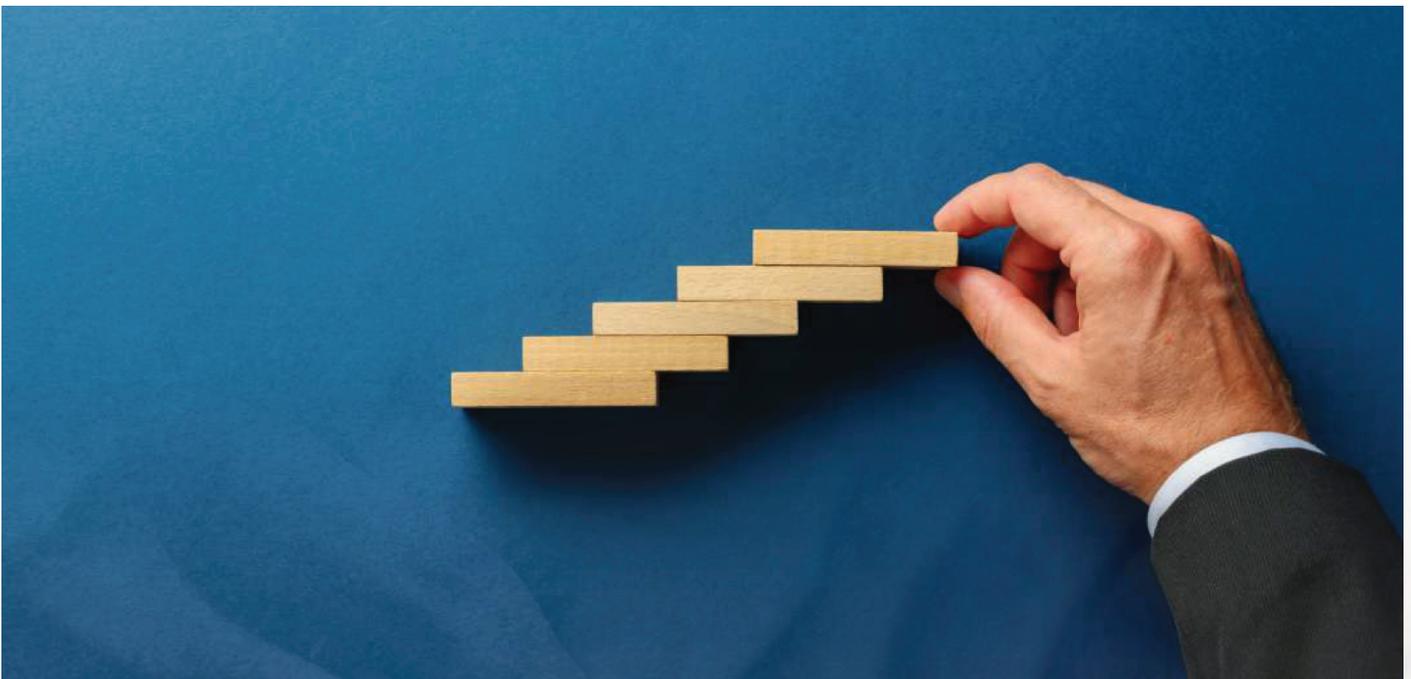


# JUSIP LISTICLE

## RETRACING 2020

LET'S RETRACE OUR STEPS BACK TO THE SOME OF THE IMPORTANT DEVELOPMENTS OF THE YEAR 2020.



### JANUARY

#### Issues over credits of "Chhapaak"

The Delhi HC, ordered the filmmakers of "Chhapaak" to recognize the contribution of Ms. Aparna Bhat, the lawyer who appeared on behalf of the acid attack survivor as she had contributed to the script of the movie.

### FEBRUARY

#### Parachute Disparagement Case

The YouTuber "Bearded Chokra" was caught in litigation with Marico for his video on their "Parachute oil. The court ordered taking down the video and elaborated upon responsibility of YouTubers to ensure that they must not issue false information.

### MARCH

#### Ministry of Finance clarified the "Force Majeure clause"

In wake of COVID-19 pandemic, the Ministry of Finance issued an Office Memorandum on the Force Majeure clause, primarily as a saving clause in view of disruptions of supply chain from China.

## APRIL

### Arbitral Award being against public policy of India

The Supreme Court in, *National Agriculture Cooperative Marketing Federation of India Vs. Alimenta S.A.* elucidated that when export was without the permission of the government, the same would be said to have violated the law and thus, be contrary public policy of India.

## MAY

### When Arbitral Award "Patently illegal"

The Supreme Court in *Patel Engineering Ltd. vs. NEEPCO* held that where interpretation of a contract is such that a reasonable person can see no reason why the arbitrator would come to a decision as such; the award may be set aside by terming it as patently illegal.

## JUNE

### Copyright Infringement case over Netflix's 'Betaal'

Bombay High Court was approached by the writer of the story titled 'Veetal' which he claimed was the source for the script of the similarly named web series. The court denied prayer for injuncting release of the web series as he could not establish a proper link between story and the webseries.

## JULY

### Legal storm around Patanjali's Cronil

Single Judge of the Madras High Court restrained Patanjali from using "Coronil" as the same was registered as a trademark and being used by Arudra Engineering for sanitizers for heavy machinery. The said order was later stayed by the Division Bench.

## AUGUST

### Budweiser's' Disparagement Case

Budweiser sued a satire website "The Fauxy" when it claimed in a viral social media video that the company's employees urinated in their beer tanks. The Delhi High Court restrained the website owners from reproducing or distributing the said video.

## SEPTEMBER

### Suit against designer Ritu Beri

The Chakhesang Women Welfare Society filed an infringement suit against Ritu Beri for their registered GI in Naga Shawls by the designer during a fashion show. Damages were also sought for infringement amounting to misrepresentation of local craft.

## OCTOBER

### PepsiCo's legal battle over "Mountain Dew" ends

PepsiCo lost a 16-year old battle to gain trade mark rights for their product Mountain Dew to Hyderabad based Magfast Beverages who enjoys prior user rights over an identical mark for their packaged drinking water business.

## NOVEMBER

### CCI orders investigation into Google favoring Google Pay

The Competition Commission of India initiated an investigation into Google for its alleged "abuse of dominant" position. It has been alleged that Google was forcing its users to choose only Google Pay as an in - App purchase on Play store.

## DECEMBER

### Landlord-Tenant Disputes Arbitrable

The apex court held that landlord - tenant disputes governed by TPA are arbitrable as they are not actions in rem but pertain to subordinate rights in personam that arise from rights in rem.



## **Delhi HC restrains Re-publishing without Author's consent**

The Delhi High Court in the case titled *Anil Mohan Bharadwaj Vs. Ravi Pocket Books & Ors* ordered that no publisher may republish or publish any novel or change the prices of the same or even create audio books of the same without first seeking consent of the author of the work. The facts of the case were as such: The plaintiff, a Hindi Novelist, signed an assignment agreement with the defendant assigning publication rights. The plaintiff approached the court when the defendants were republishing his work, increasing its price and making audio books of his work. For reason that

the copyright for the novels still subsisted in the plaintiff, the court restrained the defendants from the afore-mentioned acts of infringement.

## **Delhi High Court delves into "Performers" & "Performing Rights" in a Plea filed by ISRA against Dharma Productions**

The Indian Singers Rights Association (ISRA) filed a plea against the Dharma Production House seeking royalty for the commercial exploitation of performance rights in the movie *Gunjan Saxena - The Kargil Girl*. While the Court refrained from passing any order/directions until the completion of

pleadings, it reaffirmed the earlier position vis-à-vis Performer to include a Singer within its ambit as Performers' rights to cater to any visual or acoustic presentation made live, whether before an audience or in a studio. Hence, the said issue regarding Plaintiff's claim to Performers' rights is a triable issue.

## **Allied Blenders & Distilleries filed a suit against Agribio-tech Industries for using a deceptively similar label**

Plaintiff filed a suit for trade mark infringement against the Defendants for using a deceptively similar label "Chetak Whisky" as that of the Plaintiff's registered "Officers Choice" label, before

the Delhi High Court along with an application for interim relief. The Court held the two labels to be deceptively simi-

lar by applying the test of average intelligence where any consumer with average intelligence was likely to be

confused between the product of the plaintiff and the defendant

## CORPORATE



### **SC upholds GST on lotteries, betting and gambling**

The Supreme Court upheld the levying of GST on lotteries, betting and gambling while ruling that it did not violate any provisions of the Constitution. The bench also stated that the three activities are 'well-known concepts' that has been in practice in India for a long time now and have been taxed and regulated by different legislations. The petitioner claimed that the tax was discriminatory in nature and stated that it violated Articles 14, 19(1) (g), 301 and 304 of the Constitution while also being wrongly classified as 'goods'. The Court held that the Parliament was fully empowered to make laws with respect to

GST and that 'when the 2017 Act defines goods to include actionable claims i.e., lottery, betting and gambling for purposes of levy of GST, it cannot be said that there was no rationale for including these three actionable claims for tax purposes.'

### **RBI to implement Positive Pay System from 1 January, 2021**

In a move to check banking frauds, the RBI is implementing this system which will ask key details from people making payment beyond Rs. 50,000. Availing this security feature will be left to the discretion of the account holder but the banks will be making it compulsory for transactions higher than

Rs. 5,00,000. The RBI has asked banks to create awareness amongst account holders and customers regarding this. The issuer of the cheque will be required to submit minimum details like the date, name of beneficiary, payee and amount to the drawee bank. These details will be cross checked by the Cheque Truncation System (CTS) and will be taken up in case of any discrepancies. The RBI has clarified that only those cheques submitted under this positive pay system will be accepted under dispute resolution mechanism of the CTS grid.

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## INSOLVENCY & BANKRUPTCY



### **SEBI changes public shareholding rules**

SEBI made amendments regarding public shareholdings for companies which are undergoing CIRP. The Rule in question is pertaining to the 25% minimum public shareholding (MPS) for such companies and SEBI said that this would ensure the revival of the corporate debtor. After the CIRP, companies will have to have at least 5% public shareholding at the time of their admission to

dealing on stock exchange. At present, there is no such minimum requirement. Furthermore, these companies will be given 12 months to achieve public shareholding of 10% and further 36 months to reach 25%. Companies will also have to disclose the steps taken by them to achieve this MPS.

### **IBBI amends liquidation process**

The IBBI amended its regulations to allow a corpo-

rate debtor's asset that is 'not readily available' to be transferred to a third party in consultation with stakeholders. This move is hoped to hasten the liquidation process. Creditors also have the option to transfer debt due to them to a third party so as to benefit creditors who might not be up for waiting until the process ends. According to the IBBI, the creditors with low financial capacity will be interested in getting their dues instantly.

# ARBITRATION



## **Landlord- tenant disputes under TPA are arbitrable**

The Apex Court in *VidyaDrolia v. Durga Trading Company* held that landlord-tenant disputes governed by the Transfer of Property Act are arbitrable as they are not actions in rem but pertain to subordinate rights in personam that arise from rights in rem. This ruling overrules an earlier judgement in 2017 in the case of *Himangi Enterprises v. Kamaljeet Singh Ahluwalia*, where the Court held that such actions would not

affect any third- party rights and such disputes do not relate to sovereign functions of the State. It also said that any award passed can be executed and enforced like any other decree of a civil court and that no provision of the TPA actually bars arbitration.

## **India asked to pay \$1.2 Billion**

The International Arbitration Tribunal ordered India to return over \$1.2 billion to Cairn Energy Plc after the

Indian Government lost a tax dispute. The tribunal said that India's claim was not valid and asked the government to repay the funds along with interest. India had seized the dividend to recover the dues and this breached the UK-India Bilateral Investment Protection Treaty. India has been given the option to appeal. The UK oil explorer filed a dispute and sought international arbitration in 2015 for the losses over expropriation of its investments in India.

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