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- ❖ Dispute Resolution
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- ❖ Infrastructure Laws
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- ❖ Support to Start-ups
- ❖ Environment Laws
- ❖ Energy Law Practice
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NEWSLETTER

September, 2018

Supreme Court of India on constitutional validity of Aadhaar

The Hon'ble Court, in a 4:1 majority, upheld the validity of the the Aadhaar (Targeted Delivery of Financial and other Subsidies, benefits and services) Act, 2016 and regulations framed thereunder, which provided for giving every resident of India a unique 12-digit identity. However, the Hon'ble Court has modified and struck down various provisions of the Act.

Supreme Court of India on Consensual Homosexual Intercourse

The Hon'ble Court struck down an archaic law which criminalized consensual homosexual acts between consenting adults. Indian joins 25 other countries where homosexual acts have been decriminalized.

Supreme Court of India on Law of Arbitration

Stamp Duty not mandatory to enforce Foreign Award

The Hon'ble Court, settled the law and stated that a foreign award does not fall within the ambit of the Indian Stamp Act and therefore it is not mandatory to duly stamp the foreign award for enforcement in India.

Seat of Arbitration

The Hon'ble Court held that the 'place' of arbitration cannot ipso facto become the 'seat' of arbitration, without fulfillment of other preconditions.

Choice of Party prevails

The Hon'ble Court held that if an option is given between arbitration and resolution through Courts, the choice the parties will be paramount.

Protection of Intellectual Property Rights

Fraud not essential element to prove passing-off, in certain cases

The Hon'ble Supreme Court held that while in an action of passing off, existence of the element of fraud is necessary, it is not mandatory, if otherwise the defendant has imitated or adopted the Plaintiff's mark.

Rs. 1,50,000/- Costs imposed on company found guilty of habitual infringement of Trademark

The Hon'ble High Court of Bombay observed that the defendant was guilty of not only infringing the mark of the plaintiff, but of several other companies and was also in contravention of FDA regulations.

Rs. 87,00,000/- Costs imposed on an action for passing off

In a suit for passing off, the Hon'ble Delhi High Court of Delhi, imposed costs for the unauthorized manufacture and distribution of counterfeit goods.

Expansive interpretation given to "use of a mark"

The Hon'ble High Court of Delhi observed that the phrase "use of a mark" and "in any other relation whatsoever" includes using the trademark for advertisement, promotions and, as in the present case, would also include using the trademark for inviting franchisee queries.



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Real Estate Regulation

Supreme Court issues directions to all Developers

The Hon'ble Supreme Court of India, vide order dated September 27, 2018, observed that disclosure of plans for any project cannot come under the protection of commercial trade secrets, nor would it attract the provisions relating to infringement of copyright. Further, noticing that there have been several violations by developers, the Hon'ble Court directed that all developers must display the sanctioned plans mandatorily on the site of the project and any other such places as may be prescribed.

Insolvency and Bankruptcy Code

Videocon Industries Ltd. to undergo Insolvency proceedings

Pursuant to proceedings initiated by the State Bank of India, bids have been invited from prospective buyers to take control of the Videocon Industries Ltd. The Company, which is considered as a leader of consumer durables, and presently has interests ranging from consumer electronics to oil and gas, has debt of over Rs. 20,000 crore (USD 2 billion).

Public Health and Welfare

Manufacture of Oxytocin by Private Companies

The Hon'ble High Court of Delhi has temporarily suspended, for a period of two months, the ban on the manufacture of oxytocin which had been imposed by the Union Ministry of Health and Family Welfare.

Ban on Fixed Dose Combination Drugs

The Ministry of Health and Family Welfare, vide notification dated September 7, 2018, prohibited the manufacture for sale, sale or distribution of 328 Fixed Dose Combinations (FDCs), with immediate effect. However, the Hon'ble Supreme Court of India, vide order dated September 17, 2018, temporarily lifted the ban on three FDC drugs including Piramal Healthcare's Saridon and GlaxoSmithKline's Piriton.

Government launches the India Post Payments Bank

The Government, on September 1, 2018, formally launched the India Post Payments Bank, which has been setup as wholly owned Government entity under the Department of Posts. With a 'Payments Bank' licence, this new entity can do most banking operations like deposits of up to Rs 1 lakh, offering remittance services, mobile transactions, offer ATM/debit cards, net banking and third-party fund transfers. However, it cannot advance loans or issue credit cards. Using the deep network of the Indian Postal Services, the Bank intends to offer its services across all 1.55 lakh post offices by December 2018.

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Mergers and Acquisitions

Merger of three State-owned Banks to create the third largest lender in India

A high level Ministerial Panel announced, on September 17, 2018, announced the merger of Bank of Baroda, Dena Bank and Vijaya Bank, which is the latest decision to consolidate entities in the financial sector. It is expected that the merger process would take at least 6 months, in order to obtain necessary approvals from the respective Boards, government approvals, shareholder approvals, regulatory clearances, etc.

National Company Law Tribunal approves merger to create third largest Commodity Exchange in India

The NCLT, the nodal authority for regulating mergers and acquisitions, has approved the merger of National Multi Commodity Exchange (NMCE) with Indian Commodity Exchange (ICEX) to create the third largest Commodity Exchange in India after Multi Commodity Exchange of India (MCX) and National Commodity and Derivatives Exchange (NCDEX). Upon successful conclusion of the merger NMCE will cease to exist and all its contracts would be transferred to ICEX.

Divestment of Project and Development India Ltd.

The Government has given in-principle approval for Engineers India Ltd. (EIL), established and controlled by the Ministry of Petroleum & Natural Gas to take over 100% control, through 'share acquisition mode', of Projects and Development India Ltd. (PDIL), which is presently under the control of the Ministry of Chemicals & Fertilizers. PDIL presently renders engineering and consultancy services to fertilizer, chemical, oil & gas, power & infrastructure sectors in India and abroad.

Competition Commission of India approves merger of Foreign Companies in a deal amounting over USD 80 billion

The Anti Trust and Fair Trade Regulator has approved the merger of Munich based industrial gases firms *Linde AG* and Connecticut based *Praxair Inc.* with the added condition that they sell off some of their assets in India. The deal which is an USD 80 billion global merger has faced Anti Trust issues in USA and India. The Indian Regulator has directed that *Linde* to sell its on-site plants, cylinder filling stations and entire shareholding in Bellary Oxygen Co. Pvt. Ltd. and *Praxair* to sell its on-site plants and cylinder filing stations in India.



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