

ACUITY **LAW**

AI INSIGHTS

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ABOUT ACUITY LAW

Acuity Law was founded in November 2011. Acuity Law comprises of a team of young and energetic professionals led by Souvik Ganguly, Gautam Narayan, Deni Shah, Renjith Nair, and Vidushi Maheshwari who have deep and diverse experiences in their chosen areas of practice. We advise Indian and multinational companies, funds, banks and financial institutions, founders of companies, management teams, international law firms, domestic and international investment banks, financial advisors, and government agencies in various transactions in and outside India.

Acuity Law takes pride in rendering incisive legal advice taking into consideration commercial realities. Our areas of practice are divided into three departments. The Corporate practice is led by Souvik Ganguly, the Global Trade and Indirect Tax practice is led by Deni Shah, the Direct Tax practice is led by Vidushi Maheshwari, and the Disputes practice is led by Gautam Narayan with assistance from Renjith Nair.

As part of the corporate practice, Acuity Law advises on:

- Mergers and acquisitions;
- Distressed mergers and acquisitions;
- Insolvency law;
- Private Equity and Venture Funding;
- Employment and labour laws;
- Commercial and trading arrangements; and
- Corporate Advisory.

As part of the Global Trade and Tax practice, Acuity Law advises on:

- Cross-border tax planning and jurisdiction analysis;
- Strategies for acquisitions, mergers, divestitures, diversification, or consolidation of businesses;
- Inbound and outbound investment structuring;
- Endowment planning/wealth management strategies;
- Global Trade & Customs laws, including foreign trade policy;
- International supply chain optimization;
- Goods & Services Tax and other Direct and Indirect taxes.

As part of the Disputes practice, Acuity Law advises and represents clients on domestic and cross - border:

- Civil disputes;
- Criminal law matters; and
- Arbitration matters.

Acuity Law actively follows legislative and policy developments in its chosen areas of practice and shares such developments with clients and friends on a regular basis.

If you want to know more about Acuity Law, please visit our website acuitylaw.co.in or write to us at al@acuitylaw.co.in.

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This monthly legal roundup is a compilation of our thought leadership articles published in the month of April 2024 on key legal and regulatory topics. Please click on the access links to read more.

A. CORPORATE

1. Compulsorily Convertible Debentures: Whether debt or equity?

Compulsorily Convertible Debentures (CCDs), a hybrid instrument, has gained prominence in the last two decades. However, its classification as equity or debt has been the subject of discussions, mainly due to conflicting perspectives under different laws. This initial divergence surfaced from the framework of guidelines under the Foreign Exchange Management Act, 1999, which deemed CCDs as equity. However, in the realm of tax jurisprudence, CCDs have been treated as debt until the point of conversion. This conflict arises due to the hybrid nature of CCDs having the essence of both debentures and equity.

[Read more](#)

2. Directors' duties in India: Shareholders or Stakeholders?

While directors are considered as fiduciaries of a company who cannot act in their own interest, whose interests the directors are obligated to protect has been an area of interest and debate. In this article, we look into the position of Indian law on the extent of fiduciary duties of directors towards the non-shareholder group in the backdrop of global discussions on this issue.

[Read more](#)

3. SEBI: Informal guidance from SEBI in respect of permissibility to make investments in the units of exchange traded fund for earning of regular income by the fund

SEBI informal guidance on whether Cat III AIF can make investments in the units of exchange traded fund for earning of regular income by the Cat III AIF.

[Read more](#)

B. TAX

1. Sale consideration deposited in Escrow Account – Event of Taxability

Corporate transactions and their related intricacies have always been a subject of frequent discussions in the corporate world. With changing commercials globally, there is an innovation in the commercial terms being agreed between the parties. With growing regulatory concerns and rise in tax claims with no certainty, a need arises to protect the interest of the buyer against any unwarranted claims which may arise on the business/ shares acquired due to past transactions. To meet future contingencies, it's a common practice for the parties to generally agree depositing a certain portion of the consideration into an Escrow Account, which will be released only if the claims are satisfied or the limitation period for raising the claims has expired. Though these arrangements certainly are to protect the interest of the buyer, however, these arrangements may raise certain adverse income-tax consequences for the seller.

[Read more](#)

2. No virtual service permanent establishment in India in the absence of a specific provision

The advent of the Digital economy has led to the introduction of various taxation issues. One such issue being creation of a virtual permanent establishment (PE) in a country, where the services are rendered without having any physical presence. The Income Tax Appellate Tribunal, Delhi, recently has dealt with the issue of creation of a virtual PE in India in the case of Clifford Chance Pte Ltd. v. ACIT. This article includes the summary of the ruling and our thoughts.

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