

ACUITY **LAW**

AL INSIGHTS

JUNE - JULY 2024
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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, Purvi Doctor, 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 Purvi Doctor.

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 June and July 2024 on key legal and regulatory topics. Please click on the access links to read more.

A. CORPORATE

1. Regulatory Update: Recent Amendments to the Insider Trading Regime

Recently, SEBI notified the SEBI (Prohibition of Insider Trading) (Second Amendment) Regulations, 2024, to ease the trading plan framework and provide flexibility in the execution of trades by insiders under the PIT Regulations.

[Read more](#)

2. Regulatory Update: RBI relaxes norms for overseas investments in offshore funds

Recently, the Reserve Bank of India issued a circular amending the Foreign Exchange Management (Overseas Investment) Directions, 2022 with respect to investment in overseas funds. This Circular increases investment opportunities in overseas jurisdictions having a fund structure as a partnership entity or a company, or where the fund entity itself is not regulated but the fund manager is regulated under the laws of the host jurisdiction.

[Read more](#)

3. Regulatory Update: Certification Requirement for Key Investment Team of Manager of AIF

Recently, SEBI has notified amendments to the AIF Regulations to replace the minimum experience requirement as an eligibility criteria for the key investment team of the manager with a certification requirement. Additionally, the new certification requirement is applicable to all the applications for registration of AIFs and launch of schemes of AIFs filed after 10 May 2024. For existing schemes or schemes whose applications for launch are pending, a year's time i.e., on or before 09 May 2025 has been given to ensure compliance.

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B. TAX

1. Revenue not Estopped from Examining the Taxability of Receipts, Other than Attributable to Service Permanent Establishment (PE)

In this globalized economy, individuals and businesses often operate across borders, leading to potential double taxation issues, which is prevented by entering double taxation avoidance agreements (DTAA) between various countries. Concepts such as permanent establishment and "make available" are the creations of DTAA, which have been subject to significant litigation in India. In certain DTAA entered by India, fee for technical services is taxable in India only if the services rendered makes available technical knowledge or skill to the service recipient. Recently, the Hon'ble Delhi High Court in the case of International Management Group (UK) Limited v. Commissioner of Income Tax-International Taxation, has dealt with the question of whether the receipts which were not attributable to the PE, can be brought to tax under DTAA between India and UK as FTS. This article includes the summary of the ruling and our thoughts.

[Read more](#)

2. Production Linked Incentive Scheme for White Goods- application window reopened

The Production Linked Incentive (PLI) Scheme for White Goods (ACs and LEDs), a key initiative of India's flagship 'Atmanirbhar Bharat' project, has been reopened for new applications from July 15 to October 12, 2024. For the new applicants, the maximum period of eligibility under the PLI Scheme is 3 years. The PLI Scheme also prescribes certain other conditions and timelines for both existing beneficiaries and new applicants.

[Read more](#)

3. **53rd GST Council meeting- Clarifications issued by CBIC**

Recently, the Central Board of Indirect Taxes and Customs issued certain clarifications on the recommendations made in the 53rd Goods and Services Tax Council meeting held on 22nd June 2024. This article explained the clarifications issued by key CBIC circulars and their impact on doing business in India.

[Read more](#)

4. **SAAR vs. GAAR**

Indian Courts have time and again operated on the principle of substance over form, thereby questioning the basic intent of the transaction and declaring them as entered for avoidance of tax. In order to continue the anti-avoidance principles, special anti-avoidance rules (**SAAR**) and general anti-avoidance rules (**GAAR**) have been introduced. In the recent landmark decision, the Telangana High Court ruled against the taxpayer in the case of Ayodhya Rami Reddy Alla vs. Principal Commissioner of Income tax Central, wherein the Taxpayer had challenged the initiation of proceedings by the income-tax department under the GAAR provisions. This article includes the summary of the ruling and our thoughts.

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C. **DISPUTES**

1. **Bombay High Court Grants Interim Reliefs Despite Ongoing Arbitration**

The Bombay High Court's recent ruling in *Ambrish H. Soni v. Chetan Narendra Dhakan & Ors.* has clarified that the courts can grant interim relief under the Arbitration and Conciliation Act, 1996 even after an Arbitral Tribunal is constituted, if necessary.

[Read more](#)

2. **A Thin Rope for Solicitation in Indian Legal Fraternity**

Recently, the Madras High Court ruled against online platforms allowing advocates to solicit work, citing violation of Bar Council of India (BCI) Rules. The Court emphasized that law is a noble profession, not a business, and provided a four-fold reasoning for no-advertising policy for advocates in India. The BCI was directed to take strict actions against advocates and online platforms involved in such practices leading to solicitation. In furtherance of this, on 08 July 2024, the BCI issued directives to State Bar Councils to initiate disciplinary proceedings and remove illegal advertisements by 20 August 2024.

[Read more](#)

3. **New guidelines for dispute resolution in public procurement contracts**

On 03 June 2024, the Ministry of Finance, India issued guidelines to streamline arbitration and mediation in domestic public procurement contracts in India, enhancing efficiency and cost-effectiveness. These guidelines address the unique challenges faced by government entities. This article discusses the guidelines and outlines the use of arbitration and mediation in domestic public procurement contracts.

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Our co-ordinates:

Mumbai

B2-201, Marathon Nextgen Innova, Off Ganpatrao Kadam Marg, Lower Parel, Mumbai, Maharashtra
400013

Email: al@acuitylaw.co.in