

ACUITY **LAW**

## AL 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, 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; the Global Trade and Indirect Tax, and Direct Tax practice; and the Disputes practice.

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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This monthly legal roundup is a compilation of our thought leadership articles published in the month of October 2024 on key legal and regulatory topics. Please click on the access links to read more.

## A. CORPORATE

### 1. Maternity Benefits: A fundamental right for all women

On 05 September 2024, the Hon'ble Rajasthan High Court (High Court) in *Minakshi Choudhary v. Rajasthan State Road Transport Corporation & Ors.* held that denying maternity benefits guaranteed under the Maternity Benefit Act, 1961, is violative of the fundamental rights enshrined in Articles 14 and 21 of the Constitution of India. The High Court held that all women employees are entitled to the maximum period of maternity leave mentioned in the Act, irrespective of their nature of employment. We have discussed the ruling of the High Court and its implications on employers.

[Read more](#)

### 2. Regulatory Update: Notification amending the CCI inquiry procedure

On 19 September 2024, the Competition Commission of India (CCI) notified Section 19(f) of the Competition Amendment Act, 2023, which includes the insertion of sub-section (9) under Section 26 of the Competition Act, 2002. This insertion will change the inquiry procedures of the CCI, enhancing transparency and fairness in its proceedings. In this update, we have summarized the inquiry procedure, and the amendments introduced.

[Read more](#)

## B. TAX

### 1. India-Mauritius Tax treaty upheld in Tiger Global-Flipkart transaction

In *Tiger Global International III Holdings v. AAR*, the Hon'ble Delhi High Court (Court) addressed the scrutiny of transactions involving tax haven jurisdictions, particularly concerning Walmart's acquisition of a stake in Flipkart. The Court examined the conflict between the Income-tax Act, 1961, and the Double Taxation Avoidance Agreement, highlighting ongoing concerns about capital gains tax and the legitimacy of tax residency certificates.

[Read more](#)

### 2. CBDT Circular on Enhancement of Monetary Limits for Filing Appeals

On 17 September 2024, the Central Board of Direct Taxes has notified increase in monetary limits for filing appeals and Special Leave Petitions by the Income-tax Department before the Income-tax Appellate Tribunal, High Court and Supreme Court. We have summarized the circular and the enhanced monetary limits.

[Read more](#)

### 3. Supreme Court judgement- Functionality test to be applied for availing input tax credit

In the case of *Chief Commissioner of Central Goods and Services Tax & Ors. v. M/s Safari Retreats Private Limited & Ors.*, the Hon'ble Supreme Court has delivered an important and much awaited judgment on availability of input tax credit relating to input services used for construction of an immovable property. This judgment also addresses the constitutional challenge for Section 17(5)(c) and Section 17(5)(d) of the Central Goods and Services Tax Act, 2017. In this update, we have discussed the ruling and its possible implications.

[Read more](#)

## C. DISPUTES

### 1. IBC: Second Amendment to IBBI CIRP Regulations

On 24 September 2024, the Insolvency and Bankruptcy Board of India notified amendments (Amendment) to the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations. In this update, we have provided a summary of the changes introduced by the Amendment.

[Read more](#)

2. **Sigh of clarity: No bar on filing 29A Application after the expiry of Arbitrator's Mandate!**

Recently, the Hon'ble Supreme Court in *Rohan Builders v. Berger Paints* case, resolved the issue regarding the timing for filing an extension under Section 29A application of the Arbitration and Conciliation Act, 1996. It ruled that such an application can be made even after the arbitral tribunal's mandate has expired, providing clarity on this long-standing question.

[Read more](#)

3. **SC – Free certified copy of final order to be treated at par with one obtained by payment**

Recently, the Hon'ble Supreme Court of India in *State Bank of India v. India Power Cooperation Ltd.* clarified that a certified copy of final order obtained by payment of cost is at par with a certified copy obtained free of cost.

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D. **TECHNOLOGY**

1. **Free Speech vs. Misinformation: Bombay High Court Strikes Down Controversial IT Amendment Rules**

In the recent case of *Kunal Kamra v. Union of India and connected petitions*, the reference bench of Bombay High Court has addressed the validity of the amendment in 2023 to IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 which empowered the Central Government to notify fact check units to identify 'fake', 'false' or 'misleading' information with respect to the 'business of Central Government'. The High Court held that the amendment is unconstitutional and ultra vires the Information Technology Act, 2000.

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