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EDITORS DESK

Dear Readers,

We desire to share with you our monthly newsletter. This would give you an insight into the latest laws, regulatory updates and important judgments.

One is always on a treadmill today as there is constant development on the regulatory and legal side. One is to keep in mind that as each and every development has a bearing not only in local jurisdiction but also in global context.

Wishing you all the very best.

Rajesh Narain Gupta
Managing Partner,
SNG & Partners

A. BANKING AND FINANCE

1. ITAT: The non-existence of the parties who have given loan to the assessee is clear indication of their nature being prima facie bogus

In this case, the assessee was asked to submit ITR of the relevant years for all the parties to prove the creditworthiness of the parties. The Assessing Officer noted that till date no ITR has been submitted. Based on the failure of the assessee to show the genuineness of the transaction, the observation of layering seen in all the above loans, the non-attendance of the lenders in regards to the summons issued to the lenders and the lack of creditworthiness of the above lenders,. Penalty proceedings u/s 271(1)(c) of the Income Tax Act, 1961 for concealment of income within the meaning of explanation 1 to the sub-section(1) of the section 271(1)(c) of the Income Tax Act, 1961 were initiated.

Against the above order, the assessee appealed before the Ld. CIT(A).

The Ld. CIT(A) concluded that the Assessing Officer failed to establish that any unaccounted money belonging to the assessee has rooted back to it through these lenders.

Against the above order, the Revenue filed an appeal.

The Ld. DR submitted that there is no iota of evidence about the existence of the persons who have given loan, their income is rather meagre and just before giving of loans, amounts have been transferred in their account. The Ld. DR submitted that this is a classic case of routing of unaccounted money in circuitatious manner.

Upon careful consideration, it was noted that in the present case, *"the persons who have given loan are not present at their address which clearly shows the lack of genuineness of the transactions. Receipt of the amount in their bank accounts immediately before giving the loans further cast doubt of the creditworthiness. The entire financials of the loan given are not on record. In our considered opinion, the non-existence of the parties who have given loan to the assessee is clear indication of their nature being prima facie bogus."*[1]

2. SC: All Account Holders are 'Consumers' of Banking Services

In this case, the main contention of the appellant, before the NCDRC and Apex Court was that the premature encashment of the FD by respondent bank is in contravention of the terms and conditions of the joint FD and would amount to a deficiency of service under Section 2(1)(g) of the 1986 Act.

Supreme Court while enumerating the relevant terms and conditions relating to the joint FD noted that in the case of premature encashment, all signatories to the deposit must sign the encashment instruction.

1. https://www.latestlaws.com/case-analysis/itat-the-non-existence-of-the-parties-who-have-given-loan-to-the-assessee-is-clear-indication-of-their-nature-being-prima-facie-bogus-188734/

Deliberating on the meaning of 'consumer' and 'deficiency' under Section 2(1)(d)(ii) and Section 2(1)(g) of the Consumer Protection Act,1986, the Court went on to mention M.D., Maharashtra State Finance. Corp.& Ors. v. Sanjay Shankarsa Mamarde, 2010 Latest Caselaw 490 SC wherein it was observed that the scope of 'deficiency' as defined under clause 2(1)(g) of the 1986 Act is wide and is to be determined on the basis of the facts and circumstances of a particular case.

Deciding on definition of 'service', it referred to in which it was explained that service of every description will fall within the ambit of the definition of 'services' under section 2(1)(o) of the 1986 Act.

SC Bench held that any person who avails of any service from a bank will fall under the purview of the definition of a 'consumer' under the 1986 Act the Court observed that there was a manifest error on the part of the SCDRC in declining to entertain the consumer complaint on merits.

"Whether the appellant is able to establish his case is a matter which has to be decided within the parameters of law as it emerges from the provisions of the 1986 Act. The essence of the complaint of the appellant is that there was a deficiency on the part of the respondent bank in proceeding to credit the proceeds of a joint FD exclusively to the account of his father. The SCDRC ought to have determined whether the complaint related to deficiency of service as defined under the 1986 Act. The SCDRC had no justification to relegate the appellant to pursue his claim before a civil court. The appellant did not, in the proceedings before the SCDRC, raise any claim against his father. Therefore, the SCDRC was wrong deducing that there was dispute between appellant and his father. Assuming that there was a dispute between the appellant and his father, that was not the subject matter of the consumer complaint. The complaint that there was a deficiency of service was against the bank," Apex Court said.

3. HC: Can't interdict unconditional bank guarantee if fraud of an egregious nature in commercial contract can't be proved

A Division Bench of Delhi High Court, comprising of Justice Vibhu Bhakru and Justice Amit Mahajan disposed of the appeal instituted by the appellant against an ex-parte order dated March 12, 2021 passed by the District Judge, whereby directions were issued to maintain the status quo in respect of the Performance Bank Guarantee and the Security Deposit Bank Guarantee. The Bench was of the opinion that financial difficulties due to the outbreak of Covid-19 do not give rise to any special equities to interdict an unconditional bank guarantee. More importantly, special equities are not an independent ground for seeking interdiction of the bank guarantee.

B. ENVIRONMENTAL, SOCIAL AND GOVERNANCE

1. RBI: Discussion Paper on Climate Risk and Sustainable Finance

The Discussion Paper (DP) starts with an overview of climate related risk, followed by suggestions regarding the strategies on climate change. The objective of outlining these measures is to evoke discussion and solicit feedback from REs / stakeholders on the proposals contained in the DP.

The paper provides for an overview of climate related risk and its unique characteristics as applicable to REs. The paper also talks about the voluntary initiatives by the REs. As a part of their commitment to scale up lending for green finance, the Reserve Bank would seek to encourage REs to set a voluntary funding target to increase green funding with the approval of their Board. In other words, they may set an incremental target for green finance over short, medium, and longer term towards certain identified sectors. The achievement of these targets may be reviewed annually to assess the positive environmental outcomes.[2]

2. SEBI: Consultation paper on Green and Blue Bonds as a mode of Sustainable Finance

The concept of 'green debt securities' was introduced under the erstwhile Securities and Exchange Board of India (Issue and Listing of Debt Securities) Regulations, 2008 vide circular dated May 30, 2017.

Since the framework of green debt securities was laid down by SEBI, there have been multiple events in the sustainable finance space around the world, thereby necessitating a review in the Indian context. In this context, SEBI, through this consultation paper, is seeking public comments on a proposed regulatory framework:

a. to amplify the definition of green debt securities,

b. to introduce the concept of blue bonds

c. to reduce the compliance cost for issuers of green debt securities with while not creating any perverse incentives that may lead to 'greenwashing'.

Suggestions are also solicited towards increasing avenues for sustainable finance in India, while considering India's unique goals of pursuing high growth with sustainable development.

This consultation paper follows a series of discussions held with multiple stakeholders, including the sub-committee formed under the Corporate Bonds Securitization Advisory Committee (CoBoSAC) of SEBI[3]

C. FOREIGN EXCHANGE MANAGEMENT ACT,1999

1. Rajasthan High Court: Term "Resident" under the provisions of the Foreign Exchange Management Act, 1999 and the Income Tax Act, 1961 have different objective and purposes.

The Rajasthan High Court in an appeal held that the term "RESIDENT" in the Income Tax Act is simply designed for the purpose of including the persons who are in India for a period of 180 days to bring in the tax net and not for the purpose of determining the citizenship or for deciding the permanent resident status of such person.

The petitioner asserted that the respondent is a "Non-Resident Indian" and hence is clearly in violation of the qualification as laid down in point No.2(b) of 'Common Eligibility Criteria for all Categories'

2. CLIMATERISK46CEE62999A4424BB731066765009961.PDF (rbi.org.in)
3. SEBI | Consultation Paper on Green and Blue Bonds as a mode of Sustainable Finance

in the notice for appointment of LPG distributors which stipulates that an eligible candidate must be a resident of India.

The High Court noted that there is no such assertion that the respondent, made any false declaration at the time of applying for the gas dealership in question. The petitioner has tried to harp upon the definitions of 'Indian Resident' as provided under the Foreign Exchange Management Act, 1999 and the Income Tax Act, 1961 for claiming that the respondent was not a resident of India.[4]

D. INSOLVENCY AND BANKRUPTCY

1. NCLAT, Delhi: Bankers certificate not mandatory to prompt Corporate Insolvency Resolution Process (CIRP) under Section 9 of the Insolvency and Bankruptcy Code,2016

Quippo Infrastructure Ltd. had filed a petition under Section 9 of the IBC, for initiation of CIRP against M.R. Nirman Pvt. Ltd. NCLT Kolkata had rejected the petition because Demand Notice was not served upon Respondent as there was no proof of delivery. The Appellant filed an appeal before the NCLAT against the said order.

The appellant contended that the Demand Notice was duly served upon the Respondent under Section 8 of IBC. The address to which it was delivered was Respondent's registered office and there was no specific denial by the Respondent in its affidavit.

The Respondent submitted that there was no proof of delivery of Demand Notice so it cannot be said that the Respondent was in the knowledge of the said Demand Notice.

The Bench observed that the tracking consignment report and the Speed Post receipt are enough evidence to say that Demand Notice was indeed duly served on the Corporate Debtor. The bench held that Banker's Certificate is not mandatorily required under Section 9 of IBC to prompt CIRP.[5]

2. Supreme Court: Balance Sheet of Corporate Debtor can be Treated as Acknowledgment of Liability of Debt Payable to Financial Creditor

An appeal against the NCLAT order that Corporate Insolvency Resolution Process (CIRP) initiated by the Asset Reconstruction Company (India) Limited against V. Hotels Ltd (Corporate Debtor) was barred by limitation was filed before the apex court. The NCLAT held that Books of Account cannot be treated as an acknowledgment of liability in respect of debt payable.

The apex court observed that an application under Section 7 of the IBC would not be barred by limitation on the ground that it had been filed beyond a period of three years from the date of declaration of the loan account of the Cooperate Debtor as NPA, if there was an acknowledgment of the debt by the Corporate Debtor before expiry of the period of limitation of three years.[6]

4. https://www.latestlaws.com/case-analysis/high-court-held-that-the-term-resident-under-the-provisions-of-the-fema-act-and-the-income-tax-act-1961-have-different-objective-and-purposes-read-judgement-188732/
5. M/s Quippo Infrastructure Limited V. M.R. Nirman Private Limited (Company Appeal (AT) (Insolvency) No. 1516 of 2019)
6. Asset Reconstruction Company (India) limited V. Tulip Star Hotels Limited & others (CA 84-85 OF 2020)

3. NCLAT, Kolkata: Liability of a Personal Guarantor would not get extinguished upon subsequent acquisition of citizenship of a foreign country

The NCLT Kolkata admitted a petition which was filed by the State Bank of India under Section 95 of the Insolvency and Bankruptcy Code, 2016 (IBC) against Sudip Dutta ('Appellant'), who was the personal guarantor in the credit facilities extended to M/s Ess Dee Aluminium Ltd. (Debtor). The Appellant had also signed a Deed of Guarantee. The NCLT further appointed a Resolution Professional, directing him to make recommendations for acceptance or rejection of the petition. Thereafter the Resolution Professional filed its application under Section 95(1) of the IBC recommending that insolvency process should be initiated against the Appellant. Consequently, the NCLT Kolkata initiated insolvency resolution process against the Appellant

The Appellant then filed an appeal before the NCLAT challenging the order.

The Appellant contended that he had acquired the citizenship of Singapore which is subsequent to signing of the Deed of Guarantee because of which the provisions of IBC would not be applicable to him, as a foreign citizen does not come within the purview of Personal Guarantors. He further contended Section 234 and 235 of the IBC which provides for enforcement of IBC outside India only when Central Government enters into an agreement with the Government of any country outside India. There being no such agreement between Central Government and Government of Singapore, the insolvency resolution process could not be initiated against the Appellant.

The Respondent contended that the Appellant was fully bound by Guarantee Deed and subsequent acquiring of citizenship of Singapore was insignificant. It was further submitted that appellant's properties are situated within India and therefore Section 234 and 235 of the IBC would not be attracted.

The Bench observed that Section 60(1) categorically provides that the Adjudicating Authority, in relation to insolvency resolution for corporate persons including Corporate Debtors and Personal Guarantors shall be the National Company Law Tribunal having territorial jurisdiction over the place where the registered office of the corporate persons are located. The provision under Section 60(1) makes it clear that the residence of Personal Guarantor is not taken into consideration when proceedings against the Personal Guarantor are initiated. The Personal Guarantor, who is whether residing in India or residing outside India, when an application is filed against the Personal Guarantor the jurisdiction shall be before the Adjudicating Authority in whose territorial jurisdiction the registered office of the Corporate Person is located. The mere fact that the Appellant now claims to be citizen of Singapore and has given an address of Singapore is wholly irrelevant for initiating proceedings against the Appellant. The Bench further held that the liability of a Personal Guarantor does not get extinguished upon subsequent acquisition of citizenship of a foreign country. It was further held that provisions of Section 234 and 235 of IBC would not apply if the assets of the Personal Guarantor are situated within India.[7]

7. Sudip Dutta@Sudip Bijoy Dutta V. State Bank of India (Company Appeal (AT) (Insolvency) No. 807 of 2021 and 740 of 2022)

4. SC expounds: Insolvency and Bankruptcy Code, 2016 will prevail over the provisions of the Customs Act, 1962[8]

In this case, the appeal was filed by the Liquidator of ABG Shipyard Ltd. ("Corporate Debtor"), challenging the order of the NCLAT wherein inter alia it was held by the NCLAT that the Goods lying in the customs bonded warehouses are not the assets of Corporate Debtor as the Corporate Debtor failed to take positive steps to take control of its assets by failing to pay customs duties and for that reason, the Corporate Debtor is deemed to have relinquished its title to its Goods by legal implication in terms of the Customs Act.

The question that came for consideration before the Hon'ble Supreme Court was whether the provisions of the Code will prevail over the provisions of the Customs Act and whether the Customs Authority is entitled to confiscate the goods of the Corporate Debtor which is currently undergoing liquidation in terms of the Code.

The Supreme Court held that after the imposition of moratorium, no proceedings could have been initiated/continued by the Customs Authority against the Corporate Debtor. The Supreme further held that the Customs Authority after the imposition of the moratorium was only required to assess the duties that were payable and thereafter file its claim with the Resolution Professional/IRP/Liquidator (as the case may be) with respect to outstanding custom duties, which would be dealt in accordance with the provisions of the Code. It was held that the title to the Goods does not pass on to the Customs Authority and that the Authority cannot confiscate the goods which are the assets of the Corporate Debtor for the purposes of recovering customs duties. The Court held that the IRP/Resolution Professional/Liquidator has the right to take control of the assets belonging to the Corporate Debtor in terms of the Code.

E. MONEY LAUNDERING

1. Supreme Court upheld the provisions of the Prevention of Money Laundering Act, 2002 which relate to the power of arrest, attachment and search and seizure conferred

The Supreme Court held that the Section 19 of the Prevention of Money Laundering Act which deals with Power to Arrest has reasonable nexus with the purposes and objects sought to be achieved by the 2002 Act of prevention of money-laundering and confiscation of proceeds of crime involved in money-laundering, including to prosecute persons involved in the process or activity connected with the proceeds of crime. Section 19 of the Act postulates the manner in which arrest of person involved in money laundering can be affected. The officer authorised by the Central government, if he has reasonable material in his possession against someone which give rise to reason to believe that the person has been guilty of an offence under the 2002 Act, he may arrest such person.

Besides the power being invested in high-ranking officials, Section 19 provides for

8. https://www.latestlaws.com/case-analysis/sc-expounds-insolvency-and-bankruptcy-code-2016-will-prevail-over-the-provisions-of-the-customs-act-1962-read-judgment-188736/

inbuilt safeguards to be adhered to by the authorised officers, such as of recording reasons for the belief regarding the involvement of person in the offence of money-laundering. The apex court in this matter further held that they reject the grounds pressed into service to declare Section 19 of the 2002 Act as Unconstitutional.[9]

The Apex Court also held that the twin conditions for bail are not unreasonable, upholding the validity of Section 45 of the Prevention of Money Laundering Act. The principal grievance is about the twin conditions specified in Section 45 of the 2002 Act. The two conditions which have been mentioned as twin conditions are:

(i) that there are reasonable grounds for believing that he is not guilty of such offence; and

(ii) that he is not likely to commit any offence while on bail

The Court observed that It is well settled by the various decisions of this Court and policy of the State as also the view of international community that the offence of money-laundering is committed by an individual with a deliberate design with the motive to enhance his gains, disregarding the interests of nation and society as a whole and which by no stretch of imagination can be termed as offence of trivial nature. Thus, it is in the interest of the State that law enforcement agencies should be provided with a proportionate effective mechanism so as to deal with these types of offences as the wealth of the nation is to be safeguarded from these dreaded criminals

It is important to note that the twin conditions provided under Section 45 of 2002 Act, though restrict the right of the accused to grant of bail, but it cannot be said that the

conditions provided under Section 45 impose absolute restraint on the grant of bail. The discretion vests in the Court which is not arbitrary or irrational but judicial, guided by the principles of law as provided under Section 45 of the 2002 Act.[10]

2. Supreme Court: If a person is finally discharged/acquitted of the scheduled, there can be no offence of money laundering against him.

The appellants herein have questioned the judgment and order dated 17.12.2020 as passed by the High Court of Karnataka at Bengaluru whereby, the High Court allowed the revision petition filed by the respondent for the offence under Section 3 of the Prevention of Money-Laundering Act, 2002. The accused no. 1 during his tenure as Deputy Revenue Officer, amassed assets disproportionate to his known source of income to an extent of Rs.42,25,859/-. For this, the Lokayukta Police registered a case under Section 13(1)(e) read with Section 13(2) of the Prevention of Corruption Act, 1988. During the pendency of trial, the Directorate of Enforcement registered a case against the accused No. 1 and the appellants under the Act of 2002 and filed a complaint before the Special Court for trial of the offence under Section 3 thereof. In the meantime, the Special Judge (Lokayukta) acquitted the accused No. 1 of the offences aforesaid under the Act of 1988 while observing that the evidence produced by the

9. https://www.latestlaws.com/latest-news/pmla-supreme-court-upholds-the-validity-of-section-19-dealing-with-power-to-arrest-an-analysis-read-judgement-187673/
10. https://www.latestlaws.com/case-analysis/supreme-court-held-that-twin-conditions-for-bail-are-not-unreasonable-upholding-the-validity-of-section-45-of-the-pmla-read-judgement-187908/

prosecution was insufficient to hold him guilty. Then, the accused No. 1 as also the present appellants moved an application under Section 277 of the Code of Criminal Procedure, 1973 seeking discharge in the case pertaining to the Act of 2002.

Thereafter, the Trial Court, by its judgment, allowed the application and discharged the appellants from the offences pertaining to the Act of 2002 while observing that occurrence of a scheduled offences was the basic condition for giving rise to "proceeds of crime"; and commission of scheduled offence was a precondition for proceeding under the Act of 2002. Aggrieved by the said discharge order, the Directorate preferred a revision petition before the High Court. The High Court proceeded to set aside the discharge order while observing that the allegations made in the complaint and the material produced, prima facie, made out sufficient ground for proceeding against the appellants for offences under the Act of 2002.

If the person is finally discharged/acquitted of the scheduled offence or the criminal case against him is quashed by the Court of competent jurisdiction, there can be no offence of money laundering against him or any one claiming such property being the property linked to stated scheduled offence through him

The Court thus allowed the appeal.[11]

F. REAL ESTATE

1. Calcutta High Court orders Emaar India Limited to pay Rs. 40 crores and to plant about 100 trees.

In the instant case the petitioner (Soumityra Kanti Dey – owner of Emaar India Limited) had been charged with offences under Section 11(1) of the West Bengal Trees (Protection and Conservation in Non-Forest Areas) Act 2006 for cutting down 63 trees under the garb of removing stagnant water. It appeared that the owners had intended to construct a seven-star hotel at the said premises. Accordingly, the petitioner had applied for compounding of the offence under Section 16 of the Act.

The court is therefore inclined to permit compounding of the offences only upon payment of Rs. 40 crores and additionally to plant and ensure about 100 trees on the said premises. The court further opined that punishing the petitioner by imprisoning him for a 'limited time' as envisaged under the 2006 Act would not bring back the trees. As a result, it was observed that compensating the State/Forest Department would just and fair penalty.[12]

2. NCLAT, New Delhi modified its stay order on Constitution of Committee of creditors of Supertech Ltd. and limited the CIRP process to one project.

Union Bank of India granted a credit facility of INR 150 Crores to Supertech and further granted an additional credit facility of INR 100 Crores to Supertech for the development of Eco Village II project of Supertech. On the account of default by Supertech in repaying the loan, the account was declared as Non-Performing Assets and subsequently, an application under Section 7 of the Insolvency and Bankruptcy

11. https://www.latestlaws.com/case-analysis/sc-if-a-person-is-finally-discharged-acquitted-of-the-scheduled-there-can-be-no-offence-of-money-laundering-against-him-read-judgement-188737/
12. https://www.latestlaws.com/latest-news/high-court-slaps-40-crore-penalty-on-real-estate-group-for-axing-62-trees/

Code, 2016 was filed by Union Bank of India. NCLT, New Delhi vide admitted the application filed by Union Bank of India and initiated the CIRP of Supertech. The Suspended director of Supertech filed an appeal under Section 61 of the Code before NCLAT.

NCLAT analysed the accommodation of Supertech that Reverse Insolvency will be permitted in the current case and refereed the case of Swiss Ribbons v Union of India and COC, Essar Steel v. Satish Kumar Gupta wherein Supreme Court saw that trial and error can be permitted in monetary regulation like IBC. The Bench noted that as per the status report filed by IRP, out of the total 49,554 units Supertech has sold 38,603 units which is a substantial number. NCALT held that no amount from any account can be withdrawn without the counter signature and permission of the IRP. When Promoters are ready to extend all cooperation, there is no reason for not to direct the IRP. Therefore, NCLAT modified its interim order and directed reject wise resolution to be started to test out the success of such resolution and directed that the construction of other projects shall continue under the supervision of IRP with the assistance of ex management. NCLAT coordinated the IRP that the COC be comprised exclusively for the Eco Village II undertaking and claims got with respect to the Eco Village II venture will be isolated and as needs be data notice will be arranged exclusively for Eco Village II. NCLAT additionally coordinated that no goal plan will be put to cast a ballot without the leave of NCLAT.[13]

G. RBI CIRCULARS

1. Section 23 of the Banking Regulation Act, 1949 (As Applicable to Co-operative Societies) – Opening of new place of business by District Central Co-operative Banks (DCCBs)

In accordance with the amendment to the Banking Regulation Act dated 29th September,2020, District Central Co-operative Banks (DCCBs) are permitted to open new place of business/install ATMs or shift the location of such offices only after obtaining prior approval of the Reserve Bank of India (RBI). Accordingly, guidelines have been issued with details of the criteria and procedure for submission of application by DCCBs for opening new place of business/installation of ATMs.[14]

2. Outsourcing of Financial Services - Responsibilities of regulated entities employing Recovery Agents

The Reserve Bank of India stated that the ultimate responsibility for the outsourced activities done by the regular entities (REs) vests with them and they are therefore, responsible for the actions of their service providers including Recovery Agents. It has been observed by the RBI that the agents employed by REs have been deviating from the extant instructions governing the outsourcing of financial services. In this view it has been advised to the REs that they shall strictly ensure that they or their agents do not resort to intimidation or harassment of any kind either verbal or physical, against any person in their debt collection efforts, including acts intended to humiliate publicly or intrude upon the privacy of the debtors' family members, referees and friends, sending inappropriate messages either on mobile or through social media, making threatening and/ or anonymous calls, persistently1 calling the borrower

13. Company Appeal (AT) Ins. No. 406 of 2022
14. https://rbi.org.in/Scripts/BS_CircularIndexDisplay.aspx?Id=12375

and/ or calling the borrower before 8:00 a.m. and after 7:00 p.m. for recovery of overdue loans, making false and misleading representations, etc.[15]

1Reserve Bank of India has brought some of the significant changes through the new rules and regulations are summarised as below:

(i) enhanced clarity with respect to various definitions;

(ii) introduction of the concept of "strategic sector";

(iii) dispensing with the requirement of approval for:

a. deferred payment of consideration;

b. investment/disinvestment by persons resident in India under investigation by any investigative agency/regulatory body;

c issuance of corporate guarantees to or on behalf of second or subsequent level step down subsidiary (SDS);

d. write-off on account of disinvestment;

(iv) introduction of "Late Submission Fee (LSF)" for reporting delays.

H. SEBI CIRCULARS

1. SEBI on Block Mechanism in Demat account of clients undertaking sale transactions[17]

Pursuant to extensive consultation with Depositories, Clearing Corporations and Stock Exchanges, and considering the benefits of block mechanism it is decided to amend clause 5 of the Circular dated July 16,2021 which introduced block mechanism in the Demat account of clients undertaking Sale Transactions for ease of operations in Early Pay in mechanism to state the following-Clause 5. The facility of block mechanism shall be mandatory for all Early Pay in transactions.

2. SEBI on Trading Window closure period under Clause 4 of Schedule B read with Regulation 9 of SEBI (Prohibition of Insider Trading) Regulations, 2015 ("PIT Regulations") – Framework for restricting trading by Designated Persons ("DPs") by freezing PAN at security level[18]

In order to rationalize the compliance requirement under Clause 4 of Schedule B read with Regulation 9 of PIT Regulations, improve ease of doing business and prevent inadvertent non-compliances of provisions of PIT Regulations by DPs, after having deliberations with Stock Exchanges and Depositories and listed companies, it has been decided that Stock Exchanges and Depositories shall develop a system to restrict trading by DPs of listed company during trading window closure period.

Through the provisions of this circular, it shall be applicable to declaration of financial results of the

15. https://rbi.org.in/Scripts/BS_CircularIndexDisplay.aspx?Id=12378
16. https://rbidocs.rbi.org.in/rdocs/notification/PDFs/NT110B29188F1C4624C75808B53ADE5175A88.PDF
17. https://www.sebi.gov.in/web/?file=https://www.sebi.gov.in/sebi_data/attachdocs/aug-2022/1660879904338.pdf
18. https://www.sebi.gov.in/web/?file=https://www.sebi.gov.in/sebi_data/attachdocs/aug-2022/1659701299322.pdf

listed company that is or was part of benchmark indices i.e., NIFTY 50 and SENSEX from the date of implementation of this circular. Further, the restriction on trading shall be for on-market transactions, off-market transfers and creation of pledge in equity shares and equity derivatives contracts (i.e. Futures and Options) of such listed companies.

3. Settlement of Running Account of Client's Funds lying with Trading Member (TM)[19]

SEBI, through circular dated December 03,2009 and September 26, 2016, issued the guideline for settlement of running account of client's funds / securities. As specified by SEBI, the actual settlement of funds and securities shall be done by the member depending on the mandate of the client and there must be a gap of maximum 90 / 30 days (as per the choice of client viz. Quarterly /Monthly) between two settlements of running account.

Through circular dated June 20, 2019, settlement of running account for securities has been discontinued and therefore, these circulars, are now applicable for settlement of running account of client's "funds" only.

In partial modification to the aforementioned circular dated June 16, 2021 and to ensure uniformity in settlement of running account, following has been decided:

The settlement of running account of funds of the client shall be done by the TM after considering the End of the day (EOD) obligation of funds as on date of settlement across all the Exchanges on first Friday of the Quarter for all the clients.

19. https://www.sebi.gov.in/web/?file=https://www.sebi.gov.in/sebi_data/attachdocs/jul-2022/1658918676724.PDF

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OUR OFFICES

Contact us to find out more on how we can help you better.

MUMBAI

9th Floor, Nehru Centre,
Dr. Annie Besant Road,
Worli, Mumbai - 400018
(P) +91-22-69215151

96, Free Press House,
Nariman Point,
Mumbai - 400021
(P) +91-22-68255151

MUMBAI

9th Floor, Nehru Centre,
Dr. Annie Besant Road,
Worli, Mumbai - 400018
(P) +91-22-69215151

96, Free Press House,
Nariman Point,
Mumbai - 400021
(P) +91-22-68255151

DELHI

SNG CONSULTANTS
R-26, Ground Floor,
South Extension Part II,
New Delhi - 110049
(P) +91-11-46175500
(F) +91-11-41551537

One Bazar Lane,
Bengali Market,
New Delhi - 110001
(P) +91-11-43582000
(F) +91-11-43582033

BENGALURU

S-605, 6th Floor, South Block,
Manipal Centre,
47 Dickenson Road,
Bengaluru - 560042
(M): +91-80-46675151

SINGAPORE

3 Church Street
#25-01 Samsung Hub
Singapore - 04948

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