SAGUS SPEAKS

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

REGULATORY AND POLICY UPDATES

SEBI updates appeal and penalty review process for Market Infrastructure Institutions[1]

The Securities and Exchange Board of India ("SEBI") issued a Circular No. SEBI/HO/MRD/POD-III/CIR/P/2025/112 dated 05.08.2025 ("MIIs Circular"), which has introduced a revised framework for handling requests for review, appeal or waiver of penalties imposed by the Member Committee of Market Infrastructure Institutions ("MIIs") which is effective from the 45th day of issuance of this MIIs Circular, i.e., from 19.09.2025.

i. Actions by Internal Committee or Pre-approved Policy Actions: Any request for review, appeal or waiver of penalty filed against actions taken by the Internal Committee of the Member Committee, or by MIIs as per the pre-approved policy on regulatory action shall continue to be placed before the Member Committee for consideration.

ii. Actions by Member Committee: Any appeal against penalties directly imposed by the Member Committee will now be handled by a new mechanism set up by the MII's Governing Board, comprising Public Interest Directors and/or Independent External Professionals not forming part of the Member Committee.

iii. Standard Operating Procedure: The Governing Board is required to issue a Standard Operating Procedure regarding the handling of such review, appeal or

[1] Review, appeal or waiver of penalty requests emanating out of actions taken by the Member Committee.

waiver requests arising from Member Committee actions.

iv. Further Appeals: Members or participants retain the right to approach appropriate authorities under applicable laws for further appeals against decisions from the MII's appeal mechanism.

SEBI introduces policy on joint annual inspection of intermediaries by MIIs[2]

SEBI issued a Circular No. SEBI/HO/MIRSD/ MIRSD-PoD/P/CIR/2025/113 dated 07.08.2025 ("Inspection Circular"), which has introduced a new policy for joint annual inspection by MIIs to enhance ease of doing business and establish an information sharing mechanism.

SEBI has introduced a joint annual inspection framework replacing separate inspections by MIIs to enhance ease of doing business. Under the Inspection Circular, entities will be inspected jointly by all relevant MIIs covering all segments in a single comprehensive review, reducing regulatory burden on intermediaries. The Inspection Circular establishes an information sharing mechanism among MIIs and revises inspection criteria to a risk-based approach, mandating inspection of top 25 (twenty-five) entities in three high-risk categories, namely, those with recurring penalties, highest investor complaints, and highest risk scores under Risk Based Supervision. Other entities will be inspected at least once in 3 (three) years.

MIIs are required to frame a joint Standard Operating Procedure by 01.11.2025, with provisions effective from 01.12.2025. The framework designates a 'Lead MII' for enforcement actions and allows special purpose inspections based on specific triggers regardless of last inspection timing. This Inspection Circular rescinds SEBI Circular CIR/HO/MIRSD/MIRSD2/CIR/P/2017/73 dated 30.06.2017 and amends para 14 of the Master Circular for Stock Brokers dated 17.06.2025.

SEBI revises framework for conversion of private listed InvITs into public InvITs[3]

SEBI issued a Circular No. SEBI/HO/DDHS/DDHS-PoD-2/P/CIR/2025/114 dated 08.08.2025 ("InvITs Circular"), which has modified the framework for conversion of Private Listed Infrastructure Investment Trusts ("InvITs") into Public InvITs effective immediately and applies to all Infrastructure Investment Trusts, parties to InvITs, recognized stock exchanges, and registered depositories.

Key changes introduced under InvITs Circular are as follows:

i. Streamlined Sponsor Contribution Requirements: SEBI has simplified the minimum unitholding requirements for sponsor(s) and sponsor group(s) by replacing the existing framework with direct references to Regulation 12(3) and 12(3A) of the InvIT Regulations. The lock-in provisions have also been aligned with Regulation 12(5) of the InvIT Regulations, ensuring consistency across the regulatory framework.

ii. Alignment with Follow-on Offer Procedures: The procedure and disclosure requirements for public offer of units to convert a private listed InvIT into a public InvIT have been aligned with follow-on offer requirements rather than initial public offering requirements. This includes substituting references from "initial" standards and offer procedures, requiring compliance with follow-on offer requirements under InvIT Regulations, updating disclosure requirements to align with follow-on offer standards, and modifying distribution disclosure requirements to include follow-on offer specific details.

SEBI removes transaction charges paid to Mutual Fund Distributors[4]

SEBI issued a Circular No. SEBI/HO/IMD/IMD-PoD-1/P/CIR/2025/115 dated 08.08.2025 ("Mutual Fund Circular"), which has removed transaction charges paid to Mutual Fund Distributors with immediate effective.

SEBI has done away with the charges or commission provisions previously prescribed under paragraphs 10.4.1.b and 10.5 of the SEBI Master Circular for Mutual Funds dated 27.06.2024, which earlier allowed Asset Management Companies ("AMCs") to pay transaction charges to distributors subject to a minimum subscription amount of INR 10,000/- (Indian Rupees Ten Thousand only) brought in by such distributors. SEBI has now deleted these paragraphs entirely, recognizing that distributors, as agents of AMCs, are entitled to be remunerated by the AMCs through other means.

SEBI notifies SEBI (Foreign Portfolio Investors) (Amendment) Regulations, 2025[5]

SEBI issued Notification No. SEBI/LAD-NRO/GN/2025/254 dated 11.08.2025, which has notified

[2] Ease of doing business - Policy for joint annual inspection by MIIs - information sharing mechanism - action by Lead MII.
[3] Review of Framework for conversion of Private Listed InvIT into Public InvIT.
[4] Transaction charges paid to Mutual Fund Distributors.
[5] SEBI (Foreign Portfolio Investors) Amendment Regulations, 2025.

the SEBI (Foreign Portfolio Investors) (Amendment) Regulations, 2025 ("FPI Amendment Regulations"), amending the SEBI (Foreign Portfolio Investors) Regulations, 2019 ("FPI Regulations") to provide certain regulatory relaxations for Foreign Portfolio Investors ("FPIs") investing exclusively in Government Securities ("G-Sec") and shall come into force on the 180th day from the date of publication in the Official Gazette, i.e., 08.02.2026.

The FPI Amendment Regulations introduce specific exemptions for FPIs who invest only in G-Sec ("G-Sec FPIs"), subject to conditions as may be specified by SEBI from time to time. The exemptions are as follows:

i. Eligibility criteria: G-Sec FPIs are exempted from sub-clauses (i), (ii) and (iv) of Regulation 4(c) of the FPI Regulations, which require that the contribution of a single NRI/OCI/resident Indian shall be below 25% (twenty five percent) of the total corpus, the aggregate contribution of all such persons shall be below 50% (fifty percent) of the total corpus, and such persons shall not be in control of the applicant.

ii. Investor Group details requirement: G-Sec FPIs are exempted from the obligation under clause (l) of Regulation 22(1) of the FPI Regulations, which requires FPIs to ensure that accurate details regarding its investor group are maintained with its designated depository participant at all times.

iii. Investor Group Clubbing: G-Sec FPIs are exempt from the investor group clubbing provisions under Regulation 22(3) of the FPI Regulations where multiple entities with common ownership of more than 50% (fifty percent) or common control are treated as part of the same investor group with clubbed investment limits.

iv. Change Notification requirements: G-Sec FPIs are also exempted from the requirement under Regulation 22(5) of the FPI Regulations to notify the designated depository participant of any direct or indirect change in structure, common ownership, or control of the foreign portfolio investor or investor group.

RBI notifies Reserve Bank of India (Non-Fund Based Credit Facilities) Directions, 2025[6]

The Reserve Bank of India ("RBI"), through notification dated 06.08.2025, notified the RBI (Non-Fund Based Credit Facilities) Directions, 2025 ("RBI NFB Directions") to consolidate guidelines on non-fund based ("NFB") facilities such as guarantees, letters of credit, and co-acceptances across regulated entities ("REs") which shall come into force from 01.04.2026 or any earlier date as determined by the RE's internal policy and will apply to all new or renewed NFB facilities thereafter. The salient features of the RBI NFB Directions are as follows:

i. Applicability: The RBI NFB Directions shall apply to Commercial banks (including Regional Rural Banks ("RRBs") and Local Area Banks); Primary (Urban) Co-operative Banks ("UCBs"); State Co-operative Banks; Central Co-operative Banks; All India Financial Institutions ("AIFIs"); and Non-Banking Financial Companies ("NBFCs") including Housing Finance Companies ("HFCs") in the middle layer and above, only for issuance of Partial Credit Enhancement ("PCE") as permitted under Chapter IV of the RBI NFB Directions.

ii. General Conditions:

   a. RE credit policies must cover type of NFB facilities, limits, credit appraisal, security, fraud prevention, monitoring, delegation, audit, and compliance with standards.
   b. NFB facilities may be issued only to customers having a funded credit facility with the RE, with certain exceptions including derivative contracts, counter guarantees from other REs, facilities against eligible financial collateral, or based on a no-objection certificate from the funding RE.
   c. REs are prohibited from issuing NFB facilities assuring repayment of funds raised by any entity through deposits or bonds unless specifically permitted by RBI.
   d. Once an NFB facility devolves into a fund-based facility, prudential norms applicable to fund-based facilities will apply.

iii. Guarantees and Co-Acceptances:

   a. Guarantees must be irrevocable, unconditional, incontrovertible, and include a clear payment mechanism.
   b. Ceiling limits apply to guarantees by UCBs, RRBs, local area banks, state co-operative banks, and central co-operative banks, including a 5% (five percent) cap on total assets for guaranteed obligations and a 1.25% (one point two five percent) cap for unsecured guarantees.
   c. Electronic guarantees require a standard operating procedure to ensure system integration, minimal manual intervention, and audit controls.
   d. REs shall generally not issue guarantees favouring another RE to enable it to provide

[6] RBI (Non-Fund Based Credit Facilities) Directions, 2025.

fund-based credit, except in trade-related transactions.

e. Only genuine trade bills may be co-accepted, with proper record maintenance and restrictions on co-acceptance where underlying transactions are already funded.

iv. Overseas and Broker-Related Guarantees:

a. Authorised Dealer banks may issue NFB facilities for permissible foreign exchange transactions and guarantees for overseas subsidiaries in line with extant guidelines.

b. Only scheduled commercial banks may issue guarantees on behalf of stock/commodity brokers in favour of exchanges in lieu of deposits or margins.

v. Partial Credit Enhancement ("PCE"):

a. PCE may be provided by scheduled commercial banks (excluding RRBs), AIFIs, NBFCs, and HFCs in the middle layer and above for corporate, SPV, or municipal bonds, subject to eligibility conditions and rating requirements.

b. The PCE facility must be irrevocable, subordinated, documented, and capped at 50% (fifty percent) of bond issue size (both individual RE and aggregate exposure).

c. REs may not invest in bonds credit-enhanced by other REs.

d. PCE exposures must be within overall exposure limits and cannot exceed 20% (twenty percent) of Tier 1 capital.

e. Specific conditions apply to PCE for NBFC/HFC bonds, including a minimum tenor of 3 (three) years and use of proceeds only for debt refinancing.

f. PCE must be repaid within 30 (thirty) days of drawal, with classification as NPA if overdue for 90 (ninety) days or more.

RBI notifies Reserve Bank of India (Co-Lending Arrangements) Directions, 2025[7]

RBI through notification dated 06.08.2025 notified the Reserve Bank of India (Co-Lending Arrangements) Directions, 2025 ("RBI Co-Lending Directions") to provide a comprehensive regulatory framework for lending arrangements between REs for broadening the scope of co-lending which was limited to priority sector. These Directions shall come into force from 01.01.2026 or any earlier date as determined by the RE's internal policy.

The salient features of the RBI Co-Lending Directions are as follows:

i. Applicability: The RBI Co-Lending Directions shall be applicable to co-lending arrangements ("CLA") entered into by: (a) Commercial Banks (excluding Small Finance Banks, Local Area Banks, and RRBs); (b) AIFIs; and (c) NBFCs, including HFCs.

ii. Purpose: CLA refers to an arrangement, formalised through an agreement, between a RE which is originating the loans ("Originating RE") and another RE which is co-lending ("Partner RE"), to jointly fund a portfolio of loans, of either unsecured or secured loans, in a pre-agreed proportion, involving revenue and risk sharing.

iii. Minimum Exposure: Each Partner RE is required to maintain a minimum of 10% (ten percent) of the individual loan exposure in its books.

iv. Credit Policy: The credit policy of REs shall mandatorily include provisions relating to internal limits for the proportion of the lending portfolio of the RE under CLAs, target borrower segments, due diligence of Partner REs, customer service and grievance redressal.

v. CLA Agreement: The agreement to be entered into between CLA partners shall include detailed terms and conditions of the arrangement, criteria for selection of borrowers, product lines, operational areas, fee structure, segregation of responsibilities, timelines for critical information exchange, customer interface, and grievance redressal mechanism.

vi. Mandatory Disclosures: The loan agreement signed with the borrower shall upfront disclose the segregation of roles and responsibilities (such as sourcing and servicing) of the concerned REs including clear identification of the entity being the single point of contact with the customer. Any subsequent change in customer interface shall only be done after prior intimation to the borrower. REs are required to disclose all requisite details of the CLA to the concerned borrower as laid down under the RBI Circular on 'Key Facts Statement ("KFS") for Loans & Advances' dated 15.04.2024 (as amended).

vii. Interest Rate and Charges: The final interest rate charged to the borrower shall be the blended interest rate calculated by taking into account the weighted average of the interest rates of the respective REs' as per their internal lending policies and funding share under CLA. Any additional charges payable by the

[7] RBI (Co-Lending Arrangements) Directions, 2025.

borrower shall form part of the Annual Percentage Rate ("APR") and shall be disclosed in the KFS.

viii. Operational Arrangements:

a. The CLA shall ensure that the respective shares of the REs are reflected in the books of both REs without delay after disbursement by the Originating RE to the borrower, but in any case, not later than 15 (fifteen) calendar days from disbursement by the originating RE. Loans shall be transferred only to the partner RE as per the CLA and disclosures made in the KFS at the time of sanction of loan. If the above transfer of loan is not made within 15 (fifteen) days, the Originating RE shall be able to transfer to other eligible lenders as per the provisions of Master Directions - Transfer of Loan Exposure, 2021.
b. All transactions (disbursements/ repayments) between the REs, as well as with the borrower, shall be routed through an escrow account maintained with a bank (which could also be a RE involved in CLA). The escrow agreement shall clearly specify the manner of appropriation between the Originating RE and the Partner RE.
c. REs shall implement business continuity plan to ensure uninterrupted service to the borrower till repayment of the loans, in the event of termination of CLA between the REs.

ix. Default Loss Guarantee: Originating RE may provide default loss guarantee up to 5% (five percent) of loans outstanding under CLA. Provisions of such default loss guarantee shall be governed by the provisions relating to default loss guarantee as provided under the Reserve Bank of India (Digital Lending) Directions, 2025.

x. Asset Classification: If either of the REs classifies its exposure to a borrower under CLA as Special Mention Account ("SMA") or Non-Performing Asset ("NPA") on account of default in the CLA exposure, the same classification shall be applicable to the exposure of the other RE to the borrower under CLA. REs are required to put robust mechanisms in place for sharing of information.

GOVERNMENT NOTIFICATIONS

MNRE issues amendment to procedure for inclusion/updating of wind turbine models in the revised list of models and manufacturers of wind turbines[8]

The Ministry of New and Renewable Energy ("MNRE"), through its office memorandum dated 31.07.2025 has issued an amendment to the 'Procedure for inclusion/updating of Wind Turbine Models ("WTM") in the Revised List of Models and Manufacturers ("RLMM") of Wind Turbines ("RLMM Amendment")'. The RLMM Amendment seeks to rename RLMM as Approved List of Models and Manufacturers ("ALMM") and is applicable on all existing WTMs already enlisted in RLMM or submitted for enlistment. The salient features of the RLMM Amendment are as follows:

i. Amendment to paragraph 4(g): The uploaded details for RLMM inclusion will now mandatorily include not only the WTM name along with the details of the WTM manufacturer, technical details, and certifications but also the vendor/source details for blade, tower, gearbox, generator and special bearings.

ii. Amendment to paragraph 4(h): The type certificate for a WTM must include blade, tower, gearbox, generator, and special bearings manufacturing facilities, which will be inspected by a technical team constituted by MNRE as per the Standard Operating Procedure ("SOP"). Based on this, the ALMM (Wind Turbine Components) shall be issued, and only components from these listed facilities shall be used.

iii. Addition of paragraph 4(i): It prescribes new cybersecurity norms as mentioned below:

a. Data centre and/or servers must be mandatorily located within India with all data concerning WTMs should be stored and maintained in India.
b. Real-time operational data transfer outside India shall be prohibited and operational control of WTMs must be conducted exclusively from a facility in India.
c. Mandatory establishment of an R&D centre within India within one year from the issuance of this office memorandum

iv. Exemption from Pt. ii above: Amendment to paragraph 4(h) shall not apply in following cases:

a. Projects with bids closed before the issuance of this office memorandum, provided they are commissioned within 3 (three) years from its date.
b. Wind power projects commissioned within 18 (eighteen) months (from the date of this office memorandum) under Captive, Open Access, C&I, or Third-Party Sale mode.

[8] Introduction of Continuous Clearing and Settlement on Realisation in Cheque Truncation System.

c. New WTMs, as per SOP, limited to 800 MW for 2 (two) years from the date of enlistment in ALMM (Wind).

v. Any import required for manufacturing of WTM needs to be in compliance with the provisions of Renewable Energy Equipment Import Monitoring System as and when it gets notified.

MoP issues draft Energy Conservation (Compliance Enforcement) Rules, 2025[9]

The Ministry of Power ("MoP") by notification no. G.S.R. 529(E) dated 05.08.2025 issued the Draft Energy Conservation (Compliance Enforcement) Rules, 2025 ("Draft Energy Conservation Rules"), inviting comments within 30 (thirty) days.

The Draft Energy Conservation Rules apply to persons covered under Section 13A of the Energy Conservation Act, 2001 ("EC Act"), manufacturers or importers specified in Section 14(c) of the EC Act, designated consumers mentioned in Section 14(e), (n), and (x), as well as any other person or entity falling within the scope of the EC Act.

The Draft Energy Conservation Rules provide that the Bureau of Energy Efficiency ("Bureau") is responsible for enforcing compliance with norms and standards set by the Central Government. If there is any shortfall, the Central Government's norms under Section 14(x) of the EC Act will apply to the extent of that shortfall and will not be combined with norms set by any State Electricity Regulatory Commission ("SERC") under the Electricity Act, 2003 ("EA 2003").

Further, the Draft Energy Conservation Rules provide that the Adjudicating Officer, appointed by the SERC, shall conclude the proceedings and impose penalties for underachievement, which has been defined as failure to meet the targets specified in accordance with the EC Act.

Lok Sabha introduces the Insolvency and Bankruptcy Code (Amendment) Bill, 2025[10]

The Union Finance Minister introduced the Insolvency and Bankruptcy Code Amendment Bill, 2025 ("IBC Amendment Bill") in the Lok Sabha on 12.08.2025. The key proposed amendments in the IBC Amendment Bill are as below:

i. Proposed amendment to Section 3 of the Insolvency and Bankruptcy Code, 2016 ("IBC") - Definitions (Part I): An explanation is proposed to be added to the definition of "*security interest*" as provided in Section 3 (31) of the IBC clarifying that the security interest shall exist only if it creates a right, title or interest or a claim to a property pursuant to an agreement or arrangement, by the act of two or more parties, and shall not include a security interest created merely by operation of any law for the time being in force.

ii. Proposed amendment to Section 5 of IBC - Definitions (Part II): In Section 5 (11) of IBC defining "*initiation date*" it is proposed to be provided that in case there are multiple applications for initiation of the corporate insolvency resolution process in respect of a corporate debtor pending before the Adjudicating Authority on the insolvency commencement date, the initiation date shall be the date on which the first such application was made before the Adjudicating Authority.

iii. Proposed amendment to Section 7 of IBC - Initiation of corporate insolvency resolution process by financial creditor: Section 7 (5) of IBC has been proposed to be substituted and it has been clarified in Explanation II that where a record of default in respect of a financial debt owed to a financial institution recorded with the information utility has been furnished along with the application filed by such financial institution under this section, such record shall be considered sufficient for the Adjudicating Authority to ascertain the existence of default under this section and no other ground shall be considered to reject an application under Section 7 of the IBC.

iv. Proposed amendment to Section 12A of IBC - Withdrawal of application admitted under section 7, 9 or 10: Section 12A of IBC has been proposed to be substituted and Section 12A (2) has been proposed to be added stating that an application admitted under section 7, 9 or 10 shall not be withdrawn:

   a. Before the constitution of the committee of creditors.
   b. After the first invitation for submission of a resolution plan has been issued by the resolution professional.

v. Proposed amendment to Section 21 of IBC - Committee of creditors: In section 21 of IBC, sub-section (11) has been proposed to be added stating that when the liquidation process of the corporate debtor is initiated, the committee of creditors shall also supervise the conduct of the liquidation process by the liquidator and the provisions applicable on the meetings of committee of creditors shall also apply to the liquidation process.

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[9] Draft Energy Conservation (Compliance Enforcement) Rules, 2025.

[10] IBC (Amendment) Bill 2025.

vi. Proposed amendment to Section 31 of the IBC - Approval of resolution plan: A proviso to Section 31(1) has been proposed to be added clarifying that the Adjudicating Authority may, if the resolution professional applies with 66% committee of creditors' approval, approve the implementation of the resolution plan first and then, within 30 (thirty) days, approve the manner of distribution.

vii. Proposed Amendment to Section 53 of the IBC - Distribution of assets: It has been clarified by an explanation to Section 53 (b) (ii) of IBC that where the value of the security interest relinquished by the secured creditor is less than the total debt owed to such secured creditor by the corporate debtor, he shall be a secured creditor to the extent of the value of such security interest, determined in such manner as may be specified, and for the remaining value of debt, he shall be considered to be an unsecured creditor.

It has been clarified by an explanation to Section 53 (e) (i) of IBC that the dues to the Central Government and the State Government shall be lower in the order of priority for distribution of the proceeds from the sale of the liquidation assets, than the corporate debtor's debts owed to a secured creditor for any amount unpaid following the enforcement of security interest except for the dues owed by the corporate debtor to the Central Government and the State Government in the two years preceding the liquidation commencement date, those dues will rank equally with the secured creditor dues.

viii. Proposed Amendment by addition of Chapter VA and Section 59A - Power to make rules for initiating proceedings for coordination and cooperation of corporate debtors of group: Proposed Section 59A (1) of the IBC states that the Central Government may prescribe the manner and conditions for conducting group insolvency proceedings the provisions will be applicable when insolvency proceedings are initiated against two or more corporate debtors that form part of a group.

JUDICIAL PRONOUNCEMENTS

Supreme Court holds that in disputes concerning trusts, the parties which have consented to arbitration are estopped from opposing award on the ground of non-arbitrability.

The Supreme Court through its judgement dated 14.08.2025 in the matter of *Sanjit Singh Salwan & Others. v Sardar Inderjot Singh Salwan & Others*[11] held that, in the disputes concerning trusts, when a party voluntarily submits to arbitration proceedings and accepts a consent decree regarding the same, then the doctrine of estoppel applies, making it impermissible for that party to challenge the decree later on the ground that such disputes are non-arbitrable under Section 92 of the Civil Procedure Code, 1908 ("CPC").

In the present matter the court observed that since one of the parties to the dispute had accepted the consent decree and derived benefits from it, the same party cannot now challenge the validity of the decree, questioning the arbitrability of dispute. In addition to this, the Supreme Court observed that parties cannot be allowed to approbate the consent decree and then reprobate the same, as the same violates the principle of estoppel.

Supreme Court holds that an exclusive jurisdiction clause determines the seat of arbitration

The Supreme Court through its judgment dated 05.08.2025 in *M/s Activitas Management Advisor Private Limited v. Mind Plus Healthcare Private Limited*[12], held that where an agreement contains a clause conferring exclusive jurisdiction on a particular court in the context of arbitration, such jurisdiction is to be treated as the seat of arbitration, thereby excluding the jurisdiction of other courts.

The Supreme Court held that even though the contract did not expressly mention the 'seat' or 'venue' of arbitration, the reference to exclusive jurisdiction in the context of arbitration must be construed as the seat of arbitration itself. The Supreme Court referred to its earlier decision in *Brahmani River Pellets Ltd. v. Kamachi Industries Ltd*[13] and held that where jurisdiction is specifically conferred upon a court, such court alone has jurisdiction to entertain an application under section 11 the Arbitration & Conciliation Act, 1996 ("A&C Act").

Supreme Court reiterated that jurisdiction under Section 138 of NI Act for cheque dishonour lies with the court within whose local jurisdiction the branch of the bank, where the payee maintains the account, is situated

The Supreme Court through its judgement dated 25.07.2025 in *Prakash Chimanlal Sheth v. Jagruti Keyur Rajpopat*[14] held that jurisdiction under Section 138 of the Negotiable Instruments Act, 1881 ("NI Act") for cheque dishonour lies with the court within whose local

[11] 2025 INSC 988

[12] SLP (C) No. 27714 of 2024.

[13] (2020) 5 SCC 462.

[14] Criminal Appeal Nos. 3194-3197 of 2025.

jurisdiction the branch of the bank, where the payee maintains the account, is situated.

In the present case, Prakash Chimanlal Sheth had deposited cheques at Kotak Mahindra Bank's Mumbai branch to be credited to his account maintained in Mangalore, which were dishonoured for insufficient funds. Accordingly, he filed complaints in Mangalore under Section 200 of the Code of Criminal Procedure, 1973, read with Section 138 of the NI Act. Both the trial court and the High Court of Karnataka rejected the complaints, holding that jurisdiction was in Mumbai since the cheques were deposited in Mumbai branch and Courts in Mangalore had no territorial jurisdiction.

The Supreme Court held that the correct jurisdiction lies with the court within whose local jurisdiction the branch of the bank where the payee maintains its account is situated. Since Prakash Chimanlal Sheth's account was maintained in Mangalore, the complaints were rightly filed in Mangalore and held that the jurisdiction lies with the court within whose local jurisdiction the branch of the bank where the payee maintains the account is situated.

Supreme Court holds that mere allegations of 'simple fraud' and 'fraud simpliciter' are arbitrable

The Supreme Court through its judgement dated 05.08.2025 in *the Managing Director Bihar State Food and Civil Supply Corporation Limited & Another v. Sanjay Kumar*[15] held that mere pendency of criminal proceedings in offences involving simple fraud like cheating, criminal breach of trust doesn't bar a dispute from being referred to an arbitration.

The Supreme Court distinguished between the arbitrability of two types of fraud namely (i) serious fraud and (ii) fraud simpliciter/ simple fraud and held that cases involving serious fraud such as allegations of forgery or fabrication etc. are non-arbitrable, however, the cases involving simple fraud such as cheating, breach of trust can be referred to arbitration.

The Supreme Court reaffirmed the two key tests of non-arbitrability, whether the allegation of fraud nullifies the arbitration clause itself and second, whether the fraud involves public law implications (i.e., effects the right in rem) and basis the two key tests held that in the present case, the test for non-arbitrability was not met as the allegations of fraud neither vitiated the arbitration clause nor involved any element of public law, making the dispute purely contractual in nature.

Supreme Court directs time-bound liquidation of regulatory assets by SERCs

The Supreme Court through its judgment dated 06.08.2025 in *BSES Rajdhani Power Ltd. & Anr. v. Union of India and Ors.*[16] held that regulatory assets created by SERCs must be liquidated within three years, while existing ones must be liquidated within four years starting from 01.04.2024.

In the present case, the three distribution companies in Delhi, namely BSES Rajdhani Power Ltd., BSES Yamuna Power Ltd. and Tata Power Delhi Distribution Ltd. challenged the manner in which the Delhi Electricity Regulatory Commission ("DERC") has determined the tariff for retail supply of electricity over the years, leading to the creation and continuation of "regulatory assets" amounting to INR 27,200.37 Crores.

The Court described "regulatory asset" as an intangible asset created by the SERCs in recognition of an uncovered revenue gap or revenue shortfall when a distribution licensee could not fully recover the costs reasonably incurred by it through revenue from tariff. The Supreme Court held that regulatory assets should not exceed a reasonable percentage, arrived on the basis of Rule 23 of the Electricity Rules, 2005 that prescribes 3% of the Annual Revenue Requirement ("ARR") as the guiding principle. SERCs must also submit a roadmap for liquidation, including carrying costs and conduct strict audits in case where distribution companies have continued without recovery of the regulatory assets.

Further, the Supreme Court directed the SERCs to follow the principles governing creation, continuation and liquidation of the regulatory asset as laid down in the directions of the Appellate Tribunal for Electricity ("APTEL") in its order dated 11.11.2011 in O.P. No. 1 of 2011 and order dated 14.11.2013 in O.P. Nos. 1 and 2 of 2012.

High Court of Delhi held that the timelines prescribed for filing statement of defence under Rule 18(3) of the Indian Council of Arbitration Rules is directory in nature.

The High Court of Delhi by its judgement dated 06.08.2025 in *Aneja Constructions (India) Limited v Doosan Power Systems India Private Limited*[17] held that that the timeline prescribed under Indian Council of Arbitration Rules, 2024 ("**Arbitration Rules**") for filing a Statement of Defence by the respondent is directory in nature and can be extended by the Arbitral Tribunal if sufficient cause is shown.

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15 SLP (C) No. 10455 of 2020.
16 Writ Petition (C) 104 of 2014.
17 CM(M) 1419/2025

The court observed that procedural rules are to guide, not bind the parties and the Arbitral Tribunal is not powerless when it comes to extending timelines prescribed under procedural rules, provided sufficient cause is shown. Arbitration Rules are procedural in nature and meant to serve justice and not obstruct it. Furthermore, the court also observed that a liberal interpretation is vital for ensuring the efficacy of the arbitral process.

High Court of Delhi held that injunction restraining convening of Board and General Meetings for removal of Directors is impermissible under Section 9 of the A&C Act

The High Court of Delhi through its judgment dated 11.08.2025 in *Drharors Aesthetics Private Ltd. v. Debulal Banerjee*[18] observed that interim injunction under Section 9 of the A&C Act cannot be granted to prevent convening of extraordinary general meeting for removal of a director as it effectively amounts to grant of final relief and infringes upon statutory powers conferred to a Company under the Companies Act, 2013.

The court also observed that the essential elements of interim relief namely the existence of a *prima facie* case, balance of convenience, or the likelihood of irreparable harm are *sine qua non* for granting of interim relief under Section 9 of the A&C Act.

In addition to this the court reiterated that injunctions restraining Board or General Meetings are impermissible and that disputes concerning removal of directors must be adjudicated either before the Arbitral Tribunal or under the remedies provided by the Companies Act, 2013.

High Court of Allahabad held that Section 14 proceedings under SARFAESI Act are a continuation of the measures under Section 13(4) and limitation under Section 17 runs from the last impugned action.

The High Court of Allahabad in the matter titled as *Vimla Kashyap and Ors. v. Union of India and Ors.*[19], through its judgment dated 06.08.2025 has held that the limitation for filing an Application under Section 17 of The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("SARFAESI Act") is to be computed from the date of the last action against which the borrower or aggrieved person approaches the Debts Recovery Tribunal ("DRT").

The High Court of Allahabad held that Section 14 of the SARFAESI Act is a continuation of the proceedings initiated under Section 13(4). Therefore, all steps taken under Section 13(4) and subsequent action under Section 14 furnish independent and continuing causes of action for the borrower to invoke Section 17 of the SARFAESI Act. The limitation must accordingly be computed from the date of the last impugned action challenged before the DRT.

CCI equates Section 26(2A) of the Competition Act, 2002 with the principle of res judicata in competition law

The Competition Commission of India ("CCI"), through its order dated 01.08.2025 in *Alliance of Digital India Foundation v. Alphabet Inc. & Others*[20], equated Section 26(2A) of the Competition Act, 2002 ("CA 2002") with the principle of res judicata in competition law matters.

In the present case, Alliance of Digital India Foundation, representing Indian start-ups and developers, filed a complaint against Alphabet Inc. and its various entities, alleging abuse of dominance by Alphabet Inc., in violation of Section 4 of the CA 2002. However, Alphabet Inc. contended that CCI had already addressed all substantive issues raised in the present complaint in its earlier orders, where it found Google's practices to be non-abusive and pro-competitive.

The CCI referred to the newly inserted Section 26(2A) of CA 2002 and equated it with the principle of res judicata in competition law matters. It held that all issues raised in the complaint had been substantially decided in prior orders and accordingly closed the complaint without further inquiry.

APTEL modifies interim stay, allows DVC to recover 50% arrears in West Bengal tariff dispute

The APTEL through its judgment dated 11.08.2025 in *DVPCA v. WBERC and Anr.*[21] directed payment of 50% arrears and furnishing of bank guarantee for remaining 50% arrears within three months by Damodar Valley Power Consumers Association ("DVPCA") due to change in circumstances and hardship to Damodar Valley Corporation ("DVC").

The APTEL held that in terms of the principles provided for vacation of stay under Order XXXIX, Rule 4 of the CPC, there was a change in circumstances for the following reasons: (i) truing up of the ARR for FY 2018-19 and FY 2019-20 by West Bengal Electricity Regulatory Commission ("WBSERC") and (ii) modification of the earlier interim order passed by the APTEL in its order dated 17.01.2025. Further, it was noted that the order dated 17.01.2025, which was under challenge in Civil Appeal

[18] FAO (COMM) 163/2025
[19] 2025:AHC-LKO:45592
[20] Case No. 23(2) of 2024.
[21] Appeal No. 307 of 2022.

No. 1976 of 2025, was disposed of by the Hon'ble Supreme Court expressing its disinclination to interfere with the order. The APTEL observed that as the true up order passed by the WBERC has been held by the Supreme Court to be a subsequent development which gave rise for an occasion for reconsidering the earlier interim order, the observation of the Supreme Court amounted to a change in circumstance, attracting the second proviso to Order XXXIX, Rule 4 of the CPC. Further, the APTEL held that since the pre-condition of change in circumstance is already fulfilled, there is no requirement to assess if there was any undue hardship caused to DVC.

The Hon'ble APTEL observed that considering that the stay order dated 29.07.2022 was granted to DVPCA in light of the stay order passed in *Inox Air Products Private Limited vs. WBERC and Ors.*[22]; and since the same stands modified, the stay order passed in the instant case needs to be modified as well. Thus, the APTEL directed that there shall be stay on arrears in so far as DVPCA are concerned on the condition that it pays 50% of the arrears as determined in terms of the order of the WBERC and furnish a bank guarantee for the remaining 50% arrears, within three months from the date of the present order.

[22] Appeal No. 286 of 2022.

ABOUT SAGUS LEGAL

Sagus Legal is a full-service law firm that provides comprehensive legal advisory and advocacy services across multiple practice areas. We are skilled in assisting businesses spanning from start-ups to large business conglomerates including Navratna PSUs, in successfully navigating the complex legal and regulatory landscape of India. Our corporate and M&A, dispute resolution, energy, infrastructure, banking & finance, and insolvency & restructuring practices are ranked by several domestic and international publications. We also have an emerging privacy and technology law practice.

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