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NEWSLETTER

August, 2018

Supreme Court of India on Law of Arbitration

The Supreme Court, vide judgment dated August 21, 2018, has reiterated that arbitration clause must be given strict interpretation. It was held that, in the event there are any preconditions for its applicability, its fulfillment is a *sine qua non* for applicability of the arbitration clause. In another case, vide judgment dated August 08, 2018, the Supreme Court clarified the divergent views between High Courts to observe that, for an application to set aside the arbitral award, the limitation period will commence from the date of disposal- whether allowed or dismissed- of the review application. The Supreme Court further reiterated, vide judgment dated August 20, 2018 that the courts should not allow parties to lead oral evidence in an application to set aside an arbitral award.

Supreme Court of India on Insolvency and Bankruptcy Laws

The Supreme Court, vide judgment dated August 03, 2018, held that in the case of foreign companies, it is not mandatory to follow those preconditions or requirement that are impossible to comply with, eg: obtaining a certificate from an Indian Financial Institution, filing in person, etc. In another case, vide judgment dated August 14, 2018, the Supreme Court held that there can be no proceedings under the Insolvency and Bankruptcy Code (IBC) if the basis of the debt, an arbitral award, is under challenge even if no stay has been obtained yet. It clarified that for the IBC to be applicable, there must exist an undisputed debt.

Louboutin's Trademark 'Red Sole' awarded ex-parte damages

The High Court of Delhi, in its judgment dated July 26, 2018, has reiterated the principle that in infringement cases, if the defendant's mark is closely, visually and phonetically similar, then no further proof is necessary to be awarded relief. In view of the same, the High Court awarded Christian Louboutin SAS an amount of Rs. 20,00,000/- as compensatory and punitive damages.

Supreme Court of India on digital payments system

The Supreme Court has sought a response from Whatsapp Inc on a petition that alleges that Whatsapp is operating its payments services entirely unregulated. It has been contended that Whatsapp is guilty of non-compliance with Reserve Bank of India circular, dated April 06, 2018 which stipulates that in order to run a payment service in India, a company must have its offices and payments in India.



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Mergers and Acquisitions

- The Competition Commission of India (CCI) has approved Walmart's acquisition of 51-77% stake in Flipkart for a proposed USD 16 Billion. Flipkart has further acquired an Artificial Intelligence led speech recognition start-up that supports ten Indian languages.
- The CCI has approved Procter & Gamble's acquisition of 51.80% stake in Merck Ltd. for nearly Rs. 1,290 crore. The acquisition is part of the larger global deal under which Procter & Gamble is taking over Merck KGaA International's consumer health business.
- The CCI has approved Tata Steels' proposed acquisition of upto 100% stake in Bhushan Power and Steel Ltd., which is presently facing insolvency proceedings and owes a debt of about Rs.45,000 crore.
- The CCI has approved the share swap deal permitting the Aditya Birla Group firm UltraTech today to acquire the cement business of BK Birla Group, Century Textiles and Industries.
- Vodafone India and Idea Cellular have completed the merger to create India's largest telecom company, Vodafone Idea Ltd., with 408 million active subscribers and a revenue market share of 32.2%, as on August 31, 2018.
- Adani Transmission Ltd, part of the Adani Group, completed the acquisition of Reliance Infrastructure's integrated business of power generation, transmission and retail distribution.
- The Supreme Court of India has cleared the way and permitted Reliance Communications (RCom) to proceed with the sale of its wireless assets to Reliance Jio Infocomm (Jio) unhindered.
- Berkshire Hathaway has confirmed its first investment in India and will be acquiring a stake in the Fintech Firm Paytm, run by One97 Communications Pvt. Ltd, for approximately USD300-350 Million.

Agreements and MOUs signed by Government of India

- The Government of India approved the signing of an MOU with the Republic of Korea on the Trade Remedy Cooperation which would cover anti-dumping, subsidy and countervailing and safeguard measures. The Government of India was further apprised of another MOU for technical cooperation in the Railways sector.
- The Government of India approved the MOU with the Republic of Indonesia, for cooperation in the fields of Science and Technology with a focus on Information and Communication Technology, Life Sciences, Energy Research, etc. Another MOU was approved for cooperation in the field of Health.