

NEWSLETTER

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- **Ordinance promulgated by UP Government to suspend Labour Laws for 3 years with exemption to three**

MCA includes 'PM cares fund' in CSR Schedule VII

The Ministry of Corporate Affairs has issued notification on 26th May, 2020, amending item no. (viii) of Schedule VII of the Companies Act, 2013 (the "Act"). The notification shall be deemed to be effective from 28th March, 2020.

As per the amendment, contribution made in Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES Fund) shall be covered under CSR activities.

Point No. (viii) of Schedule VII of the Act shall now be read as "contribution to the prime minister's national relief fund or Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES Fund) or any other fund set up by the central govt. for socio economic development and relief and welfare of the schedule caste, tribes, other backward classes, minorities and women"

Record of default mandatory to file Petitions under Section 7 of the Insolvency & Bankruptcy Code, 2016

The Hon'ble NCLT vide Order dated 12th May, 2020 has directed filing of default record from Information utility along with New Petitions under Section 7 of the Insolvency and Bankruptcy Code, 2016. The Order has also directed Authorized Representatives/parties in the cases pending for admission under Section 7 IBC to file default record from Information Utility before the next date of hearing.

TRAI issues letter to all distributors of Television Channels to comply with Regulation 15 of Interconnect Regulations

The Telecom Regulatory Authority of India has issued a letter dated 04.05.2020 to all distributors of Television Channels i.e. DTH Operators, Multi-System Operators, HITS Operators and Operators expressing its concerns that the Distributors are not getting their self-audit conducted in accordance with Regulation 15 of the

Telecommunications (Broadcasting & Cable) Services Interconnection (Addressable Systems) Regulations, 2017 and therefore, TRAI has advised the Distributors to mandatorily comply with said Regulation 15.

Union Cabinet approves Special Liquidity Scheme for NBFC/HFCs to improve their liquidity positions

The government has proposed to address the liquidity constraints faced by NBFC (Non-Banking Financial Companies) and HFC (Housing Finance Companies) by setting up a SPV which would manage Stressed Assets Fund (SAF) whose special securities would be guaranteed by the Government of India and purchased by the Reserve Bank of India (RBI) only. The proceeds of sale of such securities would be used by the SPV to acquire short-term debt of NBFCs/HFCs. The proposed scheme would be a one-stop arrangement between the SPV and the NBFCs without having to liquidate their current asset portfolio. The new scheme would

ease the process, augment the flow of funds and benefit the economy.

Supreme Court extends Limitation prescribed under Arbitration & Conciliation Act, 1996 & Negotiable Instruments Act, 1881

The Hon'ble Supreme Court in view of its earlier Order dated 23rd March, 2020 passed in Suo Motu Writ Petition (Civil) No.3/2020 has decided that all periods of limitation prescribed under the Arbitration and Conciliation Act, 1996 and under section 138 of the Negotiable Instruments Act 1881 shall be extended with effect from 15th March, 2020 till further orders to be passed by the Court in the present proceedings.

Establishments covered under EPF and MP Act, 1952 exempted from penalties if delay in statutory contribution or administrative charges due to prolonged lockdown

Due to prolonged lockdown by the Government to stop the spread of Covid-19, the establishments which are covered under Employment Provident Fund and Miscellaneous Provisions Act, 1952, will not be

subjected to any penalty if there is a delay in depositing statutory contribution or administrative charges. Such delays due to economic or operational will not be treated as a default and no proceedings shall be initiated against any establishment.

Banking relating to cooperatives can be included within the purview of Entry 45 of List I of Indian Constitution

The constitution bench comprising of Arun Mishra, Indira Banerjee, Vineet Saran, MR Shah and Aniruddha Bose, JJ in the matter of Pandurang vs. Vishwarao, 2020 SCC OnLine SC 431 was pleased to held that 'banking' relating to co-operatives can be included within the purview of Entry 45 of List I, and it cannot be said to be over inclusion to cover provisions of recovery by cooperative banks in the SARFAESI Act. The court reiterated that the Cooperative bank's entire operation and activity of banking are governed by a law enacted under Entry 45 of List I, i.e., the BR Act, 1949, and the RBI Act under Entry 38 of List I, the bench said, "recovery of dues would be an

essential function of any banking institution and the Parliament can enact a law under Entry 45 of List I as the activity of banking done by cooperative banks is within the purview of Entry 45 of List I. Obviously, it is open to the Parliament to provide the remedy for recovery under Section 13 of the SARFAESI Act."

'No Work No Wages' cannot be applied in such extra-ordinary circumstances

The High Court of Bombay in the case of Rashtriya Shramik Aghadi v. State of Maharashtra, 2020 SCC OnLine Bom 634 held that principle of 'no work no pay' cannot be applied in such extra-ordinary circumstances and the court cannot turn a blind eye towards the plight of insensitive workers, to whom payments have not been disbursed for the month of April and May. The court in its order also directed the District Collector to ensure that full wages, save and except food, allowance, and conveyance allowance shall be disbursed by contractors to the employees concerned for the months of March, April and May 2020.

Deposit of Rs.25,000 towards Corona Relief Fund as a condition for grant of bail held improper and unjust.

In a recent judgment from Kerala High Court (Chinna Rao Swayamvarappu v. State of Kerala, 2020 SCC OnLine Ker 1412), C.S. Dias, J. held that depositing of Rs.25,000 towards Corona Relief Fund as a condition for grant of bail is improper and unjust. While quashing the condition imposed by the Session's judge in exercise of its powers under Sec.482 CrPC, the court in its order cited the judgment from Supreme Court in the matter of Moto Ram v. State of M.P., AIR 1978 SC 1594, wherein it was held that the imposition of cash security or deposit of any amount for grant of bail is unjust, irregular, and improper.

Obstruction in decent burial of the doctor's body, who suffered from COVID-19 against Article 21 which includes, right to have a decent burial.

The Madras High Court took suo-moto cognizance of a matter highlighted in the news-channel

“Puthiya Thalaimurai”, which highlighted obstruction in decent burial of the doctor's body, who suffered from COVID-19. The bench comprising of M. Sathyanarayanan and M. Nirmal Kumar, JJ., stated that the scope of Article 21 includes, right to have a decent burial. The Court observed that the information relating to guidelines to be followed in respect of COVID 19 cases are available in public domain at the instance of the Centre and State Government and people are expected to be aware of the said guidelines issued from time to time (Suo Motu WP No. 7492 of 2020, 2020 SCC OnLine Mad 938).

Ordinance promulgated by UP Government to suspend Labour Laws for 3 years with exemption to three

The Uttar Pradesh Government amidst this pandemic situation has promulgated the ordinance 'Uttar Pradesh Temporary Exemption from Certain Labour Laws Ordinance, 2020' in view of reviewing its economy. The step taken by the government, suspend all the labour laws except the Building and Other Construction Workers Act,

1996, Workmen Compensation Act, 1923, Bonded Labour System (Abolition) Act, 1976 and Section 5 of the Payment of Wages Act, 1936 which will remain in force. In addition, provisions, which are related to children and women in labour laws, would continue.

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