

ACUITY **LAW**

MONTHLY LEGAL ROUNDUP

MARCH and APRIL 2023
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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 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 March and April 2023 on key legal and regulatory topics. Please click on the access links to read more.

A. CORPORATE LAWS

1. SEBI proposes changes to the AIF regime

SEBI has proposed a series of changes to the AIF regime in India. The proposed changes attempt to address prevalent limitations and concerns surrounding the current regulatory regime for AIFs and aims to enhance the governance and management of AIFs. In this short write-up, we have summarized the proposed changes by SEBI.

[Read more](#)

2. Foreign Portfolio Investors – Streamlining the Onboarding Process

SEBI vide its circular dated 27 March 2023 has streamlined the requirement for onboarding and registration of foreign portfolio investors. The relaxations provided by this circular are expected to make the onboarding and registration of foreign portfolio investors more efficient and simpler. In this short write-up, we have summarized the key changes introduced by SEBI.

[Read more](#)

3. Non-financial disclosures – Rise to fame

Globally, there is a change in the trend of business-as-usual investments as investors and businesses are giving more importance to non-financial factors while making investment decisions. The regulators across jurisdictions are also implementing measures including specific disclosure requirements which relate to non-financial factors such as ESG. In this article, we discuss the developments and approaches concerning ESG and green finance and give our thoughts on its role in the Indian context.

[Read more](#)

4. Legal uncertainty around startup fundraising

An analysis of the current Indian company law regime governing the manner of issuance of shares by a private limited company has brought to the fore certain limitations on the ability of a startup to raise funds through the commonplace avenues of networking events, pitch sessions and digital platforms. In this article, we analyse the extent of the limitations imposed, and explore the need for a change in the regulatory landscape surrounding such issue of shares.

[Read more](#)

B. INSOLVENCY LAWS

1. The rise of “Consolidated Insolvency” in real estate sector

Insolvency resolution of corporate debtors that are developers of real estate projects have posed a major challenge due to the peculiarities of this sector. In order to address all stakeholders' concerns comprehensively, Indian insolvency tribunals have consistently implemented “consolidated insolvency” of the real estate developer as well as the landowner. In this article we analyse the concept of consolidated insolvency in the real estate sector.

[Read more](#)

2. Legal heirs beware: NCLAT impleads legal heirs for avoidance transactions

The Insolvency and Bankruptcy Code, 2016 provides avoidance of preferential, undervalued, extortionate and fraudulent transactions aptly referred to as ‘avoidance transactions’. The main objective behind these provisions is to make the assets of the corporate debtor available for its resolution. The last few years have witnessed the evolution of jurisprudence around avoidance transactions. In this article we analyse the judgement of the Hon'ble NCLAT in the matter of *Arvind Garg, Liquidator of Carnation Auto India Pvt. Ltd. v. Jagdish Khattar and Ors.*, which the authors believe would aid in the restitution of the lost value of assets to the corporate debtor.

[Read more](#)

C. TAX UPDATES**1. Indian Union budget 2023 – Doubling of tax on royalty and fees for technical services**

The Indian Union budget 2023-24 has doubled the withholding tax rate of royalty and fees for technical services from 10 percent to 20 percent. This amendment will have significant impact on non-residents / foreign companies, both from a cash flow perspective, as well as additional compliance to be undertaken in India. In this article we have explained the amendment, its impact and the way forward.

[Read more](#)

2. GST on liquidated damages – The controversy continues

The Andhra Pradesh Authority for Advance Ruling in the case of AP Power Development Co. Ltd. has held that liquidated damages are liable to GST. This ruling gained significance especially after the circular issued in August 2022, which laid down various instances for non-levy of GST on liquidated damages. In this article, we have summarized the ruling and shared our thoughts on the same.

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