CS NEWS
Connecting Statutes
2017

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2017 – "The year of Transparency". Substance or Form
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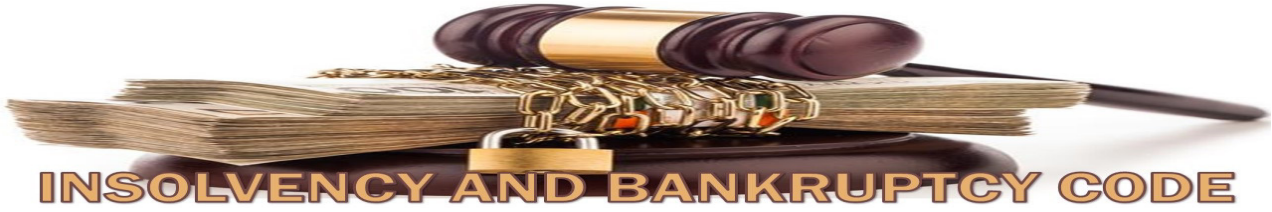
CS NEWS – INSIDE THIS EDITION



The Insolvency and Bankruptcy Code 2016 is an act to consolidate and amend the laws relating to re-organisation and insolvency resolution of corporate persons, partnership firms and individuals in a time bound manner for maximisation of value of assets of such persons, to promote entrepreneurship, availability of credit and balance the interests of all the stakeholders including alteration in the order of priority of payment of Government dues and to establish an Insolvency and Bankruptcy Board of India, and for matters connected therewith or incidental thereto.

INSOLVENCY AND BANKRUPTCY BOARD (IBB):

- **Information Utilities (IUs):**

  An information utility is an agency that is in charge of collecting, collating and disseminating financial information. The business of the information utility is primarily concerning storage and processing of financial information.

- **Insolvency Professionals Agency (IPA):**

  Insolvency Professional Agencies are those specialized bodies/agencies that are entrusted with the task of registration and regulation of insolvency professionals.

- **Insolvency Professionals (IPs):**

  Insolvency Professionals are those licensed professionals enrolled with Insolvency Professional Agencies and take on the roles of Interim Resolution Professional/Liquidator/Bankruptcy Trustee in the insolvency resolution of different entities.

- **Adjudicating Authority (AA):**

  Would be the NCLT for corporate insolvency; to entertain or dispose any insolvency application, approve/ reject resolution plans, decide in respect of claims or matters of law/ facts thereof.

CORPORATE INSOLVENCY RESOLUTION PROCESS:

- **Application on default:**

  Any financial or operational creditors(s) can apply for insolvency on default of debt or interest payment.

- **Appointment of IP:**

  IP to be appointed by the regulator and approved by the creditor committee. IP will take over the running of the Company. From the date of appointment of IP, power of Board of directors to be suspended and vested in the IP. IP shall have immunity from criminal prosecution and any other liability for anything done in good faith.

- **Moratorium period:**

  Adjudication authority will declare moratorium period during which no action can be taken against the company or the assets of the company. Key focus will be on running the Company on going concern basis. A Resolution plan would have to be prepared and approved by the committee of creditors.

- **Credit committee:**

  A credit committee of creditors will be constituted. Related party to be excluded from committee. Each creditor shall vote in accordance to voting share assigned if 75% of creditor approve the resolution plan same needs to be implemented.

NOTE: *The Corporate Insolvency Resolution Process shall be completed within a period of 180 days from the date of filing of application and One-time extension of another 90 days is possible.*

LIQUIDATION PROCESS:

Initiation:

Failure to approve resolution plan within specified days will cause initiation of Liquidation. Debtor can also opt for voluntary liquidation by a special resolution in a General Meeting.

Liquidator:

The IP may act as the liquidator, and exercise all powers of the BoD. The liquidator shall form an estate of the assets, and consolidate, verify, admit and determine value of creditors' claims.

Order of priority for distribution of assets:

Insolvency related costs	Secured creditors and workmen dues up to 24 months
Financial debts (unsecured creditors)	Other employee's salaries/dues up to 12 months
Government dues (up to 2 years)	Any remaining debts, dues and equity

APPEAL AGAINST THE ORDER OF ADJUDICATING AUTHORITY:

The appeal against the order of Adjudicating Authority shall be made to NCLAT within a period of 30 days from the date of receipt of order of Adjudicating Authority.

APPEAL AGAINST THE ORDER OF NCLAT:

The appeal against the order of Adjudicating Authority shall be made to NCLAT within a period of 30 days from the date of receipt of order of Adjudicating Authority.

HEADS UP ON EVENTS THAT LED TO HEADS TURN IN SEPTEMBER 2017

Panaya acquisition

The issue of Panaya first came up when an anonymous email was sent to SEBI and the US Securities and Exchange Commission alleging that the acquisition was overvalued and that there was a possibility of some Infosys executives benefiting from the deal. Subsequently, Infosys hired Cyril Amarchand Mangaldas to look into questionable corporate governance practices, and into allegations that it had allowed Panaya investors to strip Infosys of its cash and give short-term loans to make Panaya viable. The letter had also alleged that Infosys had paid a 25 per cent margin to the valuation of a Series E investor, a fact which the India's second largest software exporter refutes. Infosys has said it had given no loans to Panaya and that the valuation of investment in preferred stock vs 100 per cent strategic acquisition cannot be compared. Murthy had also raised concerns over the ₹23-crore severance payment given to former CFO Rajiv Bansal. On June 23, a day before its AGM, Infosys board and top management were cleared of any wrongdoing, after an independent investigation. The Infosys spokesperson added that the probe involved interviews of over 50 witnesses in India, the US and elsewhere; review of company policies, board minutes, public filings and internal documents; collection, search and review of thousands of internal emails and attachments; use of forensic accounting experts to analyse technical and financial information; review of public filings and media accounts in multiple countries; review of CAM (Capital Assets Management) reports and supporting documentation; and other investigative measures.

CBA scraps CEO bonus over money laundering allegations

Commonwealth Bank of Australia on Tuesday scrapped its chief executive's bonus for damaging the bank's reputation amid allegations it broke money-laundering and counter-terrorism financing rules, but said he retained the board's confidence. Australia's financial intelligence agency last week accused the bank of roughly 53,700 breaches, launching a civil court action that could see the country's biggest lender fined several billion dollars. The case is the largest of its kind in Australian corporate history, and sent Commonwealth Bank shares sliding for their biggest one-day decline in 18 months on Friday. The board said it had cut short-term bonuses to zero for the chief executive, Ian Narev, and other top executives for the year to June 30, 2017. "In reaching this conclusion the overriding consideration of the board was the collective accountability of senior management for the overall reputation of the group," Chairman Catherine Livingstone said in a statement. "Mr Narev retains the full confidence of the board," the bank's statement said. Sharing some accountability, Livingstone said directors' fees had been cut by 20 per cent for the 2018 financial year. The move, designed to smoothe public concerns, came a day before the bank releases its annual results on Wednesday, with analysts tipping record cash earnings of A$9.8 billion ($7.78 billion). Commonwealth Bank paid Narev A$2.9 million in short-term bonuses as part of a total package of A$8.8 million in 2016. In order to prevent a board spill being triggered at the annual general meeting in November, the bank needs to ensure its remuneration report is approved by more than 75 percent of voting shareholders, following a "first strike" against it in 2016.

Under Australian law, a board spill can be triggered if two consecutive remuneration reports are voted down. Stephen Mayne, a director at the Australian Shareholders' Association, which aggregates about A$500 million worth of CBA's shareholder proxy votes, said if that happened the bank would need to hold a special shareholders meeting spilling the board within 90 days of the meeting. “That is something that could be very much in focus in the mind of the board, that their own positions could be under scrutiny in an entire boards spill,” he said. The bank is accused of systematically failing to identify, monitor and report suspicious transactions totalling over A$77 million, and failing to act promptly on police instructions to suspend suspicious accounts.

Narev has played down the allegations, blaming most of the breaches on a software issue that was fixed as soon as it came to light. Six alleged breaches related to customers who had been assessed by the bank as posing a potential risk of terrorism or terrorism financing. Others involved money-laundering syndicates subject to police investigations. Each breach carries a maximum penalty of A$18 million, and Mayne said it would be appropriate for the bank to note a contingent liability for a potential fine in the financial accounts to be released this week. The accusations have revived calls for a sweeping public inquiry into Australia's banking system following a series of scandals, including aggressive sales tactics, insurance fraud and interest rate rigging. The banking industry, supported by the Liberal-led coalition government, has rejected such pressure, although an inquiry has widespread public support and the backing of the opposition Labor Party.

Commercial realty buyer can drag company to bankruptcy court

You can now initiate bankruptcy proceedings against the developer in certain cases if you don’t get your commercial property or service apartment on time. A recent judgment against AMR Infrastructure has upheld that buyers are entitled to be recognised as financial creditors, wherein the developer had promised ‘assured returns’ as a part of the deal. However, the matter has raised questions about initiating bankruptcy proceedings, given that financial creditors have a say in negotiating the debt recast. In the case of real estate projects, there could be thousands of eligible financial creditors. Most experts are of the opinion that it will be difficult to hold a committee of creditors as required under the bankruptcy law if even 1% of these buyers attend any meeting. Souvik Ganguly of Acuity Law said, “If such creditors can collectively account for even 25% of claims, they could potentially interfere with the functioning of the committee of creditors. That has implications for the extent of influence lenders can exercise.” An email sent to AMR Infrastructure did not elicit a response till press time. The judgement in case of AMR was passed by the National Company Law Appellate Tribunal (NCLAT), which set aside previous verdicts of the National Company Law Tribunal (NCLT), Delhi and upheld considering realty buyers as financial creditors. The NCLAT said, “The claim should be considered by the interim resolution professional (IRP) and the committee of creditors, in accordance with provisions of the Insolvency & Bankruptcy Code, 2016.”

Sahara plea in Supreme Court: Stop bids for Aamby Valley City

Sahara moved the Supreme Court on Wednesday to halt the auction of its star project, Aamby Valley City, near Pune, over non-payment of dues to the Securities and Exchange Board of India (Sebi). The court will hear the plea soon. Sahara has been directed by the top court to pay Rs 20,000 crore approximately, which will be repaid to investors in two illegal group schemes. The market regulator claims this amount, inclusive of principal and interest, has since risen to Rs 37,000 crore. Sahara has so far paid up a significant portion of the principal and has to pay another Rs 9,000 crore. A bench led by Chief Justice of India-designate Dipak Misra has kept pressure on the company, insisting these repayments be made before the Bench hears its objections to paying the interest. At the previous hearing on July 25, the group had sought more time to pay up the amount. As per a proposal submitted in court, the group wanted 18 months to repay the rest. However, the bench has been averse to granting more time, instead insisting that the company pay Rs 1,500 crore in instalments every three months or so, or run the risk of having chairman Subrata Roy sent back to jail. Roy was released on parole on May last year, two years after he was sent to Tihar Jail for not complying with the court's orders. His parole has since been extended for a few months every now and then. The court has unambiguously linked his freedom with further repayments. The court has also simultaneously asked the Bombay High Court receiver to set in motion the process of auctioning Aamby Valley to keep up the pressure on the company. The Saharas had valued Aamby Valley at over Rs 39,000 crore.

Daiichi moves Supreme Court to block Fortis sale

Daiichi Sankyo's legal tussle to recover Rs 3,500 crore from former Ranbaxy promoters Malvinder and Shivinder Singh has taken a sharp turn, with the Japanese drug maker moving the Supreme Court to block sale of promoter shares in Fortis Healthcare. Daiichi is appealing against a Delhi High Court order of June 21 that potentially gave the brothers a green light to enter into corporate transactions, provided they maintained the value of unpledged assets they disclosed to court. These could be considered to pay Daiichi's award, if it won its case to enforce it. Daiichi's latest petition says the company would face "irreparable loss" unless the Supreme Court took steps to prevent "violation" of specific orders passed by the Delhi High Court in March and June. "Grave prejudice would be caused if the interim relief is not granted to the petitioners," reads the petition, a copy of which EThas seen. Daiichi's appeal petition will be heard on Friday. "The matter is sub judice and we cannot comment," a spokesperson for RHC Holdings, one of the promoter entities of the Singh brothers, told ET. The high court had told Daiichi that corporate transactions such as stake sales in Fortis could not be stalled at the behest of a decree holder. "Daiichi's position remains clear — dilution/sale of shareholding of Fortis Holding in Fortis Hospitals (run by Fortis Healthcare) is in violation of the March 6 order passed by the Delhi High Court," Daiichi's counsel told ET.

The order says Singhs-owned companies Oscar Investments and RHC Holdings will approach court if any change is proposed in status of the unpledged assets they have disclosed. Daiichi has also sought interim relief from the Supreme Court to ensure the brothers maintain their controlling stake in Fortis through Fortis Healthcare Holding. The petition requests the apex court to direct Oscar and RHC to take prior approval of Delhi High Court before changing shareholdings in their downstream companies "either directly or indirectly." The Japanese

company also seeks to stay a postal ballot resolution of May that allowed the brothers to increase shareholding limit of foreign investors in their flagship hospital group to 74%, from 24% previously. For over a year, the Singh brothers have been trying to cash out of their flagship hospitals business and diagnostics arm SRL to reduce group debt. Daiichi has been locked in a case against the Singhs for over a year to recover an arbitration award that a Singapore tribunal granted against the brothers for concealing information of wrongdoing at Ranbaxy while selling the company for $4.6 billion in 2008.

Session's court stays defamation complaint against Cyrus Mistry

The Session's court today stayed the criminal defamation complaint filed by R Venkatraman, Managing Trustee of the Tata Trusts against Cyrus Mistry. The court while admitting the revision petition that had alleged irregularities in the recording of evidence by Venkat, has called for all the records and proceedings from the lower court and has stayed the lower court from proceeding further in the matter. Aabad Ponda, Counsel for Mr. Mistry had argued that Mr. R Venkatraman had deliberately suppressed the fact that the National Company Appellate Law Tribunal had by way of its order dated 4th May 2017, admitted the appeal filed by the minority shareholders of Tata Sons in their petition alleging oppression and mismanagement at Tata Sons, and that the matter was hence sub-judice. Mr. Venkatraman had earlier sought Rs 500 Crore in damages in his complaint. The next date of hearing is slated on 11th September.

Vijaypat Singhania, one of India's richest men, is now penniless, all thanks to his tycoon son Gautam

One of the country's richest men, who spent more than two decades dressing up the Indian male, is now broke, and by his own admission is living a "hand-to-mouth" existence. And he blames only one person for this - his son. Dr Vijaypat Singhania, who built RaymondBSE -7.23 % Ltd into one of the largest apparel brands in the country before handing over the business to his son Gautam, is today a bitter man residing in a rented row house in south Mumbai's upscale Grand Paradi society. Two days after Mumbai Mirror reported that he had filed a petition in the Bombay High Court seeking possession of a duplex in the redeveloped 36-storey JK House on Malabar Hill, his lawyer told the court on Wednesday that the retired tycoon was struggling financially. JK House was a 14-storey structure when it was unveiled in 1960. Four duplexes in the building were later handed over to a Raymond subsidiary Pashmina Holdings. In 2007, the company decided to go in for redevelopment. As per the deal Dr Singhania and Gautam; Veenadevi, widow of Dr Singhania's brother Ajaypat Singhania; and her sons Anant and Akshaypat were to get a 5,185 sq ft duplex each in the new building on a payment of Rs 9,000 per sq ft. Already, Veenadevi and Anant have filed a joint petition, while Akshaypat has submitted an independent petition, in the Bombay High Court staking claim to their apartments. Senior Advocate Dinyar Madon, who is representing Vijaypat along with law firm Bachubhai Munim and Co., told the court that while the 78-year-old gave away all his wealth to his son, the son is now driving "him out of everything." Madon said Dr Singhnia gave up all his shares in the company worth around Rs 1000 crore in his son's favour, but now he has been left to fend for himself by Gautam.

"They are trying to squeeze him (Dr Singhania) now. All his perks - like a car and a driver -- have been taken away," Madon said. Representing Raymond, senior advocate Janak Dwarkadas, along with senior advocate Virag Tulzapurkar and law firm Wadia Ghandy & Co. submitted that Gautam had not been made a party in the petition and that it was restricted to the two companies involved -- Pashmina Holdings and Raymond Ltd. Madon asked for an injunction against the company from creating any rights in the duplex on the 27th and 28th floor of the redeveloped JK House. He also sought Rs 7 lakh per month from the company, saying that Dr Singhania was entitled to an alternate accommodation at the company's cost. While Dwarkadas agreed to an injunction on creating third-party rights in the duplex, he objected to the demand for rent by Dr Singhania. He sought time to file a reply, saying that a resolution to pay Dr Singhania rent and handover the duplex was rejected by the shareholders of the company at the company's Annual General Meeting held in June this year. Madon alleged that Gautam seemed to be occupying all the four duplexes (fourth duplex is Gautam's), and that the company had created a different route, which was that he was the CMD, therefore he could do so. Justice Girish Kulkarni, after hearing both the parties, asked them to try and settle the case among themselves. "This kind of litigation should not have come to the court at all. It should have been settled," the court observed. Counsels on both the sides agreed to initiate the talks. The court, however, also passed the injunction order with respect to the duplex claimed by Dr Singhnia and asked Raymond to file its reply by August 18, while scheduling the next hearing for August 22.

Infosys board under fire for 'botch-up'

The board of Infosys BSE 0.42 % is coming under fire with experts probing whether it has failed to effectively shield outgoing CEO Vishal Sikka and resolve differences with founders, instead of escalating matters to a warlike situation. The board's belligerence towards Infosys founder N R Narayana Murthy, holding him solely responsible for Sikka's exit, shook India Inc last weekend. Now, questions are being raised whether the independent board was proactive enough in defusing a crisis and in transitioning the professionally managed company after the founders voluntarily left in 2014. This comes at a time of deepening investor worries around one of the country's iconic corporate brands and at least four US law firms are investigating if directors have committed any securities fraud, which would help them to launch class-action suits. "The board has handled this situation poorly — they brought in Sikka, endorsed his strategy and then did not provide him adequate support and allowed Murthy to undermine him. Sikka also has some of the blame as it became clear early that he needed to build a relationship with Murthy and take him along," Peter Bendor Samuel, CEO of US-based research and advisory firm Everest Group, said. PhilBSE -4.68 % Fersht, CEO of HfS Research, added, "The board failed to show enough public support for Sikka and the constant assault from Murthy eventually wore him down." According to Rod Bourgeois, head of research at DeepDive Equity Research, while Sikka instilled new energy in Infosys, his vision has underlying flaws and unrealistic targets. Aggressive non-linear growth strategies in the IT services industry sound appealing, but they encounter inherent pitfalls. "If Murthy and other founders agree that Infosys needs a different strategic vision, then they either need to find a way to sell their Infosys stock, or they

need to garner broader shareholder support to reconstitute the board with leaders who have a different vision. The current board and interim CEO are aiming to uphold a Sikka-like strategic vision," Bourgeois added. Governance experts like Shriram Subramanian of In-Govern said Murthy and other founders, who collectively own more than 10%, can move the NCLTto revamp the board citing 'oppression and mismanagement'. The second option will be to push for an EGM to reconstitute the board with a new set of directors. But given the fact that many institutional investors are unhappy with Murthy's persistent campaign against Sikka and the board, this may be a risky road to take. Ray Wang, CEO of Constellation Research, said, "Anything is possible with Murthy. The challenge at the board level right now is that this is a public fight instead of a private resolution. It may have gone beyond something that can be resolved within the 'family' and requires some strong arbitration done in aclosed room." For now, experts are watching Murthy's response to the board's set of allegations against him, which he has promised at the right time and at the right platform. Murthy's broadside may be fine-tuned to win larger shareholder support against an ineffective board — his recent swipes have been mostly against the board and not Sikka personally. Murthy knows that the board has dumped the entire blame of Sikka's exit at his doorstep, deflecting the broader investor nervousness away from them.

Corporate Development Judicial

CASE LAW	Laurel Energetics Pvt Ltd v. SEBI [SC]
DECIDED ON	July 17, 2017
LEGISLATION	SEBI Act, 1992 read with Regulation 10 of the SEBI Takeover Regulations, 2011
BRIEF FACTS	Shares of target company- interse transfer between promoters in July 2014 at Rs.6.20 per share – acquirer promoters of the target company are the promoters of parent company also- public announcement for open offer made in 2015 at Rs.3.20 per share- SEBI rejected the offer price and directed to increase it to Rs.6.20- whether corporate veil could be lifted to avail exemption under section 10 of the Regulations

Facts: Indiabulls Real Estate Ltd ("IBREL"), a listed company, had two lines of business viz real estate and power generation. The target Company "Rattan India Infrastructure Ltd ["Rattan Company] is the WoS of IBREL. The Appellant ("Laurel") is the WoS of Nettle Construction Pvt. Ltd, which was wholly owned by one Rajiv Rattan. Appellant company and Rajiv Rattan have been listed as promoters of IBREL in the year 2009-10.

In 2011, IBREL demerged its power business to Rattan Company i.e. target company. The target company was listed in BSE and NSE in July 2012. The appellant acquired 18% of the equity share holding of the target company at a price of Rs.6.30 per share sometimes in July 2014. It made certain other purchases with which we are not concerned, because the price paid for those acquisitions was less than Rs.6.30 per share.

On 20th October 2015 Laurel and Arbutus Consultancy LLP along with various other entities, who were persons acting in concert, made a public announcement under Regulation 15(1) of the SEBI Substantial Acquisition of Shares and Takeover Regulations, 2011 when an open offer was made for acquisition of 35,93,90,094 equity shares of the Target Company from the equity shareholders of the Target Company at the price of Rs.3.20 per share.

SEBI observed, by an order, that the exemption provisions contained in Regulation 10 would not apply to the 2014 acquisition, as a result of which the price of Rs.3.20 per share was not accepted and the higher price of Rs.6.30 was stated to be an amount that would have to be paid to the equity shareholders of the Target Company.

From the aforesaid order, the Appellate Tribunal dismissed an appeal on 5th April 2017, holding that Regulation 10 did not exempt the acquisitions of 2014, as a result of which the price payable per share necessarily became Rs.6.30 instead of Rs.3.20 per share. The correctness of the aforesaid order is now before the Supreme Court.

Issue: Whether the appellant could be considered as the promoter of the target company also being the promoter of the parent company so as to consider it as a promoter for more than 3 years in the target company also by lifting the corporate veil of the parent company and the target company?

Decision: Appeal dismissed.

CASE LAW	C. Shanmugam & ANR v. Reliance Jio Infocomm Limited & ORS [CCI]
DECIDED ON	June 15, 2017
LEGISLATION	Competition Act, 2002- Section 4 - abuse of dominance
BRIEF FACTS	New player in 4G spectrum internet services- introductory free service offer –whether triggers abuse of dominance provision

Facts: The gravamen of the allegations of the Informant concerns free services provided by OP-1 since inception of its business i.e. from 5th September 2016 under one offer or other. This has been alleged as contravention of the provisions of Section 4 of the Act.

OP-1 has hidden objectives of abusing its dominant position by use of its financial status. It has the mala fide intention of becoming a monopoly/non-competitive player in the telecom industry in India and to control and regulate the industry independently of the market forces.

OP-1 is stated to have been established as a venture of group industries of Reliance Industries Ltd., which launched its 4G internet services on 5th September 2016 under the name and style of "Reliance Jio". OP-2 and OP-3 are public governing organisations who formulate and stipulate policies, guidelines and regulations for the well-functioning of telecom industry as well as grant licenses to telecom players. OP-4 is a telecom company, which is fully owned and operated by the Government of India and deals in providing various telecom services like landline telecom, mobile telecom, internet and broadband services, etc. The Informants have made OP-4 as one of the parties as it may assist the Commission in arriving at a logical conclusion regarding the conduct of OP-1 and its effects on the market.

Decision: Complaint dismissed.

CASE LAW	Honda SIEL Cars India Ltd v. Commissioner of Income Tax [SC]
DECIDED ON	June 9, 2017
LEGISLATION	Income tax Act,1961- technical fee
BRIEF FACTS	Payment of lump sum royalty new joint venture to manufacture products in India- whether capital expenditure

Facts: The assesse is a joint venture between Honda Motors Company Limited, Japan ("HMCL") and SEIL Ltd. After getting necessary approval from the Government of India, a joint venture company in the name of the assessee was incorporated. After incorporation of the assessee as a joint venture, several agreements were executed between HMCL and assesse, including a Technical Collaboration Agreement (for short, 'TCA'), under which the assesse was to pay a lump sum royalty terms as technical fee over a period of 5 years and a running royalty on the basis of actual production each year.

The dispute which has arisen is as to whether the said technical fee of 30.5 million US Dollar payable in five equal instalments on yearly basis is to be treated as revenue expenditure or capital expenditure. The assesse claimed it as revenue expenditure but the Revenue rejected the claim and considered it as capital expenditure. On appeal ITAT favoured the assesse and on appeal by Revenue, the High Court held the expenditure to be of capital nature. Hence the present appeal before the Supreme Court.

Decision: Appeal dismissed.

From the Government

National Company Law Tribunal (Amendment) Rules, 2017

[Issued by the Ministry of Corporate Affairs vide [F. N. 1/30/2013- CL-V] dated 05.07.2017. Published in the Gazette of India, Extraordinary, Part-II, Section (3) Sub-section(i) vide GSR 840(E) dated 06.07.2017]

In exercise of the powers conferred by sub-section (1) and subsection (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the National Company Law Tribunal Rules, 2016, namely: -

1. (i) These rules may be called the National Company Law Tribunal (Amendment) Rules, 2017.

   (ii) They shall come into force on the date of their publication in the Official Gazette.

2. In the National Company Law Tribunal Rules, 2016, after rule 87, the following rule shall be inserted, namely: -

   "87A. Appeal or application under sub-section (1) and sub-section (3) of section 252 -

   (i) An appeal under subsection (1) or an application under sub-section (3) of section 252, may be filed before the Tribunal in Form No. NCLT. 9, with such modifications as may be necessary.

   (ii) A copy of the appeal or application, shall be served on the Registrar and on such other persons as the Tribunal may direct, not less than fourteen days before the date fixed for hearing of the appeal or application, as the case may be.

   (iii) Upon hearing the appeal or the application or any adjourned hearing thereof, the Tribunal may pass appropriate order, as it deems fit.

   (iv) Where the Tribunal makes an order restoring the name of a company in the register of companies, the order shall direct that-

   - the appellant or applicant shall deliver a certified copy to the Registrar of Companies within thirty days from the date of the order;
   - on such delivery, the Registrar of Companies do, in his official name and seal, publish the order in the Official Gazette;
   - the appellant or applicant do pay to the Registrar of Companies his costs of, and occasioned by, the appeal or application, unless the Tribunal directs otherwise; and

- the company shall file pending financial statements and annual returns with the Registrar and comply with the requirements of the Companies Act, 2013 and rules made thereunder within such time as may be directed by the Tribunal.

(v) An application filed by the Registrar of Companies for restoration of name of a company in the register of companies under second proviso to sub-section (1) of section 252 shall be in Form No. NCLT 9 and upon hearing the application or any adjourned hearing thereof, the Tribunal may pass an appropriate order, as it deems fit.".

Companies (Meeting of Board and its Powers) Second Amendment Rules, 2017

[Issued by the Ministry of Corporate Affairs vide [F. No. 1/32/2013-CL-V-Part] dated 13.07.2017. To be published in the Gazette of India, Extraordinary, Part-II, Section (3) Sub-section(i)]

In exercise of the powers conferred under sections 173, 175, 177,178,179,184,185,186,187,188, 189 and section 191 read with section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Meetings of Board and its Powers) Rules,2014, namely: -

1. (i) These rules may be called the Companies (Meetings of Board and its Powers) Second Amendment Rules, 2017.

   (ii) They shall come into force on the date of their publication in the Official Gazette.

2. In the Companies (Meetings of Board and its Powers) Rules, 2014 (hereinafter referred to as principal rules), in rule 3,-

   (i) in sub-rule (3), for clause (e), the following shall be substituted, namely: -

   "(e) Any director who intends to participate in the meeting through electronic mode may intimate about such participation at the beginning of the calendar year and such declaration shall be valid for one year:

   Provided that such declaration shall not debar him from participation in the meeting in person in which case he shall intimate the company sufficiently in advance of his intention to participate in person."

   (ii) in sub-rule (11), in clause (a), after the words "decision taken by maiority", the words "and the draft minutes so recorded shall be preserved by the company till the confirmation of the draft minutes in accordance with sub-rule (12)" shall be inserted.

3. In the principal rules, for rule 6, the following rule shall be substituted, namelv: -

   "6. Committees of the Board. - The Board of directors of every listed company and a company covered under rule 4 of the Companies (Appointment and Qualification of Directors) Rules, 2014 shall constitute an 'Audit Committee' and a 'Nomination and Remuneration Committee of the Board'."

SAVE OUR ENVIRONMENT

SUSTAINABLE HOUSES MADE FROM PLASTIC BOTTLES

Americans threw away 33 million tons of plastic in 2013, according to the EPA. How long does it take a plastic bottle to degrade in a landfill? Some say 500 years, some say 1,000. Plastic hasn't been around long enough. We (in our lifetime) will never know how long today's petroleum-based plastic bottles take to break down in the environment. But we can do something with them while they're around.

These amazing houses are "bulletproof, fireproof, and can withstand earthquakes. They also maintain a comfortable temperature, produce zero carbon emissions, and are powered by solar and methane gas from recycled waste".

By filling the bottles with sand, then binding them together with mud and cement, strong, solid walls are formed. They can be used to make homes up to three stories, using over 14,000 bottles! With over three million such bottles thrown away every day in Nigeria (and 130 million per day in the U.S.), there is an abundance of building material available for these thrifty builders.

Source: *http://www.1millionwomen.com.au/blog/our-picks-top-10-coolest-sustainable-inventions/*

UPDATES

RBI UPDATES

- Sovereign Gold Bonds, issued on July 28, 2017, held in dematerialised form, shall be eligible for trading (in terms of Para 17 of Government of India notification) with effect from August 8, 2017 (Tuesday) on stock exchanges recognised by the Government of India under the Securities Contracts (Regulation) Act, 1956. Sovereign Gold Bond Scheme 2017-18 - Series II was announced by the Government of India on July 06, 2017.

MCA UPDATES

- **The Draft Companies (Cost Records and Audit) Amendment Rules, 2017)**
  In exercise of the powers conferred by sub-sections (1) and (2) of section 469 and section 148 of the Companies Act, 2013, the Central Government made the rules further to amend the Companies (cost records and audit) Rules, 2014. In this regard, notice inviting comments on the draft companies (cost records and audit) amendment rules, 2017 was placed on the website dated August 11, 2017.

- **Notification dated August 23, 2017 –**
  In exercise of the powers conferred by sub-section (1) and sub-section (2) of section 469 of the Companies Act, 2O13, the central Government made rules further to amend the National Company Law Appellate Tribunal Rules, 2016

- **Notification dated August 24, 2017 –**
  In exercise of the powers conferred under sub-section (1) of section 469 read with section 212 of the companies Act, 2013 the central Government made rule called companies (Arrests in connection with Investigation by serious Fraud Investigation Office) Rules, 2017. The rule shall come into force on the date of their publication in the Official Gazette.