

ACUITY **LAW**

MONTHLY LEGAL ROUNDUP

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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 and primers published in the month of November 2022 on key legal and regulatory topics. Please click on the access links to read more.

A. SCHEMES, POLICIES AND INITIATIVES

1. Gujarat Electronics Policy, 2022-2028

The Government of Gujarat has unveiled the "Gujarat Electronics Policy, 2022-2028" on 28 October 2022, aiming to build a robust electronics manufacturing ecosystem in the state. In this update, we have summarised the various fiscal and non-fiscal incentives introduced in the policy for promoting value-led electronics manufacturing and enabling the holistic development of the electronics sector in the State of Gujarat.

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B. INCOME TAX LAWS

1. Equalisation Levy – A welcome judgment on jurisdiction and applicability

Equalization Levy was introduced in India by the Finance Act, 2016 and is deducted @ 6% by an Indian service recipient on the gross consideration payable to a non-resident service provider on furnishing "specified services". "Specified services" means online advertisements, provision of digital advertising space, e-commerce supply of services or provision of a facility or service for the purpose of online advertising. Income Tax Appellate Tribunal in the case of *Deputy Commissioner of Income Tax v. Prakash Chandra Mishra* held that where the Indian taxpayer was merely a conduit who helped its non-resident clients avail services of non-resident service providers for non-resident target audience, the Equalization Levy provisions are not triggered. In this article, we discuss the scope and applicability of Section 165 of the Finance Act, 2016 along with our thoughts.

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C. DISPUTES

1. Resolving the conundrum between the MSMED Act, 2006 and the Arbitration and Conciliation Act, 1996

The issues pertaining to the interplay between the Micro, Small, and Medium Enterprises Development Act, 2006 (**MSMED Act**), and the Arbitration and Conciliation Act, 1996, have often been presented before the courts for consideration. Recently, the Supreme Court of India in *Gujarat State Civil Supplies Corporation Ltd. v. Mahakali Foods Pvt. Ltd. & Anr.* had an occasion to consider the issue, and its decision has tipped the scale in favour of the dispute resolution procedure under the MSMED Act. In this article, we discuss the interplay between the said legislations, recent decision of the Supreme Court, and our thoughts on the same.

[Read more](#)

2. Primer on writs in India

An action or inaction of any public authority may adversely affect the rights of the people. The most effective remedy for the protection of people's rights and controlling administrative actions is efficient judicial control. In this primer, we undertake a discussion on writs, a fundamental tool for controlling administrative actions and protecting the rights of the people.

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3. CPC not applicable for granting interim reliefs under Arbitration Act

While the Code of Civil Procedure, 1908 (**CPC**) governs the civil procedure to be followed in Indian civil courts, it has been in debate whether the rigors of such procedure would also apply to proceedings instituted in alternate forums, such as arbitrations. In this article, we discuss the decision of the Supreme Court in *Essar House Pvt. Ltd. v. Arcellor Mittal Nippon Steel India Ltd.* which settles the discussion and share our thoughts on the same.

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4. **Supreme Court on mandatory mediation in the era of docket explosion**

Recently, the Supreme Court in *M/s Patil Automation Pvt. Ltd. v. Rakheja Engineers Pvt. Ltd.* held that the provision for pre-institution mediation under the Commercial Courts Act is mandatory in nature. The decision of the Supreme Court is a step towards pro-mediation approach in India that will enable speedy and cost-efficient resolution of commercial disputes. In this article, we discuss the Supreme Court judgment and share our thoughts on the implications of the same on Med-Arb clauses under arbitration law.

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