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INSIGNIA

DISTINCT DETAILS DELIVERED

December 2023

INSIGNIA is MAHESHWARI & CO.'s monthly compilation of the latest legislative, judicial and regulatory developments in the country. This edition covers all the updates for the month of December 2023.

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This is for Internal Circulation

MINISTRY OF CORPORATE AFFAIRS (MCA)

MCA PLANNING NEW PORTAL TO STREAMLINE IBC CASES, BOOST TRANSPARENCY

The Ministry of Corporate Affairs is creating an integrated portal for the Insolvency and Bankruptcy Code (IBC) to centralize case information, enhance policymaking, and streamline the insolvency resolution process. Key entities like the Insolvency and Bankruptcy Board of India, National Company Law Tribunal, and others will be involved. Anticipated features include SMS alerts, template based judgments, and AI for NCLT decisions, promising transformative impacts on efficiency and transparency. The IBC21 portal, covering information from consent to the final plan implementation, aims to boost stakeholder confidence through real-time updates and reduced fraudulent practices. [Read More](#)

CORPORATE AFFAIRS MINISTRY SAYS 53 CHINESE FOREIGN COMPANIES ESTABLISHED PLACE OF BUSINESS IN INDIA

The Ministry of Corporate Affairs disclosed that 53 Chinese companies have established operations in India. However, specific data on their business activities, especially regarding app-based lending, is lacking. Foreign companies can set up in India by complying with RBI regulations and sectoral requirements, registering with the RoC within 30 days. Additionally, 1,55,217 companies were struck off under the Companies Act, 2013, between April 1, 2021, and November 28, 2023, for reasons like failure to commence business or non-compliance with financial filings. [Read More](#)



RESERVE BANK OF INDIA (RBI)

RBI RELEASES DRAFT LICENSING FRAMEWORK FOR AUTHORISED PERSONS UNDER FOREX LAW

The RBI released a draft “Licensing Framework for Authorised Persons“ under FEMA, 1999, with a focus on rationalizing authorization for money changers and expanding services of AD-Category II entities. The regulatory review aims to meet evolving economic needs and enhance operational efficiency in foreign exchange services. The draft introduces a new category, Forex Correspondents (FxCs), simplifying licensing through an agency model. Stakeholders can provide comments on the draft until January 31, 2024. [Read More](#)

INFLATION IS HURTING CONSUMPTION, STRONG LIKELIHOOD THAT IT MAY HOLD BACK INDIA'S GROWTH: RBI

The RBI anticipates India’s inflation to ease to 4.6% in the first three quarters of the fiscal year 2024-25, following a November high of 5.6%. The rise in November is attributed to food price spikes, but global commodity prices, especially in agriculture, are expected to soften. Uncertainties in food prices, particularly key vegetables, pose a near-term impact on inflation. The bulletin projects a 5.4% inflation rate for 2023-24 and indicates a low 1% probability of stagflation in India based on data until Q2FY24. India’s GDP is forecasted at 7% for 2023-24, with varying rates for subsequent quarters. [Read More](#)

ABOUT US

MAHESHWARI AND CO. is a full service Law Firm that represents its clients in a number of complex and high value transactions. The Firm has an expertise and vast experience across various areas of practise including Corporate & Commercial Law, mergers & acquisitions, intellectual property rights, taxation, Litigation and Arbitration, Insolvency & Bankruptcy and Immigration. The Firm has done extensive work in sectors which include Automotive, F& B, Pharmaceuticals and Healthcare, Start-ups, e-commerce, Banking and finance, Infrastructure, Real Estate, Information Technology, Power and Telecom.

MERGERS AND ACQUISITION

M&A AND INVESTING ACTIVITY IN INDIAN HEALTHCARE SECTOR LIKELY TO CONTINUE AT STRONG LEVELS

The M&A scenario in India's healthcare and pharma sector has shown muted growth in 2023, with the deal size declining to INR 170 billion compared to INR 355 billion in 2022, according to Equirus estimates. However, there is a notable rise of 60% in the value of Private Equity (PE) deals reaching INR 469 billion in 2023. Experts expect strong M&A and investing activity in the Indian healthcare sector to continue in 2024, [Read More](#)

DISNEY, RELIANCE INDUSTRIES CLOSE IN ON DEAL TO MERGE INDIA MEDIA OPS

Walt Disney and Reliance Industries are reportedly finalizing a non-binding term sheet for the merger of their India-based media operations. Disney, considering a sale of its Indian TV network after losing streaming rights to the Indian Premier League (IPL), may merge with Reliance's media units. The deal could involve a stock swap with Reliance seeking a controlling stake of at least 51%, possibly announcing the merger in January. . [Read More](#)

CCI SEEKS DETAILS FROM RELIGARE ON BURMANS' MERGER, ROLE PLANS

India's Competition Commission of India (CCI) has queried Religare Enterprises about potential merger discussions or management involvement by its largest shareholder, the Burman family. The CCI has requested communication documents from October 13, 2017, to September 25, 2023, covering the period of the Burmans' share acquisition in Religare. Religare, acknowledging the CCI's letter, stated that while they had no direct communication on a merger or management role. [Read More](#)



TAX

I-T DEPT SENDS ADVISORY TO TAXPAYERS OVER MISMATCH IN ITR, TDS/TCS DEDUCTIONS

The Income Tax department has issued advisories to specific taxpayers regarding apparent discrepancies between their income tax return (ITR) disclosures and information received from reporting entities. In response to social media posts about communication from the Income Tax department regarding mismatches in TDS/TCS deductions and ITR filing data, the department clarified that these communications aim to assist taxpayers, by making them aware of the information available with the Income Tax department. [Read More](#)

ADVANCE TAX MOPUP RISES 20% YOY IN APRIL-DECEMBER

Advance tax collections for the third quarter (April-December) of the fiscal year 2023-24 by the Centre have recorded a robust growth of 19.8% compared to the same period the previous year, reaching ₹6.24 lakh crore. This significant increase in advance tax collections indicates a strong and buoyant economy. The reported figures include payments made until 11:30 pm on December 15, which was the deadline for paying advance tax for the third quarter of the fiscal year. [Read More](#)

LOK SABHA PASSES CGST AMENDMENT BILL; INDIRECT TAX LAWYERS WITH 10 YEARS' EXPERIENCE CAN BECOME GSTAT MEMBERS

The proposed bill outlines criteria for appointing judicial members to the Goods and Services Tax Appellate Tribunal (GSTAT), specifying a lawyer with a decade of relevant experience. The establishment of GSTAT state-level benches is expected to expedite dispute resolution for taxpayers, offering an alternative to approaching overburdened High Courts. Additionally, the Lok Sabha approved The Provisional Collection of Taxes Bill 2023, enabling provisional imposition and collection of customs and excise duties for 75 days. [Read More](#)

NEWS & UPDATES

Our Managing Partner, Mr. Vipul Maheshwari has been appointed as a Counsellor of the Governing Board of the UIA Union Internationale des Avocats - International Association of Lawyers.

Maheshwari & Co. actively participated in the groundbreaking study titled "*Advanced Grid-Scale Energy Storage Technologies*," released by the Ministry of New and Renewable Energy (MNRE).

SECURITIES EXCHANGE BOARD OF INDIA (SEBI)

SEBI IS ON RIGHT PATH IN CRACKING DOWN ON FINFLUENCERS

In the post-pandemic era, social media platforms have become essential for communication, leading to a surge in retail investors seeking financial advice from “finfluencers”. These financial influencers, lacking proper licenses, pose risks by providing advice on investment decisions. Existing regulations apply, but specific laws are lacking. The Securities and Exchange Board of India (SEBI) has collaborated with the Advertising Standards Council of India to address the issue. [Read More](#)

SEBI'S SHORTENING OF THE SETTLEMENT CYCLE WILL TAKE A TOLL ON THE MARKET

SEBI aspires to further compress the settlement cycle to T+0, achieving completion by the conclusion of the same day in the initial phase and subsequently progressing towards instant settlement. The successful implementation would establish Indian markets as among the world's safest and most efficient. [Read More](#)



ARBITRATION

COURT CAN EXAMINE IF ARBITRATION CLAUSE IS ARBITRARY & VIOLATES ARTICLE 14 WHILE CONSIDERING S.11(6) APPLICATION: SUPREME COURT

The Supreme Court, in a landmark ruling, declared that arbitration clauses must not be inconsistent with the Constitution. It asserted the Court's authority to assess whether such clauses violate Article 14 of the Constitution when appointing an arbitrator. It held that for an arbitration clause to be legally binding, it must align with the Constitution, as the same is a fundamental aspect of the rule of law. [Read More](#)

MSMED ACT 2006 OVERRIDES ARBITRATION AND CONCILIATION ACT 1996 AND ANY AGREEMENT ENTERED INTO BETWEEN PARTIES: ALLAHABAD HC

The Allahabad High Court held that the provision of Micro, Small and Medium Enterprises Development Act, 2006 have an overriding effect on Arbitration and Conciliation Act 1996 and any agreement entered into between parties. [Read More](#)

LANDMARK RULING BY SUPREME COURT VALIDATES UNSTAMPED ARBITRATION AGREEMENTS, ENSURING EFFICIENCY AND CURBING DELAYS IN ARBITRATION PROCEEDINGS

In a significant ruling, a seven-judge Constitution Bench led by Chief Justice D.Y. Chandrachud unanimously upheld the validity of unstamped arbitration agreements, overturning the prior decisions in NN Global Mercantile v Indo Unique Flame (2023) and SMS Tea Estates v Chandmari Tea Co. Pvt Ltd. (2011). The bench clarified that while unstamped arbitration agreements are inadmissible under the Stamp Act of 1899, they are not void ab initio. The decision highlights that the effect of insufficient stamp duty is a curable defect, and the Arbitration Act, 1996, grants arbitral tribunals the authority to determine the validity of arbitration agreements. The ruling streamlines the arbitration process by preventing unnecessary delays caused by stamping issues. [Read More](#)



INFORMATION TECHNOLOGY (IT)

TELECOMMUNICATIONS BILL, 2023: THE CHANGES IT SEEKS IN THE TELECOM SECTOR, WHY SOME HAVE RAISED CONCERNS

The Rajya Sabha, on December 21, passed the Telecom Bill, 2023, which was introduced by the Centre on December 18. The proposed legislation aims to implement various structural changes in the telecommunications sector. These changes include simplifying the licensing regime, providing clarity on spectrum assignment, and imposing stricter requirements for user verification, among other measures. [Read More](#)

YEAR END REVIEW 2023 OF MINISTRY OF ELECTRONICS & INFORMATION TECHNOLOGY

India is at the forefront of the technology revolution with a specific emphasis on electronics. In this transformative era, semiconductors are pivotal, finding applications across various sectors including defence, automobiles, and computing devices. [Read More](#)

IGAC DIRECTS FACEBOOK (META) TO IMMEDIATELY REMOVE KARAN THAPAR'S PURPORTED INTERVIEW PROMOTING GET-RICH-QUICK SCHEMES AND BITCOIN PLATFORMS GET-RICH-QUICK SCHEMES AND BITCOIN PLATFORMS.

The Grievance Appellate Committee (GAC) examined an appeal regarding a fake interview on Facebook (Meta) featuring journalist Karan Thapar endorsing get-rich-quick schemes and bitcoin platforms. The Committee directed Meta to promptly remove the interview, emphasizing adherence to community guidelines. Meta's inconsistent responses and the absence of a specific URL link raised concerns about misinformation, violating rules outlined in the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021. [Read More](#)

AWARDS & RECOGNITIONS

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GAMING

SUPREME COURT TO CONSIDER ONLINE GAMING COMPANIES' PLEA AGAINST 28% GST IN JANUARY 2024

The Supreme Court has postponed the hearing of writ petitions filed by online gaming companies, including Dream 11, Games 24x7, and Head Digital Works, challenging the constitutionality of a 28% GST imposition. The bench, declined to issue an interim order in favor of the petitioners. Senior Advocate Harish Salve argued that the GST, applied to the entire value of bets starting October 1, is arbitrary and illegal. The hearing has been deferred to January 8, 2024, as requested by the Additional Solicitor General citing the need for proper instructions. [Read More](#)

GOVT HAS BANNED 174 GAMBLING APPS AND BETTING APPS

The Centre has blocked a total of 581 apps, including 174 betting and gambling apps and 87 loan lending apps. The Ministry of Electronics and Information Technology (MeitY) issued a blocking order against some 22 'illegal' betting and websites, upon a request by the Enforcement Directorate. The banned apps were involved in money laundering through hawala, crypto, and other illegal routes. Some of the banned apps include Mahadev, Parimatch, Fairplay, 1XBET, Lotus365, Dafabet, and Betwaysatta. No offshore companies have registered in India since October 1. [Read More](#)



INTELLECTUAL PROPERTY

MICKEY MOUSE SET TO JOIN PUBLIC DOMAIN, WITH A TWIST FOR ALL OF US!

In a landmark move, Mickey Mouse's original portrayal from "Steamboat Willie" enters the public domain in 2024, signaling a significant shift in intellectual property. While this marks newfound freedom for the earliest Mickey, modern iterations remain untouched. Disney safeguards its iconic mascot's trademark, restricting deceptive use. The event sparks debates on copyright ownership, echoing broader discussions on creative rights.

[Read More](#)

APPLE TO HALT US SALES OF SERIES 9, ULTRA 2 SMARTWATCHES OVER PATENT DISPUTE

The move comes after an order in October from the US International Trade Commission (ITC) that could bar Apple from importing its Apple Watches after finding the devices violate medical technology company Masimo's patent rights. [Read](#)

[More](#)

MEITY ISSUES SECOND ADVISORY TO SOCIAL MEDIA PLATFORMS ON DEEPPAKES

On December 26th, MeitY released a second advisory targeted specifically at curbing the spread of misinformation through deepfakes. The advisory directs social media platforms to adhere to the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021. It asks them to make users aware of the ban on publishing fake or misleading content under the IT Rules. [Read More](#)



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