AJMANI & LAW PARTNERS

NEWSLETTER - 2021 (ISSUE - II)

Dear Readers, Greetings!

As we were covering up from the impact of Covid 19, the second wave, followed by a strict lockdown, has pushed back the market and economy. Though we have crossed the peak level, but various segments of the society are yet to witness the normalcy.

Notable, we were better prepared than before and that's why various businesses and segments have been able to survive this second phase. Though the courts are yet to resume normalcy, but they have adopted virtual hearing to address grievance of the aggrieved parties.

Our firm Ajmani & Law Partners has come up with this newsletter in order to cover notable updates in the chosen areas of law. The newsletter briefly deals with the recent important updates in Civil and Commercial laws, Defamation Laws, Matrimonial Laws along with Cryptocurrency and other emerging issues.

We sincerely hope that you all will be benefited by this humble attempt of ours.

Your sincerely,

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INDEX

S. NO	PARTICULARS	PAGE NO.
1.	CIVIL & COMMERCIAL LAW	3 - 5
2.	DEFAMATION LAW	6
3.	MATRIMONIAL LAW	7
4.	CRYPTOCURRENCY & OTHER EMERGING ISSUES	8
5.	DISCLAIMER	8

CIVIL & COMMERCIAL LAW UPDATES

SEBI (ALTERNATIVE INVESTMENT FUNDS) REGULATIONS, 2012 (AIF REGULATIONS)

SEBI Regulatory Proposals (2021)

Recently, the Securities and Exchange Board of India (SEBI), has proposed certain key amendments to the SEBI (Alternative Investment Funds) Regulations, 2012. These amendments now allow all the AIFs to invest in other AIFs as per certain conditions. These amendments also include a separate AIF Code of Conduct which may improve the efficiency.

VALIDITY OF FOREIGN SEATED ARBITRATION PROCESSES

PASL Wind Solutions v. GE Power Conversion India (SC - 2021)

The Hon'ble Supreme Court of India, in the case of PASL Wind Solutions v. GE Power Conversion India (SC-2021), upheld the principle of Parties Autonomy in arbitration which permits all parties to choose the mechanism to resolve their dispute. It is clarified that Indian parties are free to choose a seat of arbitration outside India. The Court clarified that such award would be enforceable as a foreign award under the Arbitration & Conciliation Act, 1996 in India.

CIVIL & COMMERCIAL LAW UPDATES

APPLICABILITY OF SECTION 482 CRPC TO COUNTENANCE BREACH OF A STATUTORY PROVISION

Sandeep Khaitan RP for National Plywood Industries Ltd v. JSVM Plywood Industries Ltd (SC - 2021)

In the case of Sandeep Khaitan Resolution Professional for National Plywood Industries Ltd v. JSVM Plywood Industries Ltd (SC - 2021) the Hon'ble SC has clarified that the power under Section 482 of CrPC is not available to a Court to countenance the breach of a statutory provision. In this case, the Hon'ble Court held that powers provided under 482 can't be invoked to cause violation of the mandate of Sections 14 & 17 of the IBC.

CIVIL & COMMERCIAL LAW UPDATES

HON'BLE SC ISSUED DIRECTIONS FOR EXPEDITIOUS TRIAL OF CHEQUE BOUNCE CASES

Expeditious Trial of Cases Under Section 138 of N.I. Act, 1881 (SC - 2021)

In the case of Expeditious trial of cases under section 138 of N.I. Act, 1881 (SC - 2021), the Hon'ble SC has issued various directions for the expeditious trial of cases under section 138 of the NI Act. It has also been held that section 258 of the CrPC is not applicable to complaints under Section 138 of the NI Act.

FOREIGN FUNDING OF INDIAN NGOS

FCRA Prior Permissions & Registrations

NGOs don't work for profit, and their activities and functioning are substantially based upon funding and donations. In India, NGOs have to secure prior permission or get themselves registered in order to secure foreign funding. On these lines, our firm has prepared a brief regarding the procedure to secure foreign funding.

DEFAMATION LAWS

CAN A PERSON BE SUED FOR DEFAMATION QUA STATEMENTS MADE/SUBMITTED BEFORE A COURT OF LAW?

Judicial Pleadings & In-Court Statements Privilege

The issue of defamation becomes more complex when the derogatory statement is being made in a court of law either by written submissions or during examination/cross examination of witnesses or merely while furnishing arguments before a court of law. A detailed study has been conducted by our firm on this issue.

RS. 2 CRORE DAMAGES ORDER AGAINST SHRI H.D. DEVEGOWDA (FORMER PM OF THE COUNTRY)

M/s NICE vs. Shri H.D. Devegowda (Bengaluru Trial Court, 2021)

In the case of M/s NICE vs. Shri H.D. Devegowda (2021), one of the trial courts of Bengaluru awarded the compensation of Rs 2 crore to the plaintiff on the basis of alleged defamatory statements made by the defendant.

MATRIMONIAL LAW

6-MONTH WAITING PERIOD IN MUTUAL DIVORCE CASE CAN BE CONDONED IN SOME CASES

Smt. Sunita @ Nisha vs. Yogesh Kumar (P&H HC - 2021)

The Hon'ble Punjab & Haryana High Court in the case of Smt. Sunita @ Nisha vs. Yogesh Kumar (P& HC - 2021) held where the marriage has been irretrievably broken down, the insistence to wait for another 6 months is uncalled for.

EXTRAMARITAL AFFAIR NOT A GROUND TO CONCLUDE WOMAN WOULDN'T BE A GOOD MOTHER

Mandeep Kaur vs. State of Punjab & Ors (P&H HC - 2021)

The Punjab and Haryana High Court in this case of Mandeep Kaur vs. State of Punjab & Ors (P& HC - 2021) has observed that one cannot conclude that a woman would not be a good mother, to deny her the custody of a child, merely on the basis of her present/past affair. (PS- in this case, the allegation of extra marital affair was not proven.)

CRYPTOCURRENCY & OTHER EMERGING ISSUES

LEGALITY OF CRYPTOCURRENCY IN INDIA

Regulatory Certainty Analysis

There is always some kind of uncertainty that exists regarding the safety and the fate of cryptocurrency in Indian market. A brief study has been conducted by our firm on the legality of cryptocurrency in India.

WORK FROM HOME IS A WORKPLACE UNDER POSH ACT

Digital Work Environments & POSH Compliance

In the midst of online workplace, new challenges have emerged which require to be addressed by law and policy. Among various challenges, online harassment at workplace requires immediate attention. A detailed study has been conducted by our firm on this issue.

DISCLAIMER

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