



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

REGULATORY & POLICY UPDATES

RBI amended the Master Directions on Priority Sector Lending.¹

Reserve Bank of India (“RBI”) through its notification dated 21.06.2024 has amended the Master Directions on Priority Sector Lending, 2020. The key amendments are as follows:

- i. With effect from Financial Year (“FY”) 2024-25, RBI has identified districts with lower credit flow as those having per capita credit flow lower than Rs. 9,000 and those with higher credit flow as those having per capita credit flow higher than Rs. 42,000 to the priority sector. A higher weight of 125% will be assigned to the priority sector credit in districts where credit flow is lower and a lower weight of 90% will be assigned to the priority sector credit in districts where credit flow is higher. Districts not falling in either category will continue to have a weightage of 100%.
- ii. The definition of Micro, Small and Medium Enterprises (“MSMEs”) will be as set out in the Master Directions on Lending to MSME Sector dated 24.07.2017 and all bank loans to MSMEs shall qualify for classification under priority sector lending.
- iii. Urban Co-operative Banks will follow the Master Direction on RBI (Filing of Supervisory Returns) Directions 2024, as updated from time to time.

¹ [RBI Notification dated 21.06.2024.](#)

Recommendations from the 53rd GST Council Meeting.²

The 53rd Goods and Services Tax Council (“GST Council”) meeting was held on 22.06.2024. A brief summary of the key recommendations of the GST Council are as follows:

- i. A uniform rate of 5% Integrated Goods and Services Tax (“IGST”) has been proposed on imports of parts, components and equipment for aircraft, and the IGST exemption on imports of specified items for defence forces is recommended to be extended for a period for further five years till 30.06.2029. Furthermore, an exemption on compensation cess on imports in Special Economic Zones (“SEZ”) by SEZ units for authorised operations has been proposed. Additionally, exemptions on services provided by special purpose vehicles to the Indian Railways have been recommended. The GST Council has also recommended that the sharing of incentives by the acquiring banks on RuPay Debit Cards and UPI transactions shall not be taxable.
- ii. GST Council has recommended waiving of interest and penalties for demand notices issued under the Central Goods and Services Tax Act, 2017 for FY 2017-18, 2018-19 and 2019-20, if the relevant taxpayer pays the entire demand amount by 31.03.2025.
- iii. It has been recommended that the pecuniary limits for filing appeals by the department before the GST Appellate Tribunal, High Court and Supreme Court be reduced to Rs. 20 Lakhs, Rs. 1 Crore and Rs. 2 Crores, respectively. The GST Council has proposed that the maximum amount of pre-deposit for filing an appeal with the appellate authority to be reduced from Rs. 25 Crores to Rs. 20 Crores for both Central Goods and Services Tax (“CGST”) and State Goods and Services Tax (“SGST”). Further, the amount of pre-deposit for filing of appeals with the GST Appellate Tribunal has been proposed to be reduced from 20% with a maximum of Rs. 50 Crores to 10% with a maximum of Rs. 20 Crores for both CGST and SGST.
- iv. GST Council has also recommended rolling out of biometric and Aadhar-based authentication of registration applicants to combat fraudulent input tax credit claims.
- v. Other key exemptions and proposals include (a) filing of annual return in FORM GSTR 9/9A (which is relevant for opting for composition scheme) for FY 2023-24 to be exempted for taxpayers having a turnover of up to Rs. 2 Crores; (b) all statutory collections made by Real Estate Regulatory Authority to be exempted from GST and; (c) Tax Collected at Source by electronic commerce operators to be reduced from 1% to 0.5%.

All recommendations and proposals of the GST Council shall come into effect only when they are notified through relevant circulars/notifications/law amendments.

SEBI notified SEBI (Prohibition of Insider Trading) (Second Amendment) Regulations 2024.³

Securities Exchange Board of India (“SEBI”) through its notification dated 25.06.2024 has notified the SEBI (Prohibition of Insider Trading) (Second Amendment) Regulations, 2024 (“PIT Amendment Regulations”). The PIT Amendment Regulations came into force on 25.06.2024. The key amendments under the PIT Amendment Regulations are as follows:

- i. Regulation 5 deals with a ‘trading plan’ that insiders are required to prepare and get approved to enable them to trade in securities in a compliant manner and provides specific conditions with respect to trading plans. The PIT Amendment Regulations have reduced the cool-off period provided under Regulation 5(2)(i) from six months to one hundred twenty days i.e., four months.
- ii. Regulation 5(2)(v) has been amended to ensure that the trading plan will include the value of the trade to be effected or the number of securities to be traded, the nature of the trade, a specific date or time period not exceeding 5 trading days. Furthermore, the PIT Amendment Regulations has introduced an upper and lower price limit for a sell trade subject to the specified price limit.
- iii. Regulation 5(4) has been amended to allow for deviation from the trading plan in exceptional circumstances such as ‘permanent incapacity or bankruptcy or operational of law’.
- iv. Under Regulation 5(4), a proviso has been added to allow the insiders to execute the trade only in the event if such trade is within the specified price limits. However, in case of non-implementation of the trading plan, including failure to execute trade, the insiders shall be required to inform the relevant compliance officer within two trading days along with supporting documents.

SEBI notified SEBI (Foreign Portfolio Investors) (Second Amendment) Regulations 2024.⁴

SEBI through its notification dated 26.06.2024 notified the SEBI Foreign Portfolio Investors (Second Amendment) Regulations, 2024 (“FPI Amendment Regulations”) amending the SEBI (Foreign Portfolio Investors) Regulations, 2019 (“FPI Regulations”). The FPI Amendment Regulations came into force on 26.06.2024. The key amendments under the FPI Amendment Regulations are as follows:

² [53rd GST Council Meeting 22.06.2024.](#)

³ [PIT Amendment Regulation, 2024](#)

⁴ [FPI Amendment Regulation 2024](#)

- i. Regulation 4 provides eligibility criteria for Foreign Portfolio Investors (“FPI”). As per Regulation 4(b), FPIs cannot be Non-Resident Indians (“NRIs”), Overseas Citizens of India (“OCIs”) or resident Indians (“RIs”), however, Regulation 4(c) provides that NRIs, OCIs or RIs can be constituents of an FPI if they meet certain conditions.
- ii. Regulation 4(c) has been amended to incorporate the conditions for the inclusion of NRIs, OCIs or RIs which are as follows:
 - a. the contribution of a single NRI or OCI or RI individual needs to be below 25% of the total contribution in the corpus of the proposed FPI;
 - b. the aggregate contribution of NRIs, OCIs or RI individuals needs to be below 50% of the total contribution in the corpus of the proposed FPI;
 - c. the contribution by RI individuals needs to be made through the liberalised remittance scheme, which shall be in global funds whose Indian exposure is below 50%; and
 - d. NRIs, OCIs and RI individuals cannot be in control of the proposed FPI.
- iii. A proviso has been added to Regulation 4 (c) to exempt proposed FPIs that are regulated by the International Financial Services Centers (“IIFSC”) in India, from the aforementioned terms subject to certain conditions to be specified. Pursuant to the same, SEBI notified a circular on 27.06.2024⁵ providing conditions that the proposed FPIs shall be required to follow to qualify for the aforesaid exemption. Key conditions that the the proposed FPIs are required to follow are as follows:
 - a. The proposed FPI is required to submit a declaration to its designated depository participant stating its intent to have an aggregate contribution of NRIs, OCIs and RI individuals of more than 50% to its corpus.
 - b. The proposed FPI shall submit copies of the PAN cards of all its NRI/OCI and RI constituents, along with disclosures with respect to their economic interests in the corpus of the proposed FPI.
 - c. If the proposed FPIs are set up as a fund in IIFSC, the proposed FPIs shall be subject to a different set of conditions including: (i) contribution of all investors of the fund needs to be pooled into one investment vehicle and registered as an FPI, (ii) the fund needs to have minimum 20 investors with none of the investor contributing more than 25% of the corpus, (iii) at every point in time maximum 20% of the corpus of the FPI

may be invested in the equity shares of an Indian listed entity and (iv) no investor shall have any say with respect to the decisions of the FPI and investment managers need to be completely independent while taking any decisions with respect to the FPI.

GOVERNMENT NOTIFICATIONS

Ministry of Power issued Guidelines for payment of Compensation in regard to the Right of Way for transmission lines.⁶

Ministry of Power (“MoP”) through its notification dated 14.06.2024 has issued Guidelines for payment of compensation in regard to Right of Way (“RoW”) for transmission lines (“Compensation Guidelines”). The Compensation Guidelines have been issued in suppression of the existing guidelines dated 15.10.2015, 16.07.2020, and 27.06.2023. The key features of the Compensation Guidelines are as follows:

- i. The Compensation Guidelines are applicable only for the payment of compensation for transmission lines supported by a tower base of 66kV voltage level and above.
- ii. District Magistrate/ District Collector/ Deputy Commissioner will be the relevant authority to determine the compensation.
- iii. The compensation will be based on the circle rate/ guideline value/ stamp act rates of the land. In cases where the market rate exceeds the circle rate/ guideline value/stamp act rates, the land value shall be determined based on the prevailing market rate as determined by the District Magistrate/ District Collector/ Deputy Commissioner in the manner as may be specified by the State Government. The compensation shall be payable one-time and upfront.
- iv. The compensation for the tower base shall be 200% of the land value and for the RoW corridor shall be 30% of the land value.
- v. In areas where landowner/owners have been offered alternate modes of compensation by the corporation/concerned municipality under the transfer of development rights policy of the State/ Union Territory, the licensee/ utility shall deposit the compensation amount with the concerned authority.
- vi. The Compensation Guidelines also prescribe standard operating procedures provided under Annexure-III for the States/Union Territories and transmission developers.

⁵ [FPI Circular 27.06.2024](#)

⁶ [Guidelines for payment of Compensation in regard to the Right of Way for Transmission Lines.](#)

Union Cabinet approves Viability Gap Funding scheme for implementation of offshore wind energy projects.⁷

The Ministry of New and Renewable Energy (“MNRE”) on 19.06.2024 issued a press release with respect to the approval accorded by the Union Cabinet to the Viability Gap Funding Scheme (“VGF Scheme”) for the implementation of Offshore Wind Energy Projects at a total outlay of Rs.7453 Crores, including an outlay of Rs. 6853 Crores for installation and commissioning of 1 GW of offshore wind energy projects (500 MW each off the coast of Gujarat and Tamil Nadu). The VGF Scheme is implemented with an objective to set-up the first-ever offshore wind energy project in India.

The VGF Scheme is a major step towards the implementation of the National Offshore Wind Energy Policy, 2015. The VGF Scheme seeks to provide support in reducing the cost of power from offshore wind projects and make it viable for purchase by DISCOMs. Further, the wind energy projects will be established by private developers selected through a transparent bidding process and the power evacuation infrastructure, including the offshore substations, will be constructed by Power Grid Corporation of India Ltd. MNRE will act as a nodal ministry for successful implementation of the VGF Scheme.

Ministry of New and Renewable Energy issues a framework for the enlistment of models of OEMs of Solar PV modules and inverters under PM-Surya Ghar: Muft Bijli Yojna.⁸

MNRE through its office memorandum dated 21.06.2024 has issued a framework for enlistment of models of Original Equipment Manufacturers (“OEM Circular”) of Solar PV modules and inverters under the PM-Surya Ghar: Muft Bijli Yojna Scheme.

The salient features of the OEM Circular are as follows:

- i. The eligibility criteria for the enlistment of Solar PV modules are: (a) modules are required to have a minimum 3-star rating under the star labeling programme as notified by the Bureau of Energy Efficiency (“BEE”); (b) modules should be of a minimum 500WP rated capacity, (c) modules shall have a minimum warranty of 10 years from the date of commissioning at the consumer’s premises and; (c) modules shall have a minimum fill factor of 77% at standard test conditions.

- ii. The eligibility criteria for the enlistment of inverters are: (a) inverters must be qualified under the energy labeling programme for inverters as notified by the BEE; (b) for hybrid inverters, eligibility requirements shall be based on the minimum overall efficiency as provided under the OEM Circular and; (c) inverters shall have a minimum warranty of 8 years from the date of commissioning at the consumer’s premise.
- iii. Installation that does not utilize the enlisted Solar PV module and inverters under OEM Circular will continue to be eligible for central financial assistance under the program subject to their compliance with the scheme guidelines.
- iv. The National Institute of Solar Energy (“NISE”) shall be the designated nodal agency for the enlistment of the modules and inverters.
- v. For enlistment, the OEMs shall be required to submit their requests with NISE. OEMs shall not be required to pay any application fee for enlistment. However, the relevant OEMs shall be responsible for delivering and collecting the samples to NISE for testing purposes.
- vi. The models satisfying the eligibility criteria will be enlisted and displayed on the national portal.

Ministry of Communication notifies the date of coming into effect for certain provisions of the Telecommunications Act, of 2023⁹

Ministry of Communications through its notification dated 21.06.2024 has intimated that sections 1, 2, 10 to 30, 42 to 44, 46, 47, 50 to 58, 61 and 62 of the Telecommunications Act, 2023¹⁰ shall come into effect from 26.06.2024.

The sections coming into effect *inter alia* deal with the Right of Way for telecommunication networks in public property and other properties, the power of the central government to establish common ducts and cable corridors, removal relocation or alteration of telecommunications network and provisions with respect to measures for national security and public safety.

Ministry of New and Renewable Energy amends the SIGHT Scheme.¹¹

MNRE through a notification dated 21.06.2024 has amended the Scheme Guidelines for Implementation of Strategic Interventions for Green Hydrogen Transition Programme for procurement of green ammonia production (under Mode 2A) of the National Green Hydrogen Mission (“SIGHT Scheme”).

⁷ [VGF Scheme 19.06.2024](#)

⁸ [OEM Circular dated 21.06.2024.](#)

⁹ [Official Gazette Telecommunications Act, 2023 notification dated June 21, 2024.](#)

¹⁰ [The Telecommunications Act, 2023.](#)

¹¹ [MNRE Amendment to the Scheme Guidelines for Implementation of Strategic Interventions for Green Hydrogen Transition Programme](#)

Through the amendment, the capacity available for bidding under Tranche I of Mode 2A for green ammonia has been increased to 7,50,000 MT per annum from 5,50,000 MT per annum. This may be further enhanced by MNRE, if needed, and based on the demand.

JUDICIAL PRONOUNCEMENTS

Kerela High Court held that entertainment tax can only be imposed or collected on the number of tickets that had been sold.

The High Court of Kerela through its judgment dated 18.06.2024 in the matter of *Jose Thomas Performing Arts Centre (JTPAC) v. Maradu Municipality and Ors.*¹², held that entertainment tax under Kerala Local Authorities Entertainment Tax Act, 1961 (“Entertainment Act”) read with The Kerala Local Authorities Entertainment Tax Rules, 1962 (“Entertainment Rules”) can only be imposed or collected on the number of tickets that had been sold and any other appropriation of the amounts paid as tax would fall foul of Article 265 of the Constitution of India.

Further, the High Court held that the Entertainment Act and the Entertainment Rules allow for the refund of entertainment tax on unsold, unused entertainment tax stamps.

Karnataka High Court held that principles of natural justice are trite and cannot be stretched to an unlimited extent.

The Karnataka High Court through its judgment dated 25.06.2024 in the matter of *Centre for Wildlife Studies v. Union of India and Ors.*¹³ quashed the order passed by the Ministry of Home Affairs (“MHA”) cancelling the registration under the Foreign Contribution (Regulation) Act, 2010 (“FCRA”) of the Centre for Wildlife Studies (“CWS”).

In the instant matter, CWS filed a writ petition under Article 226 of the Constitution of India seeking quashing of the order passed by the MHA suspending its registration under the FCRA. The main issue in the instant judgment was whether CWS was entitled to a personal hearing under Section 14(2) of the FCRA prior to the cancellation of its FCRA registration.

The High Court held that the cancellation of registration under Section 14(2) of the FCRA and the three-year prohibition on re-registration for entities whose registration has been cancelled under Section 14 (3) of the FCRA, results in severe civil and economic consequences. Therefore, the term ‘reasonable opportunity of being heard’ under Section 14(2) of FCRA cannot be limited to merely issuing a show cause

notice but also warrants personal hearing to a person whose registration has been cancelled.

Further, the High Court held that the principles of natural justice cannot be stretched to an unlimited extent, however, when the consequences are grave, they should be complied with in their entirety.

Karnataka High Court held that the director of a company cannot escape penal liability under the Negotiable Instruments Act, 1881 by citing dissolution.

The High Court of Karnataka through its judgment dated 25.06.2024 in the matter of *M/s. Rajesh Exports Ltd. v. K.V. Kishore*¹⁴ held that personal liability of director of the company would not be prevaricated on an order being passed under Section 446 of the Companies Act, 1956 (“Companies Act”) for the offences punishable under Section 138 of the Negotiable Instruments Act, 1881 (“NI Act”).

The High Court, further relied on the judgment of the Supreme Court in the case of *Ajay Kumar Radheyshyam Goenka v. Tourism Finance Corporation of India Limited*¹⁵ observed that if proceedings under Section 138 of the NI Act have already commenced and the company has been dissolved, the signatory directors of the company cannot escape from the penal liability under Section 138 of the NI Act by citing the company’s dissolution.

The National Company Law Tribunal Kolkata has held that the net worth criterion for submitting the resolution plan can be relaxed but not the requirement of security deposit and EMD.

The National Company Law Tribunal (“NCLT”), Kolkata through its judgment dated 05.06.2024 in the matter of *Lomat International NV v. Wearit Global Limited*¹⁶ held that when an MSME promoter whose default has led its company to go into the Corporate Insolvency Resolution Process (“CIRP”), relaxation can be provided for the net worth criterion while submitting the resolution plan, however, a waiver cannot be provided from depositing the security deposit at the time of submission of Expression of Interest (“EOI”) and the Earnest Money Deposit (“EMD”) at the time of submission of resolution plan.

The NCLT observed that various exemptions and relaxations have been provided to MSMEs, including the exemption provided under Section 240A of the Insolvency and Bankruptcy Code, 2016 to the MSME sector. Further, furnishing of EMD and security deposit, which is refundable if the plan of the resolution applicant fails in the bids denotes

¹² Writ Petition (C). No. 31296 of 2017.

¹³ Writ Petition No. 27301 of 2023

¹⁴ Writ Petition No.14571 of 2024

¹⁵ (2023) 10 SCC 545

¹⁶ Company Petition (IB) No. 100/KB/2019

the seriousness and intent of the resolution applicant in reviving the business of the corporate debtor instead of an attempt to regain the control over its business or vitiate the CIRP of the corporate debtor.

CERC granted in-principle approval to create a security interest in favour of the security trustee for the benefit of the lender.

The Central Electricity Regulatory Commission (“CERC”) through its order dated 25.06.2024 in the matter of *Beawar Transmission Limited vs. Central Transmission Utility of India Limited*¹⁷ has granted in-principle approval to Beawar Transmission Limited (“BTL”) to create a security interest in favour of Catalyst Trusteeship Limited (“CTL”) who was appointed as a security trustee of REC Limited (“REC”) i.e., the lender.

CERC held that before agreeing to the assignment of the license and the assets of BTL to the CTL, it will evaluate CTL’s expertise in the development, design, construction, operation, and maintenance of the transmission lines and their ability to execute the project and undertake the transmission of electricity.

CERC also held that the in-principle approval is being granted on the condition that the transmission license granted by CERC to BTL cannot be assigned in favour of CTL or the nominee without its prior approval at the time of the creation of rights. Further, in case of default of repayment of debt by BTL, CERC, on a joint application by BTL, REC and CTL, will approve the assignment of BTL’s license to a nominee, subject to the proper due diligence.

DERC allowed partial adoption of The Electricity (Promoting Renewable Energy Through Green Energy Open Access) Rules 2022.

The Delhi Electricity Regulatory Commission (“DERC”) through its judgment dated 25.06.2024 in petitions filed by Timarpur Okhla Waste Management Company Ltd¹⁸. (“TOWMCL”) and East Delhi Waste Processing Company Ltd¹⁹. (“EDWPCL”), respectively allowed the consumers of TOWMCL and EDWPCL having 100 kW load to avail Green Energy Open Access through the same connection or multiple connections and further exempted the consumers from cross-subsidy surcharge and additional surcharge on the power purchased from waste to energy plants, not restricted to the extent of renewable purchase obligation compliance.

TOWMCL and EDWPCL had filed petitions seeking the adoption of The Electricity (Promoting Renewable Energy Through Green Energy Open Access) Rules 2022 (“GEOA Rules”).

DERC held that relief in terms of the GEOA Rules can be allowed till the time Draft Delhi Electricity Regulatory Commission (Terms and Conditions for Green Energy Open Access) Regulations, 2024 (“Draft DERC GEOA Rules”) are not notified. Further, DERC observed that it has already started the process of aligning the GEOA Rules with the Draft DERC GEOA Rules and has invited comments, objections and suggestions from the stakeholders.

¹⁷ Petition No. 166/MP/2024

¹⁸ Petition No. 13 of 2024

¹⁹ Petition No. 54 of 2024

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.

Delhi Office:

Ground Floor, B-7/8
Safdarjung Enclave, Delhi-110029

Gurugram Office:

I-46, Emaar Emerald Hills,
Sector 65, Gurugram – 122001

Satellite Office:

Bhubaneswar, Odisha
Email: info@saguslegal.com
Phone No.: +91 1146552925
Website: <https://www.saguslegal.com/>



The contents of this Newsletter are for general information only. It shall not be construed as legal advice. For any specific legal or factual query/ opinion, kindly obtain appropriate professional advice.
