

PKMG LAW CHAMBERS

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Circulars and Notifications Issued by Ministry Of Corporate Affairs (MCA)

Notification & Circular No.	Date of Issue	Subject
1. Notification No. SO1932(E) MANU/DCAF/0069/2016	01-06-2016	The Ministry of Corporate Affairs has issued notification for constitution of the National Company Law Tribunal (NCLT) and National Company Law Appellate Tribunal (NCLAT) with effect from today i.e. 1st June, 2016. Hon'ble Justice S.J. Mukhopadhaya, Judge (Retd.), Supreme Court of India has joined as the Chairperson of the NCLAT and Hon'ble Justice M.M.Kumar, Judge (Retd.) has joined as the President of the NCLT. With the constitution of the NCLT, the Company Law Board constituted under the Companies Act, 1956 stands dissolved. Initially, NCLT will have eleven Benches, two at New Delhi and one each at Ahmedabad, Allahabad, Bengluru, Chandigarh, Chennai, Guwahati, Hyderabad, Kolkata and Mumbai.
2. Notification No. - SO1795(E) MANU/DCAF/0062/2016	18-05-2016	The Central Government appoints 18 th day of May as Enforcement date of Section 2(25) (iv) and Section 435-438 and 440 of Companies Act, 2013.
3. Notification No. – SO 1796 (E) MANU/DCAF/0061/2016	18-05-2016	The Central Government designate the certain specified Courts Special Courts for the purpose of trial of offences punishable under

		Companies Act, 2013 with imprisonment of 2 years or more in terms of Section 435 of Companies Act, 2013.
4. General Circular No.- 06/2016 MANU/DCAF/0059/2016	16-05-2016	Relaxation of additional fes and extension of last date of filing of various e-forms under Companies Act,2013 which are due for filing by Companies between 25-03-2016 upto 31-05-2016 as well as last date for filing such such documents availing the benefit of waiver is extended to 10-06-2016.
5. General Circular No.- 05/2016 MANU/DCAF/0057/2016	16-05-2016	It is clarified via this Circular that Companies undertaking Corporate Social Responsibility (CSR) activities under the provisions of Companies Act, 2013 shall not contravene any other prevailing laws of land including Cigarettes and other Tobacco Products Act (COTPA), 2003.
6. Notification Form File No.-01/16/2013 MANU/DCAF/0055/2016	06-05-2016	Companies (Registration Offices and Fees) Amendment Rules, 2016 In Companies (Registration Offices and Fees) Rules, 2014 the following forms shall be substituted. Form GNL-1- Form for filing an application with the Registrar. Form GNL-4- Form for filing addendum for rectification of defects or incompleteness.

Companies Act 1956 and 2013 Case Laws
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- Where after the shareholders and creditors have accorded their approval to the scheme of arrangement/ amalgamation, neither there appears any hindrance to the sanction of scheme nor the Official Liquidators or Regional Director have raised any objection regarding the same, the court will grant sanction to the scheme of amalgamation and enjoin the petitioner company to comply with the statutory requirements in accordance with law. **Multani Properties & Investments Company (P.) Ltd. v. H Thirty Six Enterprises (P.) Ltd., [2016] 132 CLA 191 (Del.)**
- The company has not repaid the deposits matured two years ago and took shelter u/s 22 of SICA without even filing an application u/s. 58A of the Companies Act, 1956. The CLB held that the relief u/s 74(2) of the Act 2013 is purely a discretionary relief to be passed only if the company is likely to repay to the depositors if time is extended and relief cannot be invoked u/s 74(2) when company deliberately failed to repay deposits 20 years ago. **In Re: Modi Industries (P) Ltd, MANU/CL/0012/2016.**
- The orders for w-up by the Company Court can only be made when either the 'debt' is admitted or denied. The Company Court should satisfy itself whether denial of debt by company is bona fide or not. If on considering the evidence, the court feels that claim is prima facie not bona fide or it is laced with suspicious circumstances, it can relegate the parties to a civil court. **RK Infra Engineering (India) (P.) Ltd. v. Bramhani Industries Ltd., [2016] 132 CLA (Snr.) 1 (T&AP)**
- Jurisdiction of an Official Liquidator: Any claim with regard to the provident fund dues can only lie before the Provident Fund Commissioner and not with the Official Liquidator because the company is not obliged to pay workmen any such amount in first

place. **Societe Generale v. Daewoo Motors India Ltd., [2016] 132 CLA (Snr.) 2 (Del.).**

- The Supreme Court has held that when control of the company is sought to be transferred by transferring 100% paid up share capital of the company and party contends that no mining rights have been transferred (since Company was granted mining rights by State and mining rights could be transferred only on payment of transfer charges), SC ordered lifting of corporate veil to decide who were persons / promoters before or after transfer of shares. **State of Rajasthan v. Gotan Lime, [2016] 132 CLA 17 SC.**
- The Karnataka High Court had held that civil suit is not barred u/s 430 of the 2013 Act when civil suit was filed in the District Court seeking injunction against day to day affairs of the company. In other words, in appropriate cases instead of petition u/s 397 of the 1956 Act (now S. 241 of the 2013 Act) civil suit before the District Court shall be maintainable. **RV Singh v. TBH Breweries India P. Ltd., [2016] 132 CLA 74 (Karnataka.)**
- Where the petitioner has submitted his letter of resignation from directorship, it is to be deemed that the said person shall cease to be the director of the company. Where the company is wound-up, it is for the official liquidator to file the requisite e-form with the ROC notifying resignation of the director. **Pankaj Lohariwal v. SRC Udyog Ltd. and Ors., [2016] 132 CLA 79 (CLB).**
- Jurisdiction of an Arbitrator :A close scrutiny of Section 397, 398 and 402 of Companies Act, 1956 reveals that Company Law Board enjoys wide powers to regulate the affairs of the company and it is competent to terminate, set-aside or modify any agreement arrive at between the company on the one hand and any of the person like Managing Director and the other Director or the Manager on the other. It has also wide power to issue interim order. It is thus evident that the nature of powers enjoyed by the Company Law Board is alien to the powers of an Arbitrator. The power to order winding up of a company is

contained under the Companies Act and is conferred on the court. Therefore, an arbitrator would have no jurisdiction to order winding up of a company. **Avigo PE Investments Ltd. Vs. Tecpro Engineers Ltd. and Ors., MANU/CL/0009/2016.**

**Income Tax Circulars, Notifications and Press Release-
By CA Manoj Kumar Mittal, +91-9810764620**

- CBDT Circular Regarding Cancellation Of Registration U/s 12AA Of The Income-tax Act, 1961 Of Charitable Trusts

The CBDT has issued Circular No. 21/2016 dated 27.05.2016 in which has clarified that it shall not be mandatory to cancel the registration already granted u/s 11 to a charitable institution merely on the ground that the cut-off specified in the proviso to section 2(15) of the Act is exceeded in a particular year without there being any change in the nature of activities of the institution. If in any particular year, the specified cut-off is exceeded, the tax exemption would be denied to the institution in that year and cancellation of registration would not be mandatory unless such cancellation becomes necessary on the ground(s) prescribed under the Act. The CBDT has also advised field authorities that in view of the adverse consequences of Xii-B, the registration of a charitable institution granted u/s 12AA should not be cancelled just because the proviso to section 2{15) comes into play. The process for cancellation of registration is to be initiated strictly in accordance with section 12 (3) and 12AA(4) after carefully examining the applicability of these provisions

- CBDT Circular On Due Date For Filing E-Appeals Before CIT(A)

The CBDT has issued Circular No. 20/2016 dated 26.05.2016 stating that in order to mitigate any inconvenience caused to the taxpayers on account of the new requirement of mandatory e-filing appeals, it has been decided to extend the time limit for

filing of such e-appeals. E-appeals which were due to be filed by 15.05.2016 can be filed up to 15.06.2016. All e-appeals filed within this extended period would be treated as appeals filed in time.

- CBDT Directive On Manner Of Determination Of Fair Market Value In Case Of Indirect Transfers Covered By S. 9(1) Of The Income-tax Act, 1961

The CBDT has issued a press release in which it has given details of the manner of determination of fair market value and reporting requirement for Indian concerns covered by the indirect transfer provisions of section 9(1) of the Income-tax Act, 1961

- CBDT Circular On Allowability Of Additional Depreciation U/s 32(1)(iia) of the Income-tax Act, 1961

The CBDT has issued Circular No. 15/2016 dated 19.05.2016 in which it has dealt with the issue of allowability of additional depreciation u/s 32(1)(iia) of the Income-tax Act, 1961 in the context of the judgements of the Kerala and Delhi High Courts in Mathrubhoomi Printing & Publishing Co. and Delhi Press Patra Prakashan Ltd.

- Imp Notifications & Clarifications On The Income Declaration Scheme, 2016

The Ministry of Finance has issued a Notification dated 19th May 2016 enacting “The Income Declaration Scheme Rules, 2016” which are to come into force on 1st June 2016. The Ministry of Finance has issued another notification dated 19th May 2016 specifying the relevant dates for making the declaration and making payment of the tax etc. The CBDT has issued Circular No. 16 dated 20.05.2015 setting out the “Explanatory Notes On provisions Of The Income Declaration Scheme, 2016 As Provided In Chapter IX Of The Finance Act 2016“. The CBDT

has also issued Circular No. 17 of 2016 by which it has provided “Clarifications on the Income Declaration Scheme, 2016”.

- CBDT Directs Income-tax Dept To Comply Strictly With Directions Of CIC Under The RTI Act

The CBDT has issued a directive dated 17th May 2016 in which it is noted that in certain cases orders passed by the CIC are not being complied with by the Income Tax Department. The CBDT has stated that in view of the fact that the orders of CIC are binding under the RTI Act, 2005 unless stayed or reversed by higher courts, all the concerned authorities / officers/ CPIOs should ensure that the orders passed by CIC in appeals and complaints under the RTI Act, 2005 are invariably complied with within the time fixed by the Commission, unless they are stayed or reversed by higher courts. It is warned that any deviation will

- CBDT Directive Reg Consistency In Taxability Of Income/Loss Arising From Transfer Of Unlisted Shares

The CBDT has issued a directive dated 2nd May 2016 in which it has been directed that the income arising from transfer of unlisted shares would be considered under the head ‘Capital Gain’, irrespective of period of holding, with a view to avoid disputes/litigation and to maintain uniform approach

- CBDT Circular On Claim Of Deduction For Bad Debts U/s 36 (1) (vii) read with S. 36 (2) Of The Income-Tax Act, 1961

The CBDT has issued Circular No. 12/2016 dated 30th May 2016 in which it has stated that in accordance with the law laid down by the Supreme Court in TRF Ltd. vs. CIT 323 ITR 397, claim for any debt or part thereof in any previous year shall be admissible under section 36(1)(vii) of the Act, if it is written off as irrecoverable in the books of accounts of the assessee for that previous year and it fulfills the conditions stipulated in sub section (2) of sub-section 36(2) of the Act. The CBDT has

directed that no appeals may henceforth be filed on this ground and appeals already filed, if any, on this issue before various Courts/Tribunals may be withdrawn/not pressed upon.

Income Tax Case Laws
By CA Manoj Kumar Mittal, +91-9810764620

Domestic Case Laws

- Where accident compensation is a capital receipt, the interest on said compensation cannot be characterized as income unless interest it self is a kind of statutory interest, **[2016] 70 taxmann.com 33 (Ahmedabad - Trib.)**
- CIT could exercise his revisionary power under section 263 if he found that order passed by the AO was erroneous and prejudicial to the interest of the Revenue. Once such satisfaction is reached, jurisdiction to exercise the power would be available subject to observance of the principles of natural justice which is implicit in the requirement of the said Section to give the assessee an opportunity of being heard. **[2016] 69 taxmann.com 170 (SC), Amitabh Bachchan.**
- By device of issuing an instruction in purported exercise of its power under section 119, CBDT cannot proceed to interpret or instruct income tax department to prevent issue of refund; Instruction No.1 of 2015 dated 13-1-2015 issued by the CBDT cannot be relied upon to deny refunds to assesseees in whose cases notices might have been issued under section 143(2), **[2016] 69 taxmann.com 226 (Delhi)**
- Where assessee-trust running an educational institution, filed application for registration under section 12AA, since Commissioner did not dispute object of trust being charitable in nature, merely because a part of initial corpus fund had not been brought in by settlors at time of execution of trust deed, could not

be a ground to decline registration, [2016] 69 taxmann.com 323 (Kolkata - Trib.)

International Taxation

- Where assessee, a non-resident, rendered services as a marine engineer on board a ship outside territorial waters of any country, salary received by him in India by way of fund transfer from foreign companies directly to his NRE account in India, would be taxable in India under section 5(2)(a), [2016] 70 taxmann.com 50 (Kolkata - Trib.)
- Where assessee a Chinese Company supplied telecom equipments to Indian Telecom Operators, profits attributable to assessee's PE in India were to be considered taking into account overall operations carried out by PE in India. [2016] 70 taxmann.com 1 (Delhi - Trib.)
- Indian subsidiary cannot be regarded as PE of its foreign parent merely because there is a clause in an agreement giving the foreign parent a right to audit the Indian subsidiary so as to ensure that the Indian subsidiary adheres to standards required by the foreign parent. Nor can such clause lead to inference that the foreign parent has been rendering services to its Indian subsidiary. The stipulation as to provide specification and further assistance is only for the purpose of ensuring that the Assessee procures the service that it has contracted for from Adobe India. Such clauses in the agreement cannot lead to an inference that the Assessee has a PE in India for rendering services, that is, a Service PE in terms of Article 5(2)(1) of the Indo-US DTAA. [2016] 69 taxmann.com 228 (Delhi)
- Where capital gain has arisen to a non-resident from transfer of shares in an Indian company, mandate of second proviso to section 48 becomes inapplicable and case gets restricted in first proviso to section 48 alone; applicability of proviso below section 112(1)(c) would show is that tax is payable in respect of income arising from transfer of a long-term capital asset which is before

giving effect to provisions of second proviso to section 48; in such circumstances, case gets covered under first proviso and consequently, it is tax rate of 10 per cent which should be applied. [2016] 68 taxmann.com 386 (Delhi - Trib.)

Transfer Pricing Case Laws

By CA Manoj Kumar Mittal, +91-9810764620

- Where Indian subsidiary incurred AMP expenses promoting brand owned by French holding company, in absence of an agreement, between assessee and said AE to share/reimburse AMP expenditure incurred by assessee in India, transaction in question would not be an international transaction., [2016] 69 taxmann.com 419 (Mumbai - Trib.)

- Where assessee had availed intra group services from its AE and made payment for same, in view of fact that assessee had demonstrated and satisfied need test, evidence/rendition test and benefit test as envisaged under section 92(2) and services provided by AE were neither duplicative or shareholder's activity, TPO was to be directed to determine arm's length price of these services based on documents submitted by assessee. [2016] 69 taxmann.com 420 (Delhi - Trib.)

- Where functional analysis of a comparable was not commented by both sides, said comparable could not be excluded on ground that it had lesser turnover. [2016] 69 taxmann.com 418 (Delhi - Trib.)

Corporate Laws
By Advocate PK Mittal, +91-9811044365

❖ **Foreign Exchange Management Act, 1999:**

- **Foreign Investment in units-**

Foreign investment allowed in the units of investment vehicles registered and regulated by SEBI such as Real Estate Investment Trusts (REITs), Infrastructure Investment Trusts (InvITs) and Alternative Investment Funds (AIFs).
Circular No.63 issued by RBI, [2016] 132 CLA (St.) 10.

- **Single application for filing claim under Merchandise Exports from India Scheme (MEIS) for shipments from different EDI Ports-**

In terms of the Foreign Trade Policy, 2015-2020, the Director General of Foreign Trade, has notified following amendments:

1. Amendment in Paragraph 3.01(e):

Existing Paragraph:

Applicant shall file separate application for each port of export.

Amended Paragraph:

Applicant shall file separate application for each port of export in case of Non EDI Shipping bills. In case of EDI shipping bills, the applicant can file a single application containing shipping bills of different EDI ports. Accordingly shipments from different EDI ports will not require separate applications.

2. Amendment in Paragraph 3.08(a) (i):

Existing Paragraph:

Duty Credit Scrip (including splits) under MEIS shall be issued with a single port of registration which shall be the port of export.

Amended paragraph:

Duty Credit Scrip (including splits) under MEIS shall be issued with a single port of registration which shall be any one of the EDI ports from where export is made. In case of shipments from Non EDI ports, the Duty Credit Scrip (including splits) under MEIS shall be issued with a single port of registration which shall be the port of export.

3. Amendment in Paragraph 3.16 (b):

Existing Paragraph:

Port of registration for EDI enabled ports shall be the port of export. Accordingly separate application shall be filed for each EDI port.

Amended Paragraph:

Port of registration for EDI enabled ports shall be any one of the ports from where export is made.

Effect of this Public Notice: The procedure for filing of application under MEIS Scheme for EDI Shipping Bills is simplified. Shipments from different EDI ports will not require separate applications. Accordingly the ANF 3A has been modified as per [Annexure](#) to this Public Notice.

MANU/DGFT/0068/2016.

❖ Foreign Exchange Regulation Act, 1973:

Seizure of foreign Currency: The Supreme Court observed that permission to import foreign currency has to be proved in termd

of Section 8 (1) of FERA, which provides that “acquisition” of foreign exchange must be with general or special permission of the RBI. Amount of seized currency returned to appellant has to be paid back to Govt. with interest. **2016-TIOL-73-SC-FEMA.**

❖ **Sick Industrial Companies (Special Provisions) Act, 1985:**

Big Boost to Ease of doing Business- Passing of Bankruptcy Code: The Rajya Sabha passed major Economic Reform Bill i.e. Insolvency and Bankruptcy Code, 2016 on 11th May, 2016. The same was approved by the Lok Sabha on 5th May, 2016. The code is a comprehensive and systemic reform, which will give a quantum leap to the functioning of the credit market. **MANU/PIBU/0437/2016, dated 12-05-2016.**

Reference to the Board (BIFR)- Whether petitioner company is an industrial company or not, or whether it is carrying on manufacturing activities to qualify as an industrial company has to be decided by the BIFR. The authority cannot be delegated to the Registrar or any other administrative officer to decide the same. **Zenith Infotech Ltd. v. UOI, [2016] 132 CLA 84 (Del.)**

Where the BIFR came to a conclusion that defendant-company was not an industrial company within the meaning of Section 3(1)(o) of SICA and its reference is not registered u/s 15 and its registration to its reference is not valid, the BIFR can decline such reference by order, such order would not amount to appeal u/s 25 before the Appellate Authority and could not result into suspension of legal proceedings, contracts, etc. u/s 22 of SICA. **Pramerica Asset Managers (P.) Ltd. and Ors. v. Deccan Chronicle Holdings Ltd., [2016] 132 CLA 174 (Bom.)**

❖ **Recovery of Debts due to Banks and Financial Institutions Act, 1993:**

A debenture trustee suing on behalf of a debenture-holder of a company for recovery of sums payable to the debenture holder

cannot initiate proceedings before Debt Recovery Tribunal because the definition of 'secured creditor' does not include a 'debenture trustee'. It includes debenture trustee appointed by Banks and Financial Institutions within the meaning of Securitisation Act. Such proceedings initiated before the High Court since the suit is for the recovery of the debt. **ICICI Bank Ltd. v. Unimers India Ltd., [2016] 132 CLA 155 (Bom.)**

SEBI Act Circulars and Notifications
By Advocate PK Mittal, +91-9811044365

1. Restriction on redemption in Mutual Funds

In order to bring more clarity and to protect the interest of the investors, the following requirement shall be observed before imposing restriction on redemptions:

a. Restriction may be imposed when there are circumstances leading to a systemic crisis or event that severely constricts market liquidity or the efficient functioning of markets.

b. Restriction on redemption may be imposed for a specified period of time not exceeding 10 working days in any 90 days period.

c. Any imposition of restriction would require specific approval of Board of AMCs and Trustees and the same should be informed to SEBI immediately.

d. No redemption requests upto INR 2 lakh shall be subject to such restriction.

e. Where redemption requests are above INR 2 lakh, AMCs shall redeem the first INR 2 lakh without such restriction and remaining part over and above INR 2 lakh shall be subject to such restriction.

f. Disclosure: The above information to investors shall be disclosed prominently and extensively in the scheme related

documents regarding the possibility that their right to redeem may be restricted in such exceptional circumstances and the time limit for which it can be restricted.

**Circular No. SEBI/HO/IMD/DF2/CIR/P/2016/57,
MANU/SMFD/0004/2016**

2. Electronic book mechanism for issuance of debt securities on private placement basis:

In order to streamline procedures for issuance of debt securities on private placement basis and enhance transparency to discover prices, a framework has been laid down for issuance of debt securities on private placement basis through an electronic book mechanism. **Circular No.- CIR/IMD/DF1/48/2016.**

3. Revised formats under SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011

While filing reports, the acquirers are required to report compliances under Chapter V of the Regulations. However, there is no specific time period mentioned for reporting the compliances. In order to bring in line with the requirement under Regulation 10(1)(a), it is necessary that acquirers report compliances for a period of 3 years. **Vide Circular No.- SEBI/HO/CFD/DCR1/CIR/P/2016/52.**

4. Practising Company Secretaries can also provide certificate in case of allotment of securities:

SEBI prescribed a procedure for listed entities to deal with offer and allotment of securities to more than 49 and upto 200 persons which will be certified by practicing Chartered Accountant. Now, an Independent peer reviewed practicing Company Secretaries can also provide certificate in case of allotment of securities. **Circular No.- CFD/DIL3/CIR/P/2016/53**

5. Jurisdiction of SEBI to intervene in a petition for sanction to scheme of compromise or arrangement:

SEBI has no locus to interfere in a petition for confirmation of the scheme of compromise or arrangement u/s 391 of Companies Act, 1956. The same would equally apply to the NCLT u/s 230 of Companies Act, 2013. The SEBI can interfere in a scheme framed by listed company through the stock exchanges under Regulation 37 of SEBI (Listing Obligations and Listing Requirement) Regulations, 2015. [2016] 132 CLA (Mag.) 44.

6. SEBI (Collective Investment Scheme) Regulations, 1999:

The present case involves a Company that has mobilized public funds from gullible investors through its unregistered collective investment schemes. Placing the reliance in *Madhavan Nambiar v. Registrar of Companies*, the Hon'ble High Court of Madras observed that, there is no difference or distinction between the whole-time or part time director or nominated or co-opted director and the liability for such acts or commission or omission of directors is equal. So also the treatment for such violations as stipulated in the Companies Act, 1956." MANU/TN/0766/2001: 2002 108 Comp Cas 1 Mad).The company and its directors in the above case are directed further:

- i) not to collect any fresh money from investors under its existing schemes and not to launch any new schemes;
- (ii) to submit the full inventory of the assets through money raised by Company;
- (iv)permitted to sell the assets of the Company only for the sole purpose of making the refunds;

(v) not to divert any fund raised from public at large and to furnish all the information/documents sought by SEBI

(vi) wind up the existing Collective Investment Schemes and refund the money collected within a period of three months from the date of this Order and thereafter within a period of fifteen days, submit a winding up and repayment report to SEBI in accordance with the SEBI (Collective Investment Schemes) Regulations, 1999.

(vii) restrained from accessing the securities market and are prohibited from buying, selling or otherwise dealing in securities market for a period of 4 years. **In Re: Garima Real Estate & Allied Limited and Ors. MANU/SB/0131/2016.**

Civil Laws

By Advocate Praveen K Mittal, +91-9810826436

- While examining the application under Order 7 Rule 11 for rejection of plaint, the court has to look at the averment in the plaint and the documents filed (assuming the contents as true and correct) and not to look at the written statement or other pleadings of the defendant. If upon examination of plaint and document, if the court feels that the suit is barred by limitation, the plaint is liable to be returned. **Vimal Chand Jain Vs. Sushila Rani 2016(229) DLT 692.**
- If the society has been formed by the various private and few public sector companies, then such society cannot be declared as “State” within the meaning of 12 of constitution of India and Writ Petition shall not be maintainable such Society as Society do not perform public function. **Sharard Kumar Vs. Confederation of Indian Industry (CII) 2016(229) DLT 273 Delhi DB.**

- In a suit for partition, the plaintiff must clearly give detail of the properties for which partition is sought and also as to how the properties were acquired (a) whether the ancestral properties or (b) self acquired properteies – in the absence of the details as required under Order 6 Rule 4 CPC, the suit is liable to be dismissed. **Meena Bhatnagar Vs. Kamlesh Kumari 2016(229) DLT 432.**
- The subsequent purchaser of property cannot raise any objection under Order 21 Rule 58 when indisputedly the sellor (who previously has sold the very same property) to another property and, therefore, at the time of sale of property to the subsequent purchase, the sellor has not titled and then obviously subsequent purchaser has no title and ownership to the property to raise any objection. **Anita Rani Vs. Sneh Lata 2016 (229) DLT 7.**
- In case the plaintiff is not a money lender but only a casual transaction of money lending, therefore, the provisions of Punjab Money Lenders Act shall not apply. The defendant has issued cheques which have been dishonoured and the defendant could not put forward any plausible defence and hence, the application for leave to defend is liable tobe rejected and decree is liable to be passed against the defendant. **Lakshi Builders Vs. Devinder Lakra 2016 (229) DLT 497.**

ARBITRATION AND CONCILIATION ACT:

- When the Engineer in Charge has confirmed that the delay in execution of contract is not due to reasons attributable to the contractor and the principle has granted extension of time without levy of LD, the contractor is entitled to claim for delay execution of time provided he has given notice as required under Section 55 of Contract Act. **Navayuga Engineering Co Ltd VGs. PWD 2016 (220) DLT 226 Delhi DB.**
- The party cannot be seek an order of injunction against the encashment of bank guarantee when the bank guarantee is unconditional and no case of egregious fraud or special equity

has been made out by the respondent. All the disputes of the petitioner will be taken care of by the Arbitrators since the parties are already before them. **GS Developers & Contractors (P) Ltd Vs. Alpha G Group Development (P) Ltd 2016 (229(DLT 503.**

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