



Communiqué

Corporate & other related Laws

June 2023

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NCLAT cannot review its judgment but can recall its judgment

The corporate insolvency resolution process was initiated against a corporate debtor, by a financial creditor (FC). The Committee of Creditors (CoC) approved a resolution plan with the required majority vote, and the resolution professional's plan was subsequently approved by the Adjudicating Authority (AA). However, the AA rejected the reliefs requested by the FC in the interlocutory application (IA). The FC appealed the AA's order to the National Company Law Appellate Tribunal (NCLAT), partially succeeding in their appeal without involving the Committee of Creditors.

- The FC then appealed the NCLAT's judgment to the Honorable Supreme Court, but later withdrew the appeal with the liberty to file a review application. The NCLAT dismissed the FC's review application, stating that there is no provision for review under the Code and advised the FC to seek recourse through appropriate legal means if aggrieved. Consequently, the FC has filed the present interlocutory application (IA) seeking to partially recall the NCLAT's previously allowed order.
- Power of recall is not power of the Tribunal to rehear the case to find out any apparent error in the judgment which is the scope of a review of a judgment. Power of recall of a judgment can be exercised by this Tribunal when any procedural error is committed in delivering the earlier judgment.

MCA calls meetings on website snags

The Government has called a series of stakeholder meetings to discuss the ongoing issues with MCA 21, the website of the Ministry of Affairs (MCA). The Ministry said these meetings will be attended by representatives from LTI Mindtree that maintains the site. The Ministry, along with LTI Mindtree, will strive towards resolution of the issues by June 30, 2023.

MCA calls meetings on website snags

MCA vide its notification dated 21.06.2023 has allowed companies to file DPT-3 for the financial year ended on 31st March,2023 without paying additional fees upto 31st July,2023 owing to transition of MCA-21 portal from Version-2 to Version-3.



Form CSR-2 to be submitted separately for FY 2022-2023

MCA vide its notification dated 02.06.2023 has implemented Companies (Accounts) Second Amendment Rules, 2023.

By this notification, Form CSR-2 must be filed separately on or before March 31, 2024, after filing the specified forms AOC-4 or AOC-4-NBFC (Ind AS) or AOC-4 XBRL.

MCA: Substitutes LLP Form No. 3, Requires Additional Disclosures

MCA amends Limited Liability Partnership Rules, 2009, substitutes LLP Form No. 3 related to information about Limited Liability Partnership Agreement and changes, if any, made therein.

MCA mandates disclosure of details of each partner to contribute money or property or other benefit or to perform services and their profit-sharing ratio.

MCA also specifies disclosures related to details of Director Identification Number (DIN) / Income Tax PAN / Passport number, Designated Partner Identification Number (DPIN) / Income Tax PAN / Passport number of the partner / nominee etc.

MCA requires disclosure of the number of amendments / changes made in LLP agreement till date, as well as specific reasons for change in LLP agreement, including inter alia change in partners, change in business activity etc.

Inspection Order of Byju's Books by MCA for Corporate Governance Lapses

After the resignation of its auditor and three board members from education-technology firm Byju's, the Ministry of Corporate Affairs has sought more information about the embattled startup. The decision to order an inspection and investigation would be based on an assessment of the information, they said.





Introduction of legal identifier system for issuers with listed NCDs, securitised debt, security receipts

Capital markets regulator SEBI extended the timeline till June 8, 2023 for submitting public comments on the proposed sweeping changes to the mutual fund's expense ratio. The proposal is aimed at curbing distributor practices of unnecessary switching of schemes and pushing new fund offerings for higher commissions. SEBI had placed a consultation paper on the review of the total expense ratio (TER) charged by AMCS to unitholders of fund schemes on May 18, 2023 and sought comments till June 1, 2023 on the proposal. TER accounts for the fees and expenses charged by asset management companies (AMCs). SEBI in its consultation paper proposed the introduction of performance fees for funds. It proposed two approaches in this regard but also suggested testing the models under the Regulatory Sandbox. Under the proposed framework, SEBI proposed that at the AMC level, the maximum TER that can be charged for an equity scheme is 2.55 per cent. This limit should be for AMCs that fall within the first AUM slab (up to Rs 2,500 crore). Further, SEBI is looking to bring all additional heads of expenses under the overall TER.

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