SAGUS SPEAKS

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

REGULATORY & POLICY UPDATES

SEBI notifies Circular for Implementation of recommendations of the Expert Committee for facilitating ease of doing business for listed entities.[1]

The Securities and Exchange Board of India ("SEBI") issued Circular dated 31.12.2024 ("SEBI Implementation Circular") to give effect to the recommendations of the expert committee that was set up to *inter-alia* review the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ("LODR Regulations") and carry out consequential changes to the provisions of SEBI Master Circular dated 11.11.2024, on compliance with the LODR Regulations by listed entities ("LODR Master Circular") .

The key highlights of the Implementation Circular are as follows:

(i) **Integrated Filing**: For facilitating ease of filing and compliance for listed entities, an integrated filing system has been introduced in terms of Regulation 10(1A) of the LODR. The format for the quarterly integrated filing is provided in Annexure 1 of the Implementation Circular.

(ii) **Integrated Filings (Governance):** SEBI specified the timeline for the governance related quarterly integrated filing which includes filing of statement of investor grievances (in terms of Regulation 13(3) of LODR

[1] SEBI | Circular for implementation of recommendations of the Expert Committee for facilitating ease of doing business for listed entities

Regulations) and corporate governance compliance reports (in terms of Regulation 27(2)(a) of the LODR Regulations), both of which must be filed by the listed entity within 30 days from the end of each quarter.

(iii) **Integrated Filings (Financial):** SEBI has also specified the timeline for the financial related quarterly integrated filing which includes disclosure of related party transactions (in terms of Regulation 23(9) of LODR Regulations), disclosure of outstanding defaults on loans and debt securities (in terms of Regulation 30 of LODR Regulations), statement of deviation and variation (in terms of Regulation 32(1) of LODR Regulations) and the financial results (in terms of Regulation 33(3) of LODR Regulations), all of which must be filed by the listed entity within 45 days of the end of the quarter other than the last quarter, and 60 days from the end of the last quarter and financial year.

(iv) The following material events / information shall be disclosed on a quarterly basis in the format specified for integrated filings (governance):

a. Acquisition of shares or voting rights by listed entities in an unlisted company, aggregating to 5% or any subsequent change in holding exceeding 2% in terms of the provisions of Para A(1) of Part A of Schedule III of LODR Regulations.

b. Imposition of fine or penalty which are lower than the monetary thresholds specified under Para A(20) of Part A of Schedule III of LODR.

c. Updates on ongoing tax litigations or disputes in terms of the provisions of Para B(8) of Part A of Schedule III of LODR Regulations read with the corresponding provisions of Annexure 18 of the LODR Master Circular.

(v) **Secretarial Auditor**: Sub-clause (a) of Regulation 24A(1A) of the LODR Regulations *inter-alia* stipulates the eligibility conditions for the appointment of a person as a secretarial auditor of the listed entity. Disqualifications for the appointment or continuation of a secretarial auditor are specified in Annexure 2 of the Implementation Circular.

(vi) **Guidelines for Disclosure of Employee Benefit Scheme related documents**: Regulation 46(2)(za) of the LODR Regulations requires listed entities to disclose employee benefit scheme documents, excluding commercial secrets and such other information that would affect competitive position, framed in terms of SEBI's Share Based Employee Benefits and Sweat Equity Regulations, 2021 ("SBEB Regulations"). The listed entities are required to comply with the following requirements in terms of Regulation 46(2)(za) of LODR Regulations: (a) the scheme document shall be uploaded on the website of the listed entity after obtaining shareholder approval as required under SEBI (SBEB) Regulations, 2021; (b) The documents uploaded on the website shall mandatorily have minimum information to be disclosed to shareholders as per SEBI (SBEB) Regulations, 2021; and (c) The rationale for redacting information from the documents and the justification as to how such redacted information would affect competitive position or reveal commercial secrets of the listed entity shall be placed before the board of directors for consideration and approval. Additionally, secretarial compliance report issued by a peer reviewed company secretary under regulation 24A(2) of the LODR Regulations shall include a confirmation on compliance with the aforesaid requirements by the listed entity.

(vii) **Changes to Master Circular:** Certain amendments have been made to the LODR Master Circular to give effect to recommendations made by the Expert Committee and align it with the revisions specified in the Listing Obligations and Disclosure Requirements (Third Amendment) Regulations, 2024 ("LODR Amendments Regulations"). The major changes incorporated are new formats for integrated filings as provided in Annexure 1, the introduction of fines for non-compliance with Regulation 31A(3)(a) of LODR Regulations providing for reclassification of promoter/promoter group entity as public, changes to provisions relating to group governance unit and substitution of timelines for disclosure of material events/information in Annexure 18A of the LODR Master Circular with those in Annexure 5 of the Implementation Circular.

Reserve Bank of India notifies the Master Direction-RBI (Non-Resident Investment in Debt Instruments) Directions, 2025[2]

The Reserve Bank of India issued the Master Direction-Reserve Bank of India (Non-Resident Investment in Debt Instruments) Directions, 2025 on 07.01.2025 which consolidated the provisions of previous A.P.(DIR Series) Circulars and other notifications issued at various times by RBI in this regard to regulate the non-resident investment in debt instruments in India, and shall apply with immediate effect from the date of publication. The Directions *inter-alia* specify the minimum residual maturity requirements and the

[2] RBI Master Directions on Nonresident Investment in Debt Instruments, 2025

eligibility requirement for these investments, amongst other essentials.

GOVERNMENT NOTIFICATIONS

MEITY notifies Draft Digital Personal Data Protection Rules, 2025.

The Ministry of Electronics and Information Technology ("MEITY") through its notification dated 03.01.2025 has published the Draft Digital Personal Data Protection Rules, 2025[3] ("Draft Rules") under the Digital Personal Data Protection Act 2023 ("DPDP Act") for public comments/objections and suggestions till 18.02.2025. The rules seek to operationalise the provisions of the DPDP Act, and to safeguard the data of the Indian Citizens. The Draft Rules have a staggered implementation schedule. While most provisions become effective immediately upon their publication in the Official Gazette, specific sections, namely rules 3 to 15, 21, and 22, will take effect from dates as may be notified separately by the Central Government. The key highlights of these Draft Rules are as follows:

(i) **Notice:** Section 5 of the DPDP Act, requires data fiduciaries (entities deciding the purpose and method of data processing) to issue notices to data principals (individuals identifiable through personal data) before requesting their consent. Rule 3 of the Draft Rules further specifies that data fiduciaries must provide clear notices to data principals, at or before seeking consent. These notices must include: (a) an itemized description of the personal data being collected; (b) a detailed explanation of the purpose for which the data will be processed; and (c) a description of the goods or services to be provided, or the uses enabled, by the processing.

(ii) **Consent Manager:** The concept of consent manager rooted in Section 6 of the DPDP Act, is a pivotal intermediary tasked with simplifying and streamlining the consent management process for data principals. Rule 4 of the Draft Rules provides that consent manager must register with the Data Protection Board of India ("DP Board") before they can operate. They shall demonstrate sufficient technical infrastructure and must have total assets of at least INR 2 Crores to qualify for registration. The role of the consent manager involves providing a unified platform in form of a website or an app, for data principals to grant, review, and withdraw consent for data processing activities.

(iii) **Processing for subsidy, benefit or service provision:** Rule 5 of the Draft Rules provides the framework under which the State (as defined under the Constitution) and its instrumentalities can process the personal data of data principals for the provision or issuance of: (i) subsidies or benefits, (ii) public services and (iii) certificates, licenses, or permits mandated under law or policy. This processing falls under clause (b) of Section 7 of the DPDP Act, which permits processing for public benefit as authorized by law or policy.

(iv) **Reasonable security safeguards:** Section 8(5) of the DPDP Act, 2023, mandates that a data fiduciary must protect personal data in its possession or control, including any processing done by a data processor on its behalf, by implementing reasonable security measures to prevent data breaches. Rule 6 of the Draft Rules, outlines the requirement for security safeguards designed to: (i) prevent unauthorized access, processing, or disclosure of personal data through its encryption, obfuscation or use of virtual tokens mapped to such personal data and maintain visibility on accessing such personal data, (ii) ensure data integrity by protecting it from corruption or unauthorized alteration by way of data backups and (iii) detect unauthorised access, its investigation, remediation to prevent recurrence and continued processing in the event of such a compromise, retain such logs and personal data for a period of one year, unless compliance with any law, including ensuring appropriate contract terms with data principals for taking security safeguards.

(v) **Intimation of personal data breach:** Section 8(6) of the DPDP Act, 2023, mandates that in the event of a personal data breach, the data fiduciary must notify the DP Board and each affected Data Principal in the prescribed form and manner. Rule 7 of the Draft Rules provides for the requirement for data fiduciaries to notify both the DP Board and affected Data Principals in the event of a personal data breach within 72 hours of becoming aware of the breach through a notification including: (a) a description of the nature of the breach; (b) the categories and approximate number of data principals affected; (c) the potential consequences of the breach; and (d) measures taken or proposed to address the breach and mitigate its effects.

(vi) **Processing of Children's data:** Section 9 of the DPDP Act read with Rule 10 of the Draft Rules provides that data fiduciaries must obtain verifiable consent from a parent or lawful guardian before processing the personal data of a child by adopting robust technical and organizational measures to verify that the individual providing consent is an adult who can be identified if needed under applicable laws by using reliable details of identity and age already available with the data fiduciary and/or voluntarily provided identity and age details or virtual tokens issued by authorized entities, such as

[3] Draft Digital Personal Data Protection Rules, 2025.

digital locker service providers recognized under the Information Technology Act, 2000.

(vii) **Additional obligations of Significant Data Fiduciaries:** Section 10 of the DPDP Act read with Rule 12 of the Draft Rules provides that significant data fiduciary (as notified by the central government), must undertake a data protection impact assessment and audit at least once every twelve months submit a report containing significant observations of same to the DP Board.

(viii) **Exemption for Research, Archiving, or Statistical Purposes:** Rule 15 of the Draft Rules exempts processing of personal data for research, archiving, or statistical purposes from the provisions of the DPDP Act, provided it complies with the standards outlined in the Second Schedule.

JUDICIAL PRONOUNCEMENTS

Supreme Court held that no notice is required under Section 80 of the CPC for amendments to plaint linked to main cause of action as it continues the cause of action.

The Supreme Court by its judgement dated 09.01.2025 in *State of West Bengal & Ors. v. Pam Developments Private Limited and Anr.*[4] held that if an amendment in a plaint continues the cause of action and maintains the nature and character of the suit, then no notice to the Government is required under Section 80 of the Civil Procedure Code, 1908 ("CPC") which requires a party filing a lawsuit against the Government or a Public Officer to provide written notice two months before filing the suit.

The Supreme Court observed that the amendment sought amounts to a continuous cause of action and maintains the nature and character of the suit and to that extent, thus Section 80 of the CPC is irrelevant to the case. It held that a cause of action is continuing when the act alleged to be wrongful repeats over a period of time and consequently extends the limitation period. It further held that a cause of action is a bundle of facts giving rise to a legal right and the subsequent events form a continuous cause of action for which a fresh suit is not to be filed.

Supreme Court highlighted concerns regarding stringent limitation provisions which curtail the remedy of appeal under the Arbitration and Conciliation Act, 1996.

The Supreme Court in its judgement dated 10.01.2025 in *My Preferred Transformation & Hospitality Private Limited & Anr. v. M/s Faridabad Implements Private Ltd.*[5] observed that the construction of limitation statutes under the A&C Act is quite stringent and unduly curtails a remedy available to arbitrating parties to challenge the validity of an arbitral award.

The Supreme Court held that Section 10 of the General Clauses Act, 1897 ("GC Act") does not apply to Section 34(3) of Arbitration and Conciliation Act, 1996 ("A&C Act") since the Limitation Act, 1963 ("Limitation Act") is applicable to such matters. Furthermore, Section 10 of the GC Act clearly stipulates that it does not apply to any act or proceedings to which the Limitation Act applies.

Further, the Supreme Court expressed concerns with the current legal position observing that the language of Section 34(3) read with its proviso does not expressly or impliedly exclude Section 4 of the Limitation Act and this interpretation is in consonance with the important principle contemplated under Section 29(2) of the Limitation Act to protect rights and remedies of the parties. It held that it is necessary to interpret the limitation provisions liberally, or else even the limited window available to parties to challenge an arbitral award will be lost. The purpose of reading the Limitation Act alongside the A&C Act is not to restrict the special remedy under it, but to enable exercise of such remedy in circumstances as contemplated under the Limitation Act. If this limited remedy is denied on stringent principles of limitation, it will cause great prejudice and has the effect of (a) denying the remedy, and (b) in the long run, it will have the effect of dissuading contracting parties from seeking resolution of disputes through arbitration, which is against public policy.

Supreme Court held that tariff adoption under Section 63 of the Electricity Act, 2003 can proceed even in absence of approved bidding process.

The Supreme Court by its judgment dated 02.01.2025 in the matter of *Municipal Corporation of Delhi v. Gagan Narang & Ors.*[6] held that tariff adoption under Section 63 of the Electricity Act, 2003 ("EA") can proceed even in the absence of approved bidding guidelines.

The Supreme Court held that the Appellate Tribunal of Electricity ("APTEL") grossly erred by treating Municipal Corporation of Delhi as a complete stranger, which had sought adoption of tariff discovered by it. It held that a plain reading of Section 63 of the EA would reveal that the power of the Appropriate Commission is notwithstanding anything contained in Section 62 of the EA. Further, the APTEL failed to take into consideration that the Waste to Energy Project in question was in larger public interest thereby providing for disposal of the huge quantity of waste generated in the city of

[4] Civil Appeal No. 300 of 2025
[5] Civil Appeal No. 336 of 2025
[6] Civil Appeal No. 7463-7464 of 2023

Delhi. Thus, tariff adoption under Section 63 of the EA can proceed even in the absence of approved bidding guidelines.

High Court of Karnataka struck down the Electricity (Promoting Renewable Energy through Green Energy Open Access) Rules, 2022 and KERC (Terms and Conditions for Green Energy Open Access) Regulations, 2022 framed by the Central Government and KERC respectively.

The High Court of Karnataka by its judgment in *Brindavam Hydropower Private Limited v. Union of India and Ors.* dated 20.12.2024[7] struck down the Electricity (Promoting Renewable Energy through Green Energy Open Access) Rules, 2022 ("GEOA Rules") framed by the Central Government for generation, purchase and consumption of green energy from renewable sources of energy ("RE Sources") as well as the Karnataka Electricity Regulatory Commission (Terms and Conditions for Green Energy Open Access) Regulations, 2022 ("KERC OA Regulations") framed by Karnataka Electricity Regulatory Commission ("KERC") under the GEOA Rules.

It held that a reading of Section 42 of the EA would clearly indicate that in the matter of distribution of electricity, especially in the matter of providing open access, it is the exclusive responsibility of the Appropriate State Commission to deal with all aspects of distribution, especially in the matter of providing open access. In the matter of distribution of electricity and open access, apart from the State Commission, no other entity has been given with any role to play.

It held that the entire ambit of electricity supply is to be administered by the Regulatory Commissions and neither the State or Central Government has been conferred with any power or responsibility to interfere or interject in this process. It further held that the State Commission is not required to consult the State Government or secure its concurrence for passing a tariff order, but it is required to communicate the order that it has passed to the State Government. It observed that the Central Government lacks power under the EA to frame the GEOA Rules since the statute specifically conferred such powers on the State Commission. Accordingly, it struck down the KERC OA Regulations and the GEOA Rules.

High Court of Delhi held that that the limitation period for filing the Section 34 under Arbitration and Conciliation Act, 1996 begins from the date of disposal of the Section 33 application filed under the Arbitration and Conciliation Act, 1996.

The High Court of Delhi by its judgement dated 08.01.2025 in *TEFCIL Breweries Limited v. Alfa Laval India Limited*[8], held that the date on which the application under Section 33 of the A&C Act was disposed of would be the date for calculating limitation for the purposes of filing a Section 34 application under the A&C Act.

The High Court highlighted the explicit language of Section 34(3) of the A&C Act, which states if no application under Section 33 of the A&C Act is filed, the limitation period begins from the date of receipt of the award. If a Section 33 A&C Act application is filed, it starts from the date of disposal of the Section 33 A&C Act application.

Further, it emphasized the legislative intent of Section 33 and 34 of the A&C Act and held that the distinct timelines ensure consistency and discourage unnecessary delays.

High Court of Kerala held that tax on BH-Series vehicles can only be imposed by the state governments.

The High Court of Kerala by its judgment dated 08.01.2025 in *Harish Kumar KP v. Union of India*[9], held that taxation on motor vehicles, including tax rates, is exclusively within the domain of the state governments and therefore, no rate of tax can be prescribed by the central government for vehicles registered under the Bharat Series ("BH-Series") under the Central Motor Vehicle Rules ("CMVR").

The High Court held that while the central government and state governments can legislate on principles of motor vehicle taxation, the actual tax rate falls solely under the states' domain in terms of Article 246, read with Entry 57 of List II of the VIIth Schedule of the Constitution of India. It held that sub-rule (2) of Rule 51B of the CMVR prescribing the rate of tax in respect of BH-Series non-transport vehicles is constitutionally unenforceable as it is beyond the legislative competence of the central government. Thus, state governments are free to impose taxes as per their own laws and are not required to follow the rates prescribed by the central government for BH-Series vehicles.

NCLAT held that the bar under Section 33(5) of the IBC does not apply to assessment proceedings by statutory authorities.

The National Company Law Appellate Tribunal ("NCLAT") by its judgement dated 03.01.2025 in *Employees' Provident Fund Organisation Regional Office, Vashi, Navi Mumbai v. Jaykumar Pesumal Arlani Resolution Professional of M/s Decent Laminates Pvt. Ltd.*[10] held that after the declaration of moratorium under Section 14(1) of the Insolvency and

[7] WP No. 11235 of 2024
[8] OMP (COMM) 479 of 2019
[9] W.P. (C) No. 7972 of 2024
[10] Company Appeal (AT) (Insolvency) No. 1062 of 2024

Bankruptcy Code, 2016 ("IBC"), no assessment proceedings can be continued by the Employee Provident Fund Organisation ("EPFO"), however, when an order of liquidation is passed under Section 33 of the IBC, there will be no bar on the initiation or continuation of assessment proceedings.

The NCLAT observed that after the initiation of moratorium under Section 14(1) of IBC, a complete moratorium takes place and no assessment proceedings can be continued by the EPFO. Thus, no claim on the basis of assessment carried during the moratorium period under Section 14(1) can be pressed in the CIRP. It clarified that pursuant to passing of the liquidation order under Section 33 of the IBC, the bar is only against initiation of suit or legal proceedings under Section 33(5) of the IBC and there is no bar against assessment proceedings to be conducted by statutory authorities, including the EPFO.

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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