

ACUITY **LAW**

MONTHLY LEGAL ROUNDUP

OCTOBER 2022
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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 Dhaval Jariwala 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 with assistance from Dhaval Jariwala, 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 October 2022 on key legal and regulatory topics. Please click on the access links to read more.

A. CORPORATE LAWS

1. KMP norms: Do they apply to private companies?

Recently, the National Company Law Appellate Tribunal in *Hamlin Trust & Ors. vs. LSFIO Rose Investments & Ors.*, has held that Section 203 of the Companies Act, 2013 should be followed where a private company voluntarily chooses to appoint Key Managerial Personnel (**KMP**). The decision extends the application of a provision to private companies, which is not otherwise applicable to them. In this article, we analyze, in brief, the said case and its impact on private companies.

[Read more.](#)

B. INSOLVENCY LAWS

1. Supreme Court rejigs priority of tax dues under IBC

In the landmark judgment of *State Tax Officer v. Rainbow Papers Limited*, the Supreme Court held that tax department of the State making a claim under the Gujarat Value Added Tax Act, 2013 will be a “secured creditor” under the Insolvency and Bankruptcy Code, 2016 (**Code**). The Court further went on to state that any resolution plan which ignores the debts that are payable to the Government is liable to be rejected. In this article, we analyze the judgment in light of the legislative intent of the Code and the various precedents on this issue.

[Read more.](#)

2. IBBI prescribes fee structure for insolvency professionals

Recently, the Insolvency and Bankruptcy Board of India (**IBBI**) has amended the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 to prescribe a fee structure for determining the fee payable to the interim resolution professional and the resolution professional. It has also provided for a performance-linked incentive fee to these insolvency professionals for timely resolution of insolvencies and to promote value maximization for the corporate debtor. In this update, we discuss the key changes introduced by the amendment and our thoughts on the same.

[Read more.](#)

C. DISPUTES

1. Relevance of “readiness and willingness” for grant of specific performance

Under the Specific Relief Act, 1963, the party seeking specific performance of a contract has to prove its “readiness and willingness” to perform its part of the contract all along from the date of execution of the contract till date of decree. The Supreme Court recently in *U.N Krishnamurthy v. A.M. Krishnamurthy* has clarified the scope of “readiness and willingness”. In the present article, we discuss the said judgment of the Supreme Court.

[Read more.](#)

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