

NEWSLETTER

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LEGAL UPDATES

- **The Union Cabinet approved Companies (Second Amendment) Bill, 2019 to amend Companies Act, 2013**
- **Spending of CSR Funds for COVID-19 is eligible as CSR Activity.**
- **Central Govt. raises threshold limit for initiation of Insolvency Proceedings to Rs.1 Crore.**
- **Lockdown period excluded from prescribed CIRP time frame.**
- **Supreme Court strikes down circular issued by RBI banning crypto-currency.**
- **Services rendered to Consumers are covered under Consumer Protection Act, 1986 irrespective of their consideration amount.**
- **Nidhi Companies to apply to Central Government for updating of their status or being declared as “Nidhi Company”**
- **Disruption of Supply due to Corona Virus would fall under “Force Majeure” clause**
- **The Direct Tax Vivad se Vishwas Act, 2020 came into effect after getting assent from the President.**

The Union Cabinet approved Companies (Second Amendment) Bill, 2019 to amend Companies Act, 2013

The Union Cabinet has approved the Companies (Second Amendment) Bill, 2019, which covers several amendments related to re-categorization of certain offence, issuance of share at discount, commencement of business, registration of charges, change in approving authority, declaration of beneficial ownership and compounding etc. This bill has been tabled before the Parliament and requires the assent from the Parliament and President to become law.

Spending of CSR Funds for COVID-19 is eligible as a CSR Activity

The Ministry of Corporate Affairs vide its General Circular No. 21/2014 dated 18.06.2014, has declared that spending of CSR Fund for COVID-19 to be eligible as a CSR Activity. The funds may be utilized for various activity related to COVID-19 as described under item no.(i) to (xii) of Schedule VII. The decision has been considering the

situation pandemic as declared by World Health Organization.

Central Govt. raises threshold limit for initiation of Insolvency Proceedings to Rs.1 Crore

In exercise of its powers under Section 4 of the Insolvency & Bankruptcy Code, 2016, the Central Govt. vide notification dated 24th March 2020 MCA has specified one crore rupees as the minimum amount of default for initiation of insolvency proceedings. The said amendment is reproduced herein-

“In exercise of the powers conferred by the proviso to section 4 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Central Government hereby specifies one crore rupees as the minimum amount of default for the purposes of the said section.”

Lockdown period excluded from prescribed CIRP time frame

The Insolvency and Bankruptcy Board of India (IBBI) vide notification dated 29th March 2020 has amended the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations,

2016 (CIRP Regulations). As per the Amendment, the lockdown period imposed by the Govt. of India shall be excluded from the prescribed time line provided under Insolvency & Bankruptcy Code, 2016, in relation to a corporate insolvency resolution process.

Internet and Mobile Association of India vs. Reserve Bank of India, 2020 SCC Online SC 275

In a landmark judgment by Supreme Court on Crypto currency, the court has struck down and lifted the ban on trade in Crypto currency imposed by Reserve Bank of India. Now, trading in virtual currency, bitcoins or crypto-currency is legal in India, which was earlier restricted by RBI Circular around April, 2018. The circular was later challenged in Supreme Court. The arguments supporting crypto-currency was that since there is absence of law on trading in crypto-currency making it legitimate for the use. Now, the decision by the Supreme Court had shown a major positive impact on the market.

Service rendered at no matter how less consideration, would still constitute "service" under Consumer Protection Act, 1986

The Supreme Court took a major leap in recognizing the services availed at low consideration would still be covered under Consumer Protection Act and the true test is not the amount of consideration spent in availing the service but that the service has not been rendered free of charge, and hence covered under Consumer Protection Act, 1986. (Joint Labour Commissioner and Registering Officer v. Kesar Lal, 2020 SCC OnLine SC 327, decided on 17.03.2020).

Nidhi Companies to apply to Central Government for updating of their status or being declared as "Nidhi Company"

Nidhi Company is a type under NBFC (Non-Banking Finance Company) which is recognized under Section 406 of the Companies Act, 2013. The core business of the Nidhi Company is to borrow and lend money within its members. Recently, the Central Government has amended the provisions and

rules under Companies Act, 2013 with respect to Nidhi. Now, with the new amendment, the Nidhi Company has to apply to the Central Government to be declared or updating their status as “Nidhi Company” in Form NDH-4. In case, the company does not comply with the above requirement, in that case the company will not be allowed to file form No-SH-7(Notice to registrar for any alteration of share capital) and form PAS-3 (Return of Allotment).

Disruption of Supply due to Corona Virus would fall under “Force Majeure” clause

Ministry of Finance through an Office Memorandum dated 19-02-2020 declared that if there is a disruption of supply in China or any other country, it would under the “Force Majeure” clause. The “Force Majeure” means extraordinary events or circumstance beyond human control such as an event described as an act of God (like a natural calamity) or events such as war, strike, riots, crimes (but not including negligence or wrongdoing, predictable or seasonal rain and any other events

specifically excluded in the clause). An FM clause in the contract, frees both parties from contractual liability or obligation when prevented by such events from fulfilling their obligations under the contract. An FM Clause does not excuse a party’s non-performance entirely, but only suspends it for the duration of the FM. The firm has to give notice of FM as soon as it occurs and it cannot be claimed ex-post facto.

The Direct Tax Vivad se Vishwas Act, 2020 came into effect after getting assent from the President.

The preamble of the Act to provide for resolution of disputed tax and for matters connected therewith and incidental thereto. The Act will be applicable to disputed tax, interest or penalty in relation to an assessment or reassessment order or against disputed interest, disputed fees where there is no disputed tax etc.

**NCLAT constituted at Chennai by
the Central Government**

The Central government vides its power conferred under Section 410 of Companies Act, 2013, constituted a bench of NCLAT at Chennai to hear the appeals arising from NCLT having jurisdiction of State of Karnataka, Telangana, Andhra Pradesh, Kerala, Tamil Nadu, Lakshadweep and Puducherry. The notification has come into force from March 18, 2020.

DISCLAIMER:-

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CONTACT US:-

UTKRISHTHA LAW OFFICES,

Advocates & Legal Consultants

Address: - 15, Kailash Hills, East Of
Kailash, New Delhi

Email:-contact@utkrishthalaw.com

Phone:-9999309222, 8750021607

Website:www.utkrishthalaw.com