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COMMUNIQUE

APRIL 2025

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SUPREME COURT THIS MONTH

- The Hon'ble Supreme Court, in the case of *Hussain Ahmed Choudhury & Ors. vs. Habibur Rahman (Dead) through Lrs. & Ors. (CA No. 5470 of 2025)*, has ruled that a plaintiff seeking a declaration of title over a property is not required to seek the cancellation of a sale deed executed by another party over the same property as per Section 31 of the Specific Relief Act, 1963 (the **"Act"**). The Court further said that a declaration of title sought by a plaintiff as per Section 34 of the Act would not become non-maintainable merely because he did not seek the "further relief" of cancellation of the sale deed executed by another party with whom the plaintiff has no privity of contract. The Bench comprising of Justice J.B. Pardiwala and Justice R. Mahadevan observed, *"where the executant of a deed wants it to be annulled, he has to seek cancellation of the deed under Section 31 of the Act, 1963. But if a non-executant seeks annulment of a deed, he has to only seek a declaration that the deed is invalid, or non est, or illegal or that it is not binding on him…a plaintiff who is not a party to a decree or a document (for instance the sale deed executed by defendants in the present case), is not obligated to sue for its cancellation. This is because such an instrument would neither be likely to affect the title of the plaintiff nor be binding on him."*

- The Hon'ble Supreme Court, in the case of *Rajan Chadha & Anr. vs. Sanjay Arora (SLP(C) No. 17013 of 2024)*, has ruled that when one judge of a court had taken a particular view and held a litigant advocate guilty of contempt of court, it was not permissible for another single judge of the same court to revisit the issue of whether contempt was committed. The factual matrix of the case was that the matter before the concerned High Court had been postponed solely to enable the respondent either to purge the contempt or, in the event he did not do so, to file an affidavit showing cause as to why he should not be punished under the Contempt of Courts Act, 1971 (**"the Act"**). When the matter was later listed before another single judge of the High Court following a change in the roster, that judge, after considering the rival submissions, held that no case of contempt was made out. The Bench of Justice B.R. Gavai and Justice Augustine George Masih opined that *"apart from this being in excess of the jurisdiction, it is also contrary to the well settled principles of judicial propriety. When one Judge of the same Court has taken a particular view holding the Respondent to be guilty of contempt, another Judge could not have come to a finding that the Respondent was not guilty of contempt."*

- The Hon'ble Supreme Court, in the case of *Cryogas Equipment Private Limited vs. Inox India Limited and Others (SLP(C.) No. 28062 of 2024)*, clarified a long-standing ambiguity in intellectual property law. The Court addressed the intersection between 'design' and 'copyright' protections, specifically interpreting Section 15(2) of the Copyright Act, 1957 (the **"Act"**), which governs the extent to which artistic works that are also registrable as designs can retain copyright protection. The Section 15(2) of the Act specifically deals with designs capable of being registered under the Designs Act, 2000 (**"Design Act"**), and the limit of copyright protection in such cases, the copyright protection to such design ceases if the design remains unregistered and is industrially reproduced more than 50 times. The Division Bench of Justice Surya Kant and Justice N. Kotiswar Singh observed, *"It would therefore be appropriate to espouse the approach already undertaken by the courts in India, as it not only emulates the best practices employed by US courts and the principles enshrined in International Conventions but it also gives due consideration to contemporaneous laws and legislations. We have thus formulated a two-pronged approach in order to crack open the conundrum caused by Section 15(2) of the Copyright Act so as to ascertain whether a work is qualified to be protected by the Designs Act.*

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This test shall consider: (i) whether the work in question is purely an 'artistic work' entitled to protection under the Copyright Act or whether it is a 'design' derived from such original artistic work and subjected to an industrial process based upon the language in Section 15(2) of the Copyright Act; (ii) if such a work does not qualify for copyright protection, then the test of 'functional utility' will have to be applied so as to determine its dominant purpose, and then ascertain whether it would qualify for design protection under the Design Act."

- The Hon'ble Supreme Court, in the case of *Ajay Raj Shetty vs. Director & Anr. (SLP(Criminal) NO.3743 of 2024),* upheld the conviction of a company's general manager under Section 85(a) of the Employees State Insurance (ESI) Act, 1948 (**"ESI Act"**), remarking that despite contributions deducted from the employees' salaries, they were not deposited with the ESI Corporation. Section 85(a) of the ESI Act deals with penalties for employers who fail to comply with provisions such as payment of contributions, submission of returns, or who obstruct officials or provide false information under the ESI Act. The Division Bench of Justice Sudhanshu Dhulia and Justice Ahsanuddin Amanuallah noted that *"...designation of a person can be immaterial if such person otherwise is an agent of the Owner/Occupier or supervises and controls the establishment in question. From the materials available on record, we find that the Appellant falls within the ambit of Section 2(17) of the Act, being a 'managing agent'...the conviction and the sentence does not require any interference, much less in the present case, where despite contributions having been deducted from the employees' salaries, they were not deposited with the ESIC."*

- The Hon'ble Supreme Court, in the case of *Sheela Devi & Anr. vs. Oriental Insurance Company Limited & Anr. (SLP(C) NOS. 21558-21559 of 2018)*, reaffirmed that under Section 4A(3)(b) of the Employees' Compensation Act, 1923 ("**the Act**"), any statutory penalty imposed on an employer for delayed payment of compensation cannot be shifted to or recovered from the insurer. The Court further clarified that such a penalty may be levied only when the employer has failed to pay the compensation due and the Commissioner finds the delay to be unjustifiable. The Division Bench comprising Justice J.K. Maheshwari and Justice Aravind Kumar observed, *"It is a settled law that the statutory penalty which is imposed upon the employer under Section 4A(3)(b) of the Act is not to be indemnified by the Insurer.....Therefore, the necessary pre-requisite for imposing the statutory penalty under Section 4A(3)(b) is that the employer must default in payment of compensation due and the Commissioner must reach the conclusion that the nonpayment is not justifiable."*

- The Hon'ble Supreme Court, in case of the *State of Rajasthan & Ors. vs. Combined Traders (CA No. 1208 of 2025)*, has upheld the decision of Rajasthan High Court, which held that the state of Rajasthan lacked the authority to create a rule under the Central Sales Tax (CST) (Rajasthan) Rules, 1957 ("**the Rules**"), that would allow for the cancellation of validly issued declarations/forms under the CST Act. 1956. The Division Bench of Justice Abhay S Oka and Justice Ujjal Bhuyan observed, *"The Central Government has the rulemaking power to prescribe the form of declaration and lay down particulars to be contained in any declaration. Therefore, the form of declaration under Section 8(4) and the contents thereof are to be provided by the rules framed by the Central Government in accordance with Section 13(1)(d) of the CST Act,...if the State Government exercises the rulemaking power under sub-section (3) of Section 13 by making rules providing for cancellation of a declaration in Form C as provided in Central Registration Rules, the State Rules will be inconsistent with the Central Registration Rules framed by the Central Government in exercise of power under Section 13(1)(d) of the CST Act."*

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- The Hon'ble Supreme Court, in the case of the *Electrosteel Steel Limited (Now M/S ESL Steel Limited) vs. Ispat Carrier Private Limited (CA No. 2896 of 2024)* while allowing an appeal against the enforcement of an arbitral award issued by the Micro and Small Enterprises Facilitation Council, held that the award could not be enforced due to the approval of a resolution plan under Section 31 of the Insolvency and Bankruptcy Code, 2016 ("IBC"), which renders the award non-executable. The Court further reiterated that once a resolution plan is approved by the National Company Law Tribunal (NCLT) under Section 31(1) of IBC, any claim that is not part of the plan stands extinguished meaning cannot be pursued further. The Division Bench of Justice Abhay S. Oka and Justice Ujjal Bhuyan stated, *"we have no hesitation to hold that upon approval of the resolution plan by the NCLT, the claim of the respondent being outside the purview of the resolution plan stood extinguished…In fact, this Court in Essar Steel India Ltd. (supra) had categorically declared that a successful resolution applicant cannot be faced with undecided claims after the resolution plan is accepted. Otherwise, this would amount to a hydra head popping up which would throw into uncertainty the amount payable by the resolution applicant."*

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HIGH COURTS THIS MONTH

- The High Court of Delhi, in the case of *San Nutrition Private Limited vs. Arpit Mangal & Ors. (CS(COMM) 420 of 2024)*, refused to grant a temporary injunction against alleged defamation, disparagement and trademark infringement by social media influencers who made videos featuring plaintiff's products. The Single Judge Bench comprising Justice Amit Bansal observed, *"The essence of his videos is only to educate the consumers, who could also be diabetic patients, students or athletes, that the protein content in the plaintiff's product is much less than what is claimed and the carbohydrate is in excess of the claim made and to advise them to carefully examine and consider all factors before selecting any brand of protein powder for purchase. He encourages the consumers to conduct their own test before making a choice. The comments made by the defendant no.1, in my prima facie view, forms an honest opinion of the defendant no.1 based on 'sufficient factual basis', i.e., the aforesaid test reports from accredited laboratories."*

- The High Court of Bombay, in the case of *Tata Capital Limited vs. Vijay Devij Aiya (Commercial Arbitration Application No. 237 & 243 of 2024)*, held that unilateral option to terminate arbitration agreement does not render it illegal. The Court subsequently held that an arbitration clause allowing only one party to opt out is not inherently invalid and can remain enforceable if remedied by removing the exclusive right of one party to appoint the arbitrator, thereby ensuring the appointment of a neutral and impartial arbitrator. The Single Judge Bench comprising Justice Somasekhar Sundaresan observed, *"By the same token, the parties having unequivocally agreed to arbitrate in the first part of the arbitration agreement (Clause 12.18 extracted above), in my opinion, the optionality in the second part ought not the erode the substratum of the arbitration agreement. Instead, just as the element of unilateral appointment has been held to be illegal and that element is excised by courts, it may follow that one party's option to terminate the arbitration agreement can be excised by eliminating such right or by making such right bilateral to save the arbitration agreement."*

- The High Court of Bombay, Goa Bench, in the case of *Goa University vs. Joint Commissioner of Central Goods and Services Tax & Ors. (W.P. No.723 of 2024)*, ruled that when a university's core and primary function is the provision of education, such activity does not qualify as a "business" under the Goods and Services Tax Act, 2017, consequently, it cannot attract tax liability under the Act. A Division Bench of Justice M.S. Karnik and Justice Nivedita Mehta observed, *"Learned Senior Advocate for the Petitioner University is justiied in contending that where the main activity is not a business then any incidental or ancillary transaction held, would normally amount to business only if an independent intention to carry on business in the incidental or ancillary transaction is established. The burden to prove such intention rests on the Department. Hence, where the main and dominant activity of the University is education, it cannot be termed as business activity to demand tax."*

- The High Court of Delhi, in the case of S*hashank Garg vs. State & Ors. (CRL.M.C. 3583 of 2018)*, held that alleged harassment by the patients during final hospitals bill settlement with insurance companies may warrant compensation for mental harassment, however, such incidents do not constitute a criminal offence. A Single-Judge Bench comprising Justice Neena Bansal Krishna observed, *"This harassment and mental trauma by the patients and their family members who are pushed to follow the matter with the Insurance Company for getting the requisite approvals which is riddled with delays at the end of the Insurance Companies, is well understandable. Much angst has been expressed on this system of getting the approvals from the Insurance Company at many forums and by the Courts, but such situation may be a ground for seeking*

compensation for mental harassment, but does not tantamount to any criminal offence…With these observations, it is held that there is no merit in the Petition and the learned ASJ in his well detailed Order, has rightly observed that no criminal offence under Section 342/420/406//34/120B IPC, is made out."

- The High Court of Madras, in the case of *Ramasamy & Anr. vs. the State (Criminal Revision Case No. 504 of 2019)*, has clarified that Section 498A of the Indian Penal Code, 1860 ("IPC") is not limited to dowry harassment but also includes other instances of cruelty meted out on a wife by her husband or his relatives. The Court further upheld the conviction and sentence of the husband and his family members, the appellants, under Section 498A of IPC, for allegedly forcing the wife to consume pills intended to terminate her pregnancy. A Single-Judge Bench comprising Justice Sathi Kumar Sukumara Kurup held, *"Nowhere in Section 498 (A) of IPC, it is stated that it is the offence only if it involves dowry harassment. A married woman may be subjected to cruelties by her husband and other relatives for very many reasons. Section 498(A) only specifies cruelty meted out to the wife by the Husband."*

- While quashing the notices issued to a lawyer demanding service tax along with interest, the High Court of Orissa, in the case of *Shivananda Ray vs. Principal Commissioner CGST and Central Excise. Bhubaneswar and Others (W.P.(C) No.6592 of 2025)*, ruled that Goods and Service Tax ("**GST**") authorities and Service tax authorities shall not harass practicing lawyers by issuing them notices for levy of GST or service tax. The Division Bench of Chief Justice Harish Tandon and Justice BP Routray observed, *"in view of the admitted fact that the Petitioner is a practicing lawyer…the Department the Petitioner is exempted from levy of service tax for such income he derived from his legal service as a Lawyer…No notice demanding payment of service tax/GST will be issued to lawyers rendering legal services and falling in the negative list, as far as GST regime is concerned…"*

- The High Court of Allahabad, in the case of *M/S K.C. International Situate and Others vs. Indian Bank Kanpur Main Branch (Writ - C No. - 263 of 2025)*, held that the Court must not interfere in matters pertaining to Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("**SARFESI Act**") unless the actions of the bank are patently illegal and/or mala fide in nature. The petitioner in the present case approached the High Court seeking to quash recovery proceedings initiated by the respondent bank under Section 13(4) of the SARFAESI Act, which allows secured creditors to take recovery action if the borrower fails to repay dues within 60 days of receiving notice under Section 13(2) of the SARFESI Act. The Division Bench of Justice Shekhar B. Saraf and Justice Dr. Yogendra Kumar Srivastava observed, *"…the factum of passing of the order under Section 13(3A) of the SARFAESI Act and the attempt to carry out service of the same on the petitioners coupled with the fact that the Section 13(4) notice was received by the petitioners leads us to the conclusion that the petitioners have missed the bus. Having now challenged the Section 13(4) notice before the Debts Recovery Tribunal, the petitioners cannot be allowed to sail on two boats at the same time by raising the earlier proceedings under Section 13(3A) of the SARFAESI Act before this Court. It is also to be noted that the petitioners have also taken the ground with regard to Section 13(3A) in the S.A. application before the Debts Recovery Tribunal."*

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NOTIFICATIONS / AMENDMENTS INSIGHTS

- The Ministry of Home Affairs ("**MHA**") vide Notification No. No.11/21022/36(0025)/2025/FCRA-II dated April 7, 2025, has modified the framework for grant of prior permission to receive foreign contributions. Previously, the ministry has permitted the non-FCRA license holders to receive the foreign contributions under prior permission for a period of 5 years. However, through this notification the government has reduced this period to 3 years. Also, the ministry has introduced a limitation period of 4 years to utilize the received contributions for the date of its approval of prior permission.

- The Department for Promotion of Industry and Internal Trade under Ministry of Commerce and Industry vide Press Note No.2 (2025 Series) dated April 7, 2025 has introduced a clause under Para 1 Annexure 3 of the FDI Policy permitting the Indian companies who are engaged in prohibited sector under FDI Policy to issue bonus shares to its pre-existing non-resident shareholders provided that the shareholding pattern of the pre-existing non-resident shareholders does not change pursuant to the issuance of bonus shares. The notification has not yet come into force and will come into effect from date of application appropriate notification issued by the concerned authorities.

- The Securities and Exchange Board of India ("**SEBI**") vide Circular no SEBI/HO/AFD/AFD-POD-3/P/CIR/2025/52 dated April 9, 2025 has amended the size criteria for mandating additional disclosure by FPI's who either individual or along with investor group hold equity AUM, Offshore Derivative Instruments in the Indian market from INR 25,000 crore to INR 50,000 crore. This circular has modified various paragraphs of FPI master circular.

- The Ministry of Finance vide Notification no S.O. 1615(E) dated April 4, 2025 has directed the Income Tax Department that no deductions shall be made u/s 194EE of the Income Tax Act, 1961 (the "**Act**") on payment of amount to the National Savings Scheme, Deferred Annuity Plan or any other plan which is notified by the central government, which is withdrawn by an individual assessee on or after April 4, 2025. Prior to this notification an individual under section 194EE of the Act was eligible to deduct up to 10% of income up on payment to such scheme or plans.

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DEALS THIS MONTH

- Wholly owned subsidiary of JSW Energy, JSW Neo Energy, has acquired a renewable energy platform from O2 Power Pooling Private Limited. The platform is valued at an enterprise valuation of approximately INR 12,468 crore, after adjustments under the share purchase agreements. This deal supports the JSW Neo Energy goal of achieving 20 GW capacity by 2030. JSW Energy group is one of the leading private-sector power producers in India and has established a presence across the power sector value chain, with diversified assets in power generation and transmission.

- Accenture (NYSE: ACN) ("**Accenture**") has acquired Hyderabad-based deep tech education platform TalentSprint, a wholly owned subsidiary of the National Stock Exchange of India Limited ("**NSE**"). Following the acquisition, 210 professionals from TalentSprint will join Accenture's LearnVantage vertical ("**LearnVantage**"). The rationale behind the acquisition is to strengthen LearnVantage's capabilities in helping organizations reshape their workforce through upskilling, reskilling, and preparing them for an AI-powered world.

- The National Bank for Agriculture and Rural Development ("**NABARD**") has acquired a 10% equity stake in 24*7 Moneyworks Consulting Private Limited ("**Moneyworks**"), a next-generation agri-fintech venture. This marks NABARD's first-ever investment in a bootstrapped startup, underscoring its commitment to driving digital transformation in rural India. Prior to this investment, NABARD had been piloting the eKCC platform across various banks over the past two and a half years, and is now set for a nationwide rollout. Developed by 24*7 Moneyworks, eKCC is a flagship, fully digital loan origination system tailored specifically for Cooperative Banks.

- Patanjali Ayurved Limited ("**Patanjali**") has received approval from the Competition Commission of India ("**CCI**") for the acquisition of 98.05% of the shares in Magma General Insurance Limited on a fully diluted basis through a share purchase. The combination was approved under the green channel route in accordance with Section 6(4) of the Competition Act, 2002 read with Rule 3 of the Competition (Criteria of Combination) Rules, 2024, as it does not involve any horizontal overlaps, vertical relationships, or complementary linkages in any plausible relevant market in India. In addition to Patanjali, the entities involved in the transaction include S.R. Foundation, Riti Foundation, R.R. Foundation, Suruchi Foundation, and Swati Foundation. According to sources, the transaction is valued at approximately INR 4,500 crore.

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