SAGUS SPEAKS

This Newsletter covers key Regulatory & Policy Updates, Government Notifications and Judicial Pronouncements.

REGULATORY & POLICY UPDATES

SEBI notified the SEBI (Real Estate Investments Trusts) (Second Amendment) Regulations, 2024[1] and the SEBI (Infrastructure Investment Trusts) (Second Amendment) Regulations, 2024.[2]

The Securities Exchange Board of India ("SEBI") notified the SEBI (Real Estate Investments Trusts) (Second Amendment) Regulations, 2024 and the SEBI (Infrastructure Investment Trusts) (Second Amendment) Regulations, 2024 (collectively referred to as "REITs and InvITs Amended Regulations"). The REITs and InvITs Amended Regulations were published in the official gazette and came into effect on 13.07.2024.

The REITs and InvITs Amended Regulations have introduced a new chapter on 'framework for unit-based employee benefit scheme' ("Framework") as Chapter IVA of the SEBI (Real Estate Investment Trusts) Regulations, 2014 and as Chapter IVB of the SEBI (Infrastructure Investment Trusts) Regulations, 2014. Salient features of the Framework are as follows:

i. The 'employee unit option scheme' ("Scheme") can be granted by the managers/investment managers of the relevant Real Estate Investment Trusts ("REITS") and Infrastructure Investment Trusts ("InvITs") and the Scheme needs to be implemented through a separate employee benefit trust ("Trust") and the trustee of the Trust cannot be the trustee of the relevant REIT or InvIT.

[1] SEBI (Real Estate Investments Trusts) (Second Amendment) Regulations, 2024

[2] SEBI (Infrastructure Investment Trusts) (Second Amendment) Regulations, 2024

ii. The Framework provides the detailed manner in which units shall be received and allotted to the Trust from the relevant REITs and InvITs.
iii. For the purposes of secondary acquisition, the relevant managers/investment managers shall be required to take prior approval of the unitholders. The nomination and remuneration committee of the relevant managers/investment managers shall be responsible for the administration and superintendence of the Scheme which shall include responsibilities such as drafting suitable internal policies and procedures while ensuring compliance with all the relevant laws.
iv. The Framework also requires the respective managers/investment managers to obtain prior approval of unitholders in case they are amending the terms of the Scheme except for fulfilling any legal or regulatory obligations.

SEBI notified SEBI (Alternative Investment Funds) (Third Amendment) Regulations, 2024.[3]

SEBI notified the SEBI (Alternative Investment Funds) (Third Amendment) Regulations, 2024 ("AIF Amendment Regulations"). The AIF Amendment Regulations were published in the official gazette and came into effect on 20.07.2024 ("Effective Date").

The AIF Amendment Regulations have introduced a new Chapter III-D within the SEBI (Alternative Investment Funds) Regulations, 2012 ("AIF Regulations") providing a framework for a separate sub-category of Venture Capital Funds ("VCFs") under 'Category I AIF' called 'Migrated VCFs', to give an option to the VCFs registered under the erstwhile SEBI (Venture Capital Fund) Regulations, 1996 ("VCF Regulations") to migrate to the new AIF Regulations. Salient features of the framework are as follows:

i. Regulation 3(2) of the AIF Regulations, which dealt with funds registered under VCF Regulations has been amended to allow such VCFs a 12 (twelve) months period from the Effective Date to register themselves under the AIF Regulations.
ii. The framework provides various eligibility criteria for VCFs to be eligible for registration such as the applicant VCFs must have a valid certificate of registration under the VCF Regulations.
iii. Migrated VCFs shall only be allowed to raise investment through private placement and cannot invite offers from the public. Migrated VCFs while raising funds shall be required to issue a placement memorandum or enter into a subscription agreement along with the specified content.
iv. Migrated VCFs shall be allowed to make investments subject to various conditions such as not investing more than 25% of their corpus in a single undertaking, not investing in any associated companies, investing at least 66.67% of their investable funds in unlisted equity shares etc.
v. Migrated VCFs shall not be allowed to launch any new scheme. The tenure of such Migrated VCFs shall be calculated in the manner specified by SEBI, and the tenure may be extended by two years subject to the approval of 2/3rd of the unit holders.

MNRE issued Operational Guidelines for implementation of PM Surya Ghar: Muft Bijli Yojana.

The Ministry of New and Renewable Energy ("MNRE") through its office memorandum dated 18.07.2024 issued (a) Operational Guidelines on Capacity Building[4], (b) Operational Guidelines on Incentives to Local Bodies[5] and (c) Operational Guidelines on Incentives to Distribution Companies ("DISCOMs")[6] for implementation of PM-Surya Ghar: Muft Bijli Yojana ("PM-MBY")

The key highlights of the Operational Guidelines on Capacity Building ("Capacity Building Guideline") are as follows:

i. The objective of the Capacity Building Guideline is to create more than three lakhs skilled manpower through fresh skilling and up-skilling out of which one lakh will be Solar PV Technicians.
ii. At the national level, the National Programme Implementing Agency ("NPIA") is responsible for implementing and monitoring the skilling and capacity building. The State Implementation Agencies are responsible for implementation at the state level.
iii. The total financial outlay of capacity building component of the PM-MBY is 1% of Central Financial Assistance ("CFA") for residential consumers i.e., INR 657 Crores.

The key highlights of the Operational Guidelines on Incentives to Local Bodies ("Incentives to Local Bodies Guideline") are as follows:

i. The objective of the Incentives to Local Bodies Guideline is to (a) promote the participation of local bodies in rural and urban areas in the promotion of PM-MBY, and (b) to leverage capacities of local bodies in order to reach out to electricity consumers and create convergence at ground level through the local body interventions.
ii. The total financial outlay for incentives to local bodies under PM-MBY is INR 1000 Crores.

[3] AIF Amendment Regulations 20.07.2024
[4] Operational Guidelines on Capacity Building
[5] Operational Guidelines on Incentives to Local Bodies
[6] Operational Guidelines on Incentives to Distribution Companies

iii. NPIA is responsible for implementation of the incentives to local bodies component of PM-MBY. Further, NPIA has to ensure that incentive against the installation under the PM-MBY is given to local bodies.

The key highlights of the Operational Guidelines for Incentives to DISCOMs ("Incentives to DISCOMs") are as follows:

i. The Incentives to DISCOMs has been issued with the objective of providing resources to DISCOMs to participate in creating a conducive regulatory and administrative mechanism to ensure adherence to timelines for approvals, achieve targets for implementation, ensuring timely availability of net meters, saturation of Grid Connected Rooftop Solar ("RTS") on government buildings, utilization of incentive for RTS dedicated activities, incentivizing field level staff through recognition and rewards.
ii. The total financial outlay for Incentives to DISCOMs under PM-MBY is INR 4,950 Crores.
iii. Incentives to DISCOMs will be based on achievement in the installation of additional grid-connected rooftop solar capacity in all sectors over and above the base level, for the first additional 18000 MW of rooftop solar capacity in India. Further, the Incentives to the DISCOMs would be available only for the addition of an initial 18000 MW rooftop solar capacity in the country after 31.03.2019.
iv. For release of funds, DISCOM shall raise a claim to the MNRE for release of funds under this component of PM-MBY for each financial year. Further, the release of funds under this component of PM-MBY from FY 2025-26 onwards shall be subjected to the submission of the Fund Utilization Report by the DISCOMs.

RBI issued revised Master Direction on Fraud Risk Management for banks.

The Reserve Bank of India ("RBI") on 15.07.2024, notified the revised Master Directions on Fraud Risk Management in Commercial Banks (including Regional Rural Banks) and All India Financial Institutions[7] ("2024 Master Directions"). The 2024 Master Directions supersede the Master Directions on Fraud – Classification and Reporting by Commercial Banks and select FIs[8] dated 01.07.2016.

Further, the 2024 Master Directions have sought to incorporate the directions of the Supreme Court of India in *SBI & Ors. v. Rajesh Aggarwal*[9].

The key highlights of the 2024 Master Directions are as follows:

i. The scope of applicability of the 2024 Master Directions has been expanded to include Regional Rural Banks, Rural Cooperative Banks, Export-Import Bank of India, National Bank for Agriculture and Rural Development and Housing Finance Companies etc.
ii. Regulated Entities ("RE") will now explicitly be required to ensure compliance with the principles of natural justice, including issuing of show cause notice to the persons/entities, with complete details of the transactions/actions/events basis which they are proposed to be declared as 'fraud'. It further provides for a minimum of 21 (twenty-one) days to such persons/entities to respond to such notice, before classifying such persons/entities as fraud.
iii. Penal Measures under the 2024 Master Directions including debarment from raising of funds and/or seeking additional credit facilities for a period of 5 (five) years from date of full repayment of defrauded amount/ settlement amount is now extended to subsidiary company, joint venture and associate company of the entity being classified as fraud.
iv. The categories for reporting of fraud have been broadened to include wilful falsification, destruction, alteration of any book, electronic record, paper etc. with intent to defraud, fraudulent credit facilities extended for illegal gratification, fraudulent electronic banking, etc.
v. REs to set up "Data Analytics and Market Intelligence Unit" to analyse sector/ business/ client specific information for classification of 'Early Warning Signals' to enable REs to identify potential cases of fraud.
vi. The timeline for furnishing of Fraud Monitoring Report by REs to the central fraud registry has been reduced from 3 (three) to 2 (two) weeks.

RBI issued Master Directions on treatment of Wilful Defaulters and Large Defaulters.

RBI issued the Reserve Bank of India (Treatment of Wilful Defaulters and Large Defaulters) Directions, 2024[10] ("WD Master Directions") on 30.07.2024. The WD Master Directions will come into effect on 01.11.2024. The key highlights of the WD Master Directions are as follows:

i. The WD Master Directions are applicable on lenders, Asset Reconstruction Companies ("ARCs"), Credit Information Companies ("CICs") and all entities regulated by the RBI.

[7] Master Directions on Fraud Risk Management in Commercial Banks (including Regional Rural Banks) and All India Financial Institutions
[8] Master Directions on Fraud – Classification and Reporting by Commercial Banks and select FIs
[9] Civil Appeal 7300 of 2022
[10] Reserve Bank of India (Treatment of Wilful Defaulters and Large Defaulters) Directions, 2024

ii. All Non-Performing Assets ("NPA") accounts with an outstanding amount of INR 25 Lakhs and above are to be assessed for Wilful Default. Within 6 (six) months of an account being classified as a NPA and detection of Wilful Default, the lenders shall complete the classification process for wilful default.
iii. If the Identification Committee of the lender is satisfied of an event falling under the category of Wilful Default, then the following procedure shall be followed:
   a) Issuance of a show-cause notice to alleged Wilful Defaulter.
   b) A reply to the show-cause notice to be furnished within 21 (twenty-one) days.
   c) Considering submission(s) made, the Identification Committee will make a proposal to the Review Committee.
   d) The alleged Wilful Defaulter shall make a representation before the Review Committee, within 15 (fifteen) days from the date of proposal by the Identification Committee.
   e) A reasoned order, considering the submissions of the Wilful Defaulter, will be passed by the Review Committee.
iv. The lenders will examine whether initiation of criminal proceedings is warranted against the Wilful Defaulters.
v. The lenders will also formulate a non-discriminatory board approved policy setting out the criteria for publishing photographs of persons classified as wilful defaulters.
vi. No additional credit facility will be granted to a wilful defaulter or any entity with which a wilful defaulter is associated, which shall be effective for a period of 1 (one) year after the Wilful Defaulter has been removed from the list of wilful defaulters by the Lender.
vii. No credit facility for floating of new ventures will be granted to a wilful defaulter or any entity with which a wilful defaulter is associated for a period of 5 (five) year after the Wilful Defaulter has been removed from the list of wilful defaulters by the Lender.
viii. If a Wilful Defaulter is a company, another company will be deemed to be associated with it if it is a subsidiary company or falls within the definition of joint venture or associate company as per the Companies Act, 2013. If the Wilful Defaulter is a natural person, all entities in which he is associated as promoter, or director or as one in charge and responsible for the management of the affairs of the entity shall be deemed to be associated. The penal provisions will cease to be applicable on associated entities once they are no longer associated with the Wilful Defaulter.
   Lenders shall submit information to all CICs in respect of the Wilful Defaulters. All lenders or ARCs to whom the account has been transferred, shall submit information to all CICs in respect of Wilful Defaulters. Lenders will also report the details of guarantors who have failed to disburse their obligations as large/Wilful Defaulters.
ix. At the time of credit appraisal, lenders shall verify that the name of any Wilful Defaulter does not appear in the list of Wilful Defaulters.

GOVERNMENT NOTIFICATIONS

Ministry of Law and Justice clarified that reference to IPC, CrPC and Evidence Act will be read as references to BNS, BNSS and BSA[11].

The Ministry of Law and Justice issued a notification dated 16.07.2024 in pursuance of Section 8 of the General Clauses Act, 1897 notifying that any reference to the Indian Penal Code, 1860, Code of Criminal Procedure, 1973 ("CrPC") and the Indian Evidence Act, 1872 is made in any:

i. Act of Parliament; or
ii. Act made by the Legislature of any State;
iii. Ordinance;
iv. Regulations made under Article 240 of the Constitution;
v. President's order;
vi. Rules, regulations, order or notification made under any Act, Ordinance or Regulation,

for the time being in force, shall respectively be read as the reference of Bharatiya Nyaya Sanhita, 2023, Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS") or the Bharatiya Sakshya Adhiniyam, 2023 and the corresponding provisions of such law shall be construed accordingly.

MCA notified the Companies (Appointment and Qualification of Directors) (Amendment) Rules, 2024.

The Ministry of Corporate Affairs ("MCA") through its notification dated 16.07.2024, issued the Companies (Appointment and Qualification of Directors) (Amendment) Rules, 2024[12] ("Amendment Rules"). The Amendment Rules modify Rule 12A of the Companies (Appointment and Qualification of Directors) Rules, 2014 ("Rules") which lay down the requirement of KYC for Directors on the board of companies. The Amendment Rules came into effect from 01.08.2024.

Prior to the amendment, the third proviso to Rule 12A of the Rules stated that in the event wherein an individual wishes to update their personal mobile number or e-mail address, the same shall be done by submitting e-form DIR-3 KYC. The Amendment Rules provide that such information should be

[11] https://bprd.nic.in/uploads/pdf/255467.pdf

[12] Companies (Appointment and Qualification of Directors) (Amendment) Rules, 2024

updated on or before September 30 of the relevant financial year.

Further, the Amendment Rules add a fourth proviso to Rule 12A of the Rules, stating that if an individual wishes to update their mobile number or e-mail address at any time during the financial year, in addition to the updation timeline notified via the Amendment Rules, then the same can be done by submitting e-form DIR-3 KYC along with a fee of INR 500/.

MCA amended the SBO Rules, the Management and Administration Rules, and the Specified Companies Order.

The MCA introduced three amendments namely, the Companies (Significant Beneficial Owners) Amendment Rules, 2024, the Companies (Management and Administration) Amendment Rules, 2024, and the Specified Companies (Furnishing of information about payment to micro and small enterprise suppliers) Amendment Order, 2024 via notifications dated 15.07.2024 ("Amendment Notifications"). The changes introduced are mentioned hereinbelow:

i. Companies (Significant Beneficial Owners) Amendment Rules, 2024[13]:
   a) Form BEN-2 (return to the registrar in respect of the declaration under section 90 of the Companies Act, 2013 ("CA 2013") has been modified and the updated form has been attached with the notification.
ii. Companies (Management and Administration) Amendment Rules, 2024[14]:
   a) Form MGT-6 (return to the registrar in respect of the declaration under Section 89 of the CA 2013) has been modified, and the updated form has been attached in the notification.
iii. Specified Companies (Furnishing of information about payment to micro and small enterprise suppliers) Amendment Order, 2024[15]:
   a) Prior to the amendment, all specified companies were required to file MSME Form-1 (furnishing half-yearly return with the registrar in respect of outstanding payments to micro or small enterprises). The amendment inserted a proviso under paragraph 3 of the Specified Companies (Furnishing of information about payment to micro and small enterprise suppliers) Order, 2019. The inserted proviso states that MSME Form-1 is only required to be submitted by specified companies that have payments pending to micro and small enterprises for more than 45 days from the date of acceptance or deemed acceptance of goods and services.
   b) Further, the MSME Form-1 has been modified, and the updated form has been attached in the notification.

JUDICIAL PRONOUNCEMENTS

Supreme Court held that a registered sale deed cannot be held to be void merely because it was executed during the pendency of a suit in relation to the subject property.

The Supreme Court in its judgement dated 10.07.2024 in the matter of *Yogesh Goyanka v. Govind & Ors.*[16], held that a registered sale deed ("RSD") cannot be held to be void merely because it was executed during the pendency of a suit in relation to the property.

In the present case, the RSD contained a specific declaration that there were cases pending before the Additional District Judge ("ADJ") in relation to the subject land. Subsequently, in a suit filed by Govind & Ors., the ADJ passed an order of temporary injunction against the RSD and sale deeds. Consequently, Yogesh Goyanka sought for impleadment in the matter, however, the ADJ rejected the impleadment application. The said order of ADJ was challenged by Yogesh Goyanka before the High Court, wherein, the High Court rejected the challenge made by the Yogesh Goyanka and held the RSD to be a nullity on account of the same being hit by the doctrine of *lis pendens* in terms of Section 52 of the Transfer of Property Act, 1882 ("TPA").

The Supreme Court held that Section 52 of TPA does not render all transfers *pendente lite* to be void *ab-initio*. It merely renders rights arising from such transfers as subservient to the rights of the parties to the pending litigation and subject to any direction that the Court may pass thereunder.

Supreme Court held that CIRP of holding company cannot include subsidiary company's assets.

The Supreme Court by its order dated 23.07.2024 in the case of *BRS Ventures Investments Ltd. v. SREI Infrastructure Finance Ltd. & Anr.*[17], held that the Corporate Insolvency Resolution Process (CIRP) of the holding company cannot include the assets of its subsidiary.

In the present case, SREI Infrastructure Finance Ltd. ("SREI") granted Gujarat Hydrocarbon and Power SEZ Ltd. ("GHPSL") a loan. The loan was secured by a mortgage made

[13] The Companies (Significant Beneficial Owners) Amendment Rules, 2024
[14] The Companies (Management and Administration) Amendment Rules, 2024
[15] The Specified Companies (Furnishing of information about payment to micro and small enterprise suppliers) Amendment Order, 2024
[16] Civil Appeal No. 7305 of 2024
[17] Civil Appeal No. 4565 if 2021

by GHPSL of its leasehold land and a pledge of shares of the GHPSL and M/s. Assam Company India Limited ("ACIL") who is the holding company of GHPSL. The loan was also secured by a corporate guarantee extended by ACIL. SREI invoked ACIL's corporate guarantee and subsequently filed an application under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("IBC") against ACIL and the same was admitted. Thereafter, SREI filed another application under Section 7 of IBC against GHPSL claiming the balance payable, which was admitted.

The Supreme Court examined whether the assets of GHPSL could be included in the CIRP filed against ACIL and stated that Section 36(4)(d) of the IBC stipulates that the assets of an Indian subsidiary of a corporate debtor cannot be included in the liquidation estate or used for recovery in liquidation. Additionally, in line with Section 36(4)(d), Explanation (b) to Section 18(1) clarifies that the term 'assets' in Section 18 does not encompass the assets of any Indian subsidiary of the corporate debtor.

The Supreme Court also clarified that a holding company and its subsidiary are always distinct legal entities. While the holding company owns shares of the subsidiary company, this does not make the holding company the owner of the subsidiary's assets. The Supreme Court relied on the case of *Vodafone International Holdings BV v. Union of India and Anr.,* (2012) 6 SCC 613, wherein it was opined that if a subsidiary company is wound up, its assets do not belong to the holding company but to the liquidator. This is because a company is a separate legal existence, and the fact that the parent company owns all its shares does not affect its separate legal existence. Therefore, the assets of the subsidiary company of the corporate debtor cannot be part of the resolution plan of the corporate debtor.

High Court of Delhi held that interpretation of a contract is within the domain of the arbitrator and unless such an interpretation was implausible, the award cannot be interfered with under Section 34 of the A&C Act.

The High Court of Delhi by its judgment dated 15.07.2024 in the matter of *Noble Chartering Inc v. Steel Authority of India Limited*[18], held that the interpretation of a contract is within the jurisdiction of the arbitral tribunal and an award cannot be set aside under Section 34 of the the Arbitration and Conciliation Act, 1996 ("A&C Act") unless it is found that the arbitrator has taken a view which is not possible.

In the present case, the High Court observed that the Single Judge had erred in exercising its jurisdiction under Section 34 of the A&C Act by re-interpreting terms of the contract in respect of which the arbitrator had already rendered its finding.

The High Court held that when interpretation of the contract falls within the jurisdiction of the arbitrator, which is the final authority on the construction of the contract, it's decision cannot be interfered with unless an implausible view has been taken.

High Court of Kerala held an appeal to have been filed under the provisions of the BNSS despite the trial being undertaken under the provisions of Code of Criminal Procedure, 1973.

The High Court of Kerala by its order dated 15.07.2024 in the matter of *Abdul Khader v. State*[19] held that an appeal against conviction filed after the enforcement of BNSS under Section 374(2) of the erstwhile CrPC ought to have been filed under Section 415(2) of BNSS.

In the present case, the High Court, having found the appeal to have been filed under the provisions of the CrPC held that merely because the appeal was filed thereunder, it does not *ipso facto* make the appeal liable to be dismissed. Pursuant to the same, the High Court granted liberty to Abdul Khader to amend the appeal accordingly.

The High Court while passing its decision placed reliance on Section 531 of the BNSS which provides that any appeal, application, trial etc. pending before the date on which BNSS had come into force (i.e., 01.07.2024) shall be disposed of or continued as the case may be, in accordance with the provisions of the CrPC.

High Court of Bombay held that individual members of a Society cannot be regarded as parties to the arbitration agreement.

The High Court of Bombay by its order dated 16.07.2024 in the matter of *Shankar Vithoba Desai and Ors. v. Gauri Associates and Anr.,*[20] held that since the individual members are not parties to the arbitration agreement contained in the development agreement, they cannot invoke arbitration for resolving the dispute emanating from the conduct of the developer, even if such dispute arises out of the development agreement.

In the present case, eleven members of the Dahisar Chunabhatti Panchratna Co-operative Housing Society Limited ("Society") invoked Section 11 of A&C Act in connection with the dispute arising out of development agreement entered between Society and Gauri Associates AOP ("Developer").

[18] FAO(OS) (COMM) 94/2019
[19] Crl. A. No.1186 of 2024
[20] (Comm. Arbitration Application (L.) No. 21070 of 2023)

The High Court held that the development agreement is between the two parties i.e., the Society and the Developer. Every member of the Society is neither an independent party nor an independent signatory to the development agreement. Thus, the fundamental requirement under Section 7 of A&C Act i.e., the arbitration agreement has to be in writing among the parties to the arbitration proceedings, has not been met.

High Court of Calcutta held that parameters of Section 34 of the A&C Act are not applicable to Section 37 of the A&C Act.

The High Court of Calcutta in its order dated 19.07.2024 passed in the matter of *Gaurav Churiwal v. Concrete Developers LLP and Ors.*[21] held that a bare comparison between Sections 34 and 37 of the A&C Act reveals that a challenge under Section 34 of the A&C Act has been referred to as an 'application' while under Section 37 of the A&C Act, it is referred to as an appeal. Thus, there is no reason that Section 37 of A&C Act is required to borrow its colours from Section 34 of A&C Act insofar as specific parameters of interference are concerned.

In the present case, an appeal was filed under Section 37 of A&C Act against an interim order passed by the arbitrator under Section 17 of the A&C Act. The High Court held that the parameters and fetters to be applied by a court hearing a Section 37 A&C Act appeal are governed by the parent provision under which the order was passed. Further, it was also observed that although provisions of Code of Civil Procedure, 1908 ("CPC") cannot be read into A&C Act, however, the principles under CPC ought to be borrowed while deciding an appeal under Section 37 of A&C Act.

NCLT held that law imposes a duty to examine the Petition filed under Section 94 or Section 95 of IBC within 10 days of appointment of the resolution professional.

The National Company Law Tribunal, Hyderabad ("NCLT") by its judgment dated 08.07.2024 in the matter of *Central Bank of India v. Mr. P K Iyer & Deccan Chronicle Holdings Ltd.*[22], held that a resolution professional's duty under Section 99 of the IBC to examine the application under Section 94 (application by debtor to initiate insolvency resolution process) or under Section 95 (application by creditor to initiate insolvency resolution process) of IBC, within ten days of his appointment, and to submit a report to the Adjudicating Authority is not a mere formality/procedural but a legal obligation.

The NCLT held that the legislative intent behind Section 99 of the IBC requires the resolution professional to submit a report within 10 days to avoid frivolous petitions.

Further, the NCLT held that this duty was a legal obligation to verify the due compliances by the creditor, as mandated under Sections 95 to 97 of IBC. Thus, the recommendation of the resolution professional for admission or rejection of the creditor's petition for triggering the insolvency resolution process must invariably precede the compliance of due verification by the resolution professional of the petition filed by the creditor.

[21] EC/283/2023
[22] Company Petition (IB) No.03/95/HDB/2022

ABOUT SAGUS LEGAL

Sagus Legal is a full-service law firm that provides comprehensive legal advisory and advocacy services across multiple practice areas. We are skilled in assisting businesses spanning from start-ups to large business conglomerates including Navratna PSUs, in successfully navigating the complex legal and regulatory landscape of India. Our corporate and M&A, dispute resolution, energy, infrastructure, banking & finance, and insolvency & restructuring practices are ranked by several domestic and international publications. We also have an emerging privacy and technology law practice.

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