



# **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 and Renjith Nair 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 Tax practice is led by Deni Shah, 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](http://acuitylaw.co.in) or write to us at [al@acuitylaw.co.in](mailto:al@acuitylaw.co.in).

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'AL Insights' is a compilation of our thought leadership articles published in the month of July 2023 on key legal and regulatory topics. Please click on the access links to read more.

## A. CORPORATE

### 1. Prove Your Innocence: Insights into the proposed securities trading regulations

The Securities and Exchange Board of India ("SEBI") has published a consultation paper dated 18 May 2023 on the draft SEBI (Prohibition of Unexplained Suspicious Trading Activities in the Securities Market) Regulations, 2023. By way of this consultation paper, a new regulation has been proposed which will overlap with the existing insider trading and unfair trade practices regulations. Lately, SEBI in the capacity of an investigating agency has been finding it difficult to meet the evidentiary burden of 'preponderance of probabilities' and has proposed to cast a reverse burden of proof on market participants.

[Read more](#)

### 2. Finfluencers Regulation: Can SEBI bell the cat?

While technology has made investing in the capital market more convenient, it has also opened new avenues for some "financial influencers" to dupe investors by exploiting social media platforms. SEBI, India's market regulator, has adopted a tough stance against social media platform creators for price manipulation by spreading misleading information. In its crackdown of such financial influencers, SEBI has banned several influencers and their associates. In this backdrop, we discuss the recent findings of the Securities Appellate Tribunal in Arshad Hussain Warsi & Others v. SEBI.

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## B. INSOLVENCY LAWS

### 1. Evolving jurisprudence of homebuyers under the Insolvency and Bankruptcy Code, 2016

The Insolvency and Bankruptcy Code, 2016 ("Code"), as originally enacted, did not provide adequate special protection to homebuyers in failing real estate projects. However, judicial activism by Indian tribunals led to the experimental concept of 'Reverse Corporate Insolvency Resolution Process', where the insolvency proceedings were limited to only certain projects of the developer. The present article highlights the efficacy of 'Reverse Corporate Insolvency Resolution Process' in catering to specific needs of the real estate sector, while remaining harmonious to the objective of the insolvency legislation.

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## C. DISPUTES

### 1. Enhanced powers of courts at pre-referral stage – a new trend!

In the backdrop of Vidya Drolia v. Durga Trading Corporation, the courts' powers at the pre-referral stage have been limited to a preliminary finding on (i) arbitrability of disputes and (ii) existence and validity of arbitration agreement. Recently, the Supreme Court in Magic Eye Developers Pvt. Ltd. v. Green Edge Infrastructure Pvt. Ltd. & Ors went a step further and held that the issue of existence and validity of an arbitration agreement must be decided conclusively by the courts. In this article, we give our thoughts on the enhanced powers of courts at pre-referral stage and its repercussions.

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### 2. NCLT and the power to recall

Recently, the NCLAT rendered a significant decision in Union Bank of India v. Dinkar T. Venkatasubramanian and others addressing the power of insolvency tribunals to recall their own judgments. Insolvency tribunals have previously placed restrictions on the tribunal's ability to review or recall its judgments. The NCLAT has, however, clarified that the tribunals have an inherent power to recall their judgment. This decision of the NCLAT has also been upheld by the Supreme Court in Union Bank of India v. Financial Creditors of Amtek Auto. In this article, we analyse the judgment of the NCLAT and give our thoughts on its impact on insolvency proceedings in India.

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