.LBS.BC.No.17 / 02.08.001 / 2022-23 dated 13.01.2023, the Reserve Bank of India (“**RBI**”) has assigned Lead Bank Responsibility to the Formation of a new district in the State of Sikkim. Accordingly, it has been decided to assign the lead bank responsibility of the new district, Pakyong, in East Sikkim to the Central Bank of India. Moreover, the District Working Code i.e. 01U of the new district has also been allotted for the purpose of BSR reporting by banks.



DEALS THIS MONTH

InCred Capital, the wealth and asset management arm of InCred Financial Services Ltd (IFSL) has acquired digital investment firm Orowealth in an all-cash deal for the launch of its retail-focused wealth-tech platform 'InCred Money'. Orowealth is a retail-focussed digital investment platform that helps retail investors diversify their portfolio by providing access to niche, low-ticket investment opportunities, which were historically available only to HNIs/UHNIs and Corporates. The transaction will allow all the existing investors of Orowealth to fully exit their investments worth USD 1.7 million.

India's leading Private equity firm ChrysCapital has acquired California-based Xoriant, a software engineering, and digital IT services provider with Fortune 100 customers worldwide, for an unspecified amount. Xoriant provides services and solutions focused on Digital Product Engineering, Cloud Infrastructure, and Operations, Security, Data Engineering / Management, and Analytics among others. Post this acquisition, ChrysCapital will continue to focus on customer centricity, capability enhancement, and talent enrichment to improve client satisfaction.

- Online travel tech platform EaseMyTrip.com has acquired a 55% (Fifty-five percent) majority stake in cheQin for a sum of Rs. Three Crores. CheQin has over 60,000 (Sixty-thousand) top-rated properties, including three-star, four-star, and five-star hotels, private stays, vacation

rentals, beach resorts, and low-cost rooms. The deal will help in strengthening EaseMyTrip's hotel channel in terms of technology, adaptability, personalization, and the acceptance of bulk booking and long-stay requests. IPO-bound fintech unicorn Pine Labs has acquired enterprise platform Saluto Wellness Private Limited for an undisclosed amount. Pine Labs offers solutions to merchants across sectors such as electronics, food and beverage, fashion, pharmacy, telecom, and airlines. The acquisition will allow Pine Labs to provide corporate enterprises and brand partners with reward workflow management capabilities for their customers, supply chain vendors, and channel partners. Founded in 2020, Litigation and interim finance startup LegalPay has acquired a strategic stake in Gujarat-based legal and insolvency financing non-banking financial corporation ("NBFC"), PadmalayaFinserve for an unspecified amount. LegalPay provides embedded financing in the legal and insolvency market and has enabled such financing for marquee business clients and consultancy giants. The strategic alliance will bring forward the expertise and resources of both organizations and provide innovative solutions to businesses for financing legal expenses. Ghodawat Consumer Limited ("GCL"), the FMCG arm of Sanjay Ghodawat Group (SGG) has acquired a Delhi-based Health snacks start-up founded in 2017, To Be Honest ("TBH") for an undisclosed amount. The acquisition will help GCL to expand



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its product offerings by adding low-calorie snacks to existing food products.



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