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Rent/lease agreements – Enforceability of lock-in period

By **Archit Gupta and Anusha Mohapatra**

Typically, parties to a rent/lease agreement insert a lock-in period to ensure that either party is unable to terminate the agreement before the stipulated period. Such agreements also incorporate a provision for liquidated damages in the form of rent for the remainder of the lock-in period. The article in this issue of Corporate Amicus discusses the jurisprudence on 'liquidated damages' in India and its effect on the lock-in-period. The authors in this regard highlight that if the parties to a contract seek to stipulate liquidated damages, adequate care must be taken to ensure that the contract only stipulates a genuine pre-estimate of loss. According to them, the parties may have to spend a considerable amount of time on this exercise; however, this will lower the threshold of evidence in case of breach of contract.

Rent/lease agreements – Enforceability of lock-in period

By Archit Gupta and Anusha Mohapatra

Introduction

Post the Covid-19 pandemic, business organizations have reopened physical offices and employees are rushing back to cities to look for accommodation. This has led to an increase in the number of lease agreements being executed.

Typically, parties to a lease agreement insert a lock-in period to ensure that either party is unable to terminate the agreement before the stipulated period. The purpose of having a lock-in period clause in a lease agreement is to ensure that any party does not suffer any loss on account of hasty termination by the other party. While the lessor may be seeking to recover the amount incurred on restoration and beautification of the property to suit the lessee's requirements, the lessee may be looking at ensuring a minimum rental period to suit its business requirements. Further, such agreements also incorporate a provision for liquidated damages in the form of rent for the remainder of the lock-in period.

Liquidated Damages – Indian Position

Liquidated damages are damages which are stipulated by the parties at the time of formation of a contract as compensation to be collected upon breach of a contract. The provision for liquidated damages is covered under Section 74 of the Indian Contract Act, 1872.

Section 74 of the Indian Contract Act, 1872 stipulates that in case of breach of a contract, the party complaining of the breach is entitled to either a sum named in the contract or the penalty which is stipulated under a contract. Further, it is not necessary to prove actual damage or loss, however, the complaining party is entitled to receive a reasonable amount only from the party who has broken the contract, subject to the maximum limit stipulated under the contract. Further, the complaining party needs to establish that it had taken adequate measure to mitigate the loss.

The terms 'liquidated damages' and 'penalty' are sometimes used interchangeably, though there is a vast difference between these two terms. While liquidated damages are pre-estimated losses which may occur due to breach of a contract, a penalty is punitive in nature and seeks to penalize the wrongdoer even if the other party has not incurred any actual loss.

The Supreme Court of India in its judgment in *Oil & Natural Gas Corporation Ltd.* v. *Saw Pipes Ltd.*[1] discussed the principles for determination of the quantum of compensation. The contract stipulated compensation in case of a breach of contract and stated that such amount was a genuine pre-estimate of damages and not a penalty. The claim for compensation was set aside by the arbitrator as the claimant was not able to prove the actual loss incurred by it. However, the Apex Court reversed the decision of the arbitrator and stated the following principles:

i. It is vital to examine the terms of the contract to determine the nature of compensation stipulated under the contract.

ii. The complainant party is entitled to the amount stipulated in the contract as compensation unless it is manifestly unreasonable or in the form of penalty.

iii. In certain circumstances where it is difficult to prove actual loss or damage, the court may award the stipulated amount as compensation provided it is a genuine pre-estimate of loss by parties.

In *Kailash Nath Associates* v. *Delhi Development Authority & Anr.*[2], the Apex Court also examined the principles of said Section 74 and set out a distinction between liquidated damages and penalty. It was noted that the threshold of evidence required to claim liquidated damages is lower than that of the penalty. If a contract stipulates penalty, then the innocent party is entitled to a reasonable amount, however, if a contract stipulates liquidated damages, the innocent party is entitled to such amount only if it is a genuine estimate of loss. In either case the complainant party must show that some form of loss has taken place even if it is impossible to prove the actual quantum of loss in certain circumstances.

Effect on lock-in period

Thus, if the parties to a contract seek to stipulate liquidated damages, adequate care must be taken to ensure that the contract only stipulates a genuine pre-estimate of losses, as amount of liquidated damages is based on sound determination factoring in the ability of the complaining party to mitigate such issues. The parties may have to spend a considerable amount of time on

[1] (2003) 5 SCC 705

[2] Civil Appeal No. 193 of 2015

this exercise; however, this will lower the threshold of evidence in case of breach of contract.

A lock-in period clause is one of the critical clauses of a lease agreement and must be carefully drafted in light of the jurisprudence surrounding its enforceability. If either party seeks to build a right to claim an unreasonable amount as liquidated damages using its bargaining power, then enforceability of such claim could be delayed.

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Notifications & Circulars

- Special Non-Resident Rupee Account – Foreign Exchange Management (Deposit) Regulations, 2016 amended
- Exporters permitted to maintain foreign currency accounts outside India – Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) Regulations, 2015 amended
- Investments by persons resident outside India simplified – Foreign Exchange Management (Mode of Payment and Reporting of Non-Debt Instruments) Regulations, 2019 amended
- Master Direction on Credit Information Reporting, 2025 issued
- Master Direction on Non-Resident Investment in Debt Instruments, 2025 issued
- Compliance deadline for filing under Companies (Accounts) Rules, 2014 extended
- Transfer and transmission of shareholdings among immediate relatives clarified
- Timeline for ESG rating review post BRSR publication relaxed
- SEBI allows subscription to non-convertible securities during trading window closure

Special Non-Resident Rupee Account – Foreign Exchange Management (Deposit) Regulations, 2016 amended

The Reserve Bank of India (**'RBI'**) *vide* Notification No. FEMA 5(R)(5)/2025-RB, dated 14 January 2025, has notified amendments to the Foreign Exchange Management (Deposit) Regulations, 2016 ('**Principal Regulations**'). The key amendments have been listed below:

1. Any person resident outside India having a business interest in India may now open, hold and maintain a Special Non-Resident Rupee Account ('**SNRR account'**), with a branch of authorized dealer outside India.
2. Insertion of Regulation 9 stating that all *bona fide* transfer of funds between repatriable Rupee accounts maintained in accordance with the regulations is permitted
3. Paragraph 1 of Schedule 4 has been substituted to include the branch of an authorized dealer outside India. Further, a unit in an International Financial Services Centre (**'IFSC'**) under Section 18 of the Special Economic Zones Act, 2005 may open an SNRR account with an authorised dealer in India (outside IFSC) for its business-related transactions outside IFSC.
4. The term 'Indian bank' under Paragraph 2 of Schedule 4, has been substituted by 'a bank', to allow banks to maintain SNRR accounts for a person resident outside India category wise.
5. The upper limit of seven years for tenure of the SNRR account has been removed, under Paragraph 8 of Schedule 4.
6. The balance in the SNRR accounts maintained in India are eligible for repatriation, and all transactions in these accounts are subject to applicable Indian taxes. This has been mentioned under Paragraphs 9 and 11 of Schedule 4.
7. SNRR accounts in India are now re-designated as resident rupee account when the account holder becomes a resident, as per Paragraph 12 of Schedule 4.
8. Amounts payable to a non-resident nominee from the account of a deceased account holder having an SNRR account in India can be credited to the nominee's NRO/NRE account or remitted through normal banking channels, as mentioned under Paragraph 13 of Schedule 4.

Exporters permitted to maintain foreign currency accounts outside India – Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) Regulations, 2015 amended

The Reserve Bank of India ('**RBI**') *vide* Notification No. FEMA 10(R)(5)/2025-RB dated 14 January 2025 has amended the Foreign Exchange Management (Foreign Currency Accounts by a Person Resident in India) Regulations, 2015 ('**Principal Regulations**'). The notification allows exporters in India to open, hold, and maintain a Foreign Currency Account with a bank outside India. This account can be used for the realization of the full export value and advance remittances received for the export of goods or services. Exporters may utilize the funds for import payments into India or repatriate the balance to India by the end of the following month, after accounting for forward commitments, while ensuring compliance with the realization and repatriation requirements under Regulation 9 of the Foreign Exchange Management (Export of Goods and Services) Regulations, 2015.

Investments by persons resident outside India simplified – Foreign Exchange Management (Mode of Payment and Reporting of Non-Debt Instruments) Regulations, 2019 amended

The Reserve Bank of India (**'RBI'**), *vide* Notification No. FEMA 395(3)/2025-RB dated 14 January 2025, has amended the Foreign Exchange Management (Mode of Payment and Reporting of Non-Debt Instruments) Regulations, 2019, (**'Principal Regulations'**) simplifying payment methods and reporting for investments by persons resident outside India. The key updates are as follows:

Convertible Notes for Indian Start-ups

Indian start-ups can now issue convertible notes to foreign investors, with payments received through inward remittances or debited from repatriable foreign currency/Rupee accounts under FEMA (Deposit) Regulations, 2016. Repayments or sale proceeds can be remitted abroad or credited to repatriable accounts. Banking channels shall now include rupee vostro and Special Rupee Vostro Accounts.

Schedule-wise updates under Regulation 3.1 of the Principal Regulations:

- *Schedule I – Investment by a Person Resident Outside India in Equity Instruments*

  Foreign investors must now use inward remittances or repatriable accounts. Consideration may include equity shares or swaps. Sale proceeds (net of taxes) can be remitted abroad or credited to repatriable accounts.

- *Schedule II – Investment by Foreign Portfolio Investors (FPIs)*

  FPIs may now invest using inward remittances, foreign currency accounts, or SNRR accounts. Sale proceeds (net of taxes) can be credited to foreign currency or SNRR accounts.

- *Schedule VI – Investment in a Limited Liability Partnership (LLP)*

  Foreign investors must now contribute capital through inward remittances or repatriable accounts. Disinvestment proceeds may be remitted abroad or credited to repatriable accounts.

- *Schedule VII – Investment by Foreign Venture Capital Investors (FVCIs)*

  FVCIs can now invest through inward remittances, foreign currency accounts, or SNRR accounts, restricted to schedule-specific transactions. Sale proceeds (net of taxes) can be remitted abroad or credited to these accounts.

- *Schedule VIII – Investment in Investment Vehicles*

  Investments can be made via inward remittance, share swaps, or repatriable accounts. Sale proceeds (net of taxes) can be remitted abroad or credited to repatriable accounts.

- *Schedule X – Investment in Indian Depository Receipts (IDRs)*

  NRIs/OCIs may now invest through NRE/FCNR(B) accounts, and FPIs through foreign currency or SNRR accounts. Redemption/conversion of IDRs must comply with FEMA (Overseas Investment) Rules, 2022.

Master Direction on Credit Information Reporting, 2025 issued

The Reserve Bank of India (**'RBI'**) *vide* Notification No. RBI/DoR/2024-25/125, DoR.FIN.REC.No. 55/20.16.056/2024-25 dated 6 January 2025 has consolidated previous guidelines under Section 11 of the Credit Information Companies (Regulation) Act, 2005. These directions standardize credit information reporting for banks, financial institutions, and NBFCs. The key provisions include mandatory credit institution membership with all Credit Information Companies (CICs), standardized data formats for consumer, commercial, and microfinance segments, and regular data updates. The framework emphasizes data confidentiality, validation, and mechanisms for resolving reporting inconsistencies. This Master Direction aims to enhance transparency, reliability, and efficiency in credit information, benefiting stakeholders across the financial ecosystem.

Master Direction on Non-Resident Investment in Debt Instruments, 2025 issued

The Reserve Bank of India (**'RBI'**), *vide* Notification No. RBI/2024-25/126 FMRD. FMD. No.10/14.01.006/2024-25, has issued a Master Direction on Non-Resident Investment in Debt Instruments, 2025, under the Foreign Exchange Management Act (**'FEMA'**). These regulations govern investments by Foreign Portfolio Investors (**'FPIs'**), Non-Resident Indians (**'NRIs'**), and Overseas Citizens of India (**'OCIs'**) in Indian debt instruments. The directions consolidate previous circulars and cover the Fully Accessible Route (FAR) for specific securities, Sovereign Green Bond investments, and derivative transactions. Additionally, reporting and settlement requirements for FPI investments in Government securities have been introduced to streamline processes and enhance transparency.

Compliance deadline for filing under Companies (Accounts) Rules, 2014 extended

The Ministry of Corporate Affairs ('**MCA'**), *vide* Notification No. G.S.R. 794(E), dated 31 December 2024, has amended the Companies (Accounts) Rules, 2014 under the Companies Act, 2013. The amendment extends the deadline for compliance under Rule 12(1B), fourth proviso, shifting it from 31 December 2024 to 31 March 2025. This extension thus allows companies additional time to fulfill the relevant filing requirements under the Companies (Accounts) Rules, 2014.

Transfer and transmission of shareholdings among immediate relatives clarified

The Securities and Exchange Board of India ('**SEBI**'), *vide* Circular No. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2024/164, dated 27 December 2024, has issued clarifications regarding transfer and transmission of shareholdings among immediate relatives and their impact on change in control for investment advisers ('**IAs**'), research analysts ('**RAs**'), and KYC registration agencies ('**KRAs**'). The key clarifications include:

1. ***For Unlisted Body Corporate Intermediaries:*** Transfer of shareholding among immediate relatives will not be considered a change in control, and transmission of shareholding, whether to an immediate relative or not, will also not be deemed a change in control.
2. ***For Proprietary Firms:*** Transfer or bequeathing of business by transmission is considered a change in control. The legal heir/transferee must obtain prior approval and fresh SEBI registration.
3. ***For Partnership Firms:*** In case a partnership firm has more than two partners, *inter-se* transfers among partners will not be treated as change in control. Furthermore, if a firm has only two partners, it dissolves on the death of one partner, and admitting a new partner will be considered a change in control, requiring SEBI approval. If the partnership deed allows a deceased partner's legal heir(s) to be admitted, this will not be considered a change in control.
4. ***Fit & Proper Criteria:*** Any incoming shareholder/entity gaining controlling interest must meet SEBI's fit and proper person criteria under SEBI (Intermediaries) Regulations, 2008.

Timeline for ESG rating review post BRSR publication relaxed

The Securities and Exchange Board of India ('**SEBI**') *vide* Circular No. SEBI/HO/DDHS/DDHS-PoD-3/P/CIR/2025/007, dated 17 January 2025, has modified the timeline for ESG Rating Providers ('**ERPs**') to review ESG ratings following the publication of Business Responsibility and Sustainability Reporting ('**BRSR**').

As per the Master Circular for ERPs dated 16 May 2024, ERPs were required to review ESG ratings within 10 days of any material development impacting a rated entity's ESG profile. However, SEBI has acknowledged operational challenges faced by ERPs in adhering to this timeline for a large number of listed companies. Furthermore, to facilitate Ease of Doing Business, SEBI has extended the review timeline for ESG ratings post BRSR publication to 45 days, while retaining the 10-day requirement for other material events.

SEBI allows subscription to non-convertible securities during trading window closure

The Securities and Exchange Board of India ('**SEBI**') vide Circular No. SEBI/HO/ISD/ISD-PoD-2/P/CIR/2024/180, dated 30 December 2024, has allowed subscription to the issue of non-convertible securities during the trading window closure period. This expands the list of exemptions under Clause 4(3)(b) of Schedule B read with Regulation 9 of the SEBI (Prohibition of Insider Trading) Regulations, 2015, which already permits certain transactions such as rights issues, preferential allotments, and buy-back offers. The Circular mandates stock exchanges to notify listed companies and disseminate the information on their websites.

Ratio Decidendi

- Financial lease involving transfer of ownership and interest for default falls within the definition of 'financial debt' under IBC Section 5(8)(d) – *NCLT, New Delhi*
- Insolvency application under IBC Section 7 is maintainable for unpaid dues even after the sale of pledged shares – *NCLAT, New Delhi*
- Arbitration notice under Section 21 by one of the parties to the agreement is sufficient compliance with the statutory provisions – *Punjab & Haryana High Court*
- Challenge to arbitral awards – 30-day condonable period under Arbitration Section 34(3) cannot be extended by Section 4 of Limitation Act when it expires during court holidays – *Supreme Court*
- Judicial authorities to exercise restraint when interfering in matters governed under Part I of Arbitration and Conciliation Act, 1996 – *Supreme Court*
- Specific relief – Doctrine of merger ensures that appellate court's decree supersedes the trial court's decree – *Supreme Court*

Financial lease involving transfer of ownership and interest for default falls within the definition of 'financial debt' under IBC Section 5(8)(d)

The National Company Law Tribunal ('**NCLT**'), Principal Bench, New Delhi, has ruled that a financial lease involving ownership transfer and interest charges for default qualifies as a 'financial debt' under Section 5(8)(d) of the Insolvency and Bankruptcy Code, 2016 ('**IBC**'). Consequently, the NCLT upheld the claim of Ghaziabad Development Authority ('**GDA**') as a financial creditor and directed its inclusion in the Committee of Creditors ('**CoC**').

The act of Resolution Professional ('**RP**') rejecting GDA's claim and classifying it as an operational debt based on the Supreme Court's decision in *G. Noida* v. *Prabhjit Singh Soni & Anr.*, was under challenge before the NCLT. The RP had contended that the dues arose from a land sale, making GDA an operational creditor rather than a financial one. However, NCLT distinguished the present case, emphasizing the structured nature of payments, ownership transfer, and interest provisions, which aligned more with a financial lease than a simple land sale.

In the present case, GDA had auctioned a plot in Ghaziabad, with Celebration City Project Pvt. Ltd. ('**Corporate Debtor**') emerging as the highest bidder. A registered Agreement to Sale was executed in 2007, requiring an upfront payment, with the remaining amount to be paid in quarterly installments at 12% interest, increasing to 15% upon default. Ownership was to be transferred in stages, proportional to the payments made. Despite multiple defaults, GDA initially permitted the Corporate Debtor to raise loans by mortgaging the property but later revoked this permission due to continued non-payment.

During the Corporate Insolvency Resolution Process ('**CIRP**') in 2022, GDA filed a claim of INR 147.59 crores, asserting its status as a financial creditor. However, the RP rejected the claim, treating it as an operational debt. The Tribunal also distinguished this case from *New Okhla Industrial Development Authority* v. *Anand Sonbhadra*, noting that ownership transfer provisions and interest elements made this agreement akin to a financial lease under Section 5(8)(d). It was noted that the agreement's terms, including staged ownership transfer and interest rates for defaults, demonstrated the time value of money.

[*Jones Lang Lasalle Building Operations Pvt. Ltd.* v. *Celebration City Projects Pvt. Ltd.* – IA-3686/2022 in Company Petition No. (IB)-652(PB)/2019, decided on 22 January 2025, NCLAT, New Delhi]

Insolvency application under IBC Section 7 is maintainable for unpaid dues even after the sale of pledged shares

The National Company Law Appellate Tribunal ('**NCLAT**'), New Delhi Bench, has held that if the liability of a corporate debtor remains unpaid even after the sale of pledged shares, a financial creditor can initiate insolvency proceedings under Section 7 of the Insolvency and Bankruptcy Code ('**IBC**'), 2016, to recover the outstanding dues.

In the present case, the suspended director of the corporate debtor challenged the order of the National Company Law Tribunal ('**NCLT**') that admitted a Section 7 application filed by the financial creditor. The financial creditor had granted a working capital facility loan through a Master Facility Agreement, followed by a recall notice demanding repayment of the dues. Subsequently, during the pendency of the Section 7 application, the parties executed a Memorandum of Understanding ('**MoU**'), under which shares were pledged to the financial creditor. The corporate debtor later filed an interlocutory application seeking dismissal of the insolvency proceedings, submitting that the debt stood discharged through the sale of pledged shares. However, the NCLT rejected this contention and admitted the Section 7 application.

The NCLAT upheld the NCLT's decision, ruling that the mere sale of pledged shares does not automatically discharge the corporate debtor's entire liability if the proceeds are insufficient to cover the outstanding debt. The Tribunal also noted that the corporate debtor's attempt to settle the dues after pledging shares was evidence of an acknowledged debt and default. NCLAT rejected the contentions of appellant that the financial creditor should have invoked the pledged shares earlier, clarifying that the creditor had the contractual discretion under the MoU to decide when to enforce the pledge.

Since the sale proceeds were inadequate to clear the debt, the Tribunal found no basis to interfere with the NCLT's admission of the insolvency petition and upheld the NCLT's decision to admit the Section 7 application, as no settlement on record indicated the matter had been resolved.

[*Amit Yogesh Satwara* v. *Incred Financial Services Ltd.* – Decision dated 15 January 2025 in Company Appeal (AT) (Insolvency) No.1584 of 2024, NCLAT, New Delhi]

Arbitration notice under Section 21 by one of the parties to the agreement is sufficient compliance with the statutory provisions

The Punjab & Haryana High Court has held that under Section 21 of the Arbitration and Conciliation Act, 1996, a notice invoking arbitration by one party to an agreement is sufficient compliance with the statutory requirements. The Court noted that the provision does not mandate that all parties to the agreement must serve the notice.

The Court further held that the legal representative of a deceased partner has the right to enforce an arbitration agreement and that the dissolution of a partnership firm does not terminate the arbitration clause in the partnership deed.

In the present case, the petitioners and the respondent were partners in a firm. Disputes arose when the respondent allegedly committed acts detrimental to the firm and dissolved it without settling accounts. The petitioners invoked the arbitration clause through a legal notice, but the respondent argued that arbitration could not be invoked post-dissolution and contested the petition on several grounds, including pending civil litigation, an injunction order, and the absence of notice from one of the petitioners.

The Court, while ruling in favor of the petitioners, held that ongoing civil or criminal proceedings do not bar a partner from invoking arbitration. It also reiterated that the arbitration clause remains valid despite the firm's dissolution and that notice by one party is sufficient compliance with Section 21, as it is merely a procedural formality.

[*Prikshit Wadhwa and Ors.* v. *Vinod K Wadhwa* – 2025 SCC OnLine P&H 161, decision dated 7 January 2025]

Challenge to arbitral awards – 30-day condonable period under Arbitration Section 34(3) cannot be extended by Section 4 of Limitation Act when it expires during court holidays

The Supreme Court has held that the 30-day condonable period under Section 34(3) of the Arbitration and Conciliation Act, 1996 ('**Arbitration Act**') cannot be extended by invoking Section 4 of the Limitation Act, 1963, even if it expires during court holidays. The Court ruled that Section 4 applies only to the primary limitation period and not to the additional condonable period, reinforcing the strict statutory timeline for challenging arbitral awards. Consequently, the Apex Court dismissed the appeal and upheld the High Court's rejection of the appellant's application as barred by limitation.

In the present case, the Appellants received an arbitral award on 14 February 2022. The three-month limitation period for filing an application under Section 34(3) of the Arbitration Act expired on 29 May 2022, which was a court working day, but the appeal was not filed by the Appellant on the said day. The additional 30-day condonable period ended on 28 June 2022, during the court's summer vacation. The Appellants filed the application to set aside the award on 4 July 2022, the first working day after the court reopened. Both the Single Judge and Division Bench of the High Court dismissed the application, holding that it was time-barred. This led to the appeal before the Supreme Court.

The Supreme Court affirmed the High Court's decision, clarifying that Section 4 of the Limitation Act applies only when the primary limitation period (three months) ends on a court holiday. However, it does not extend the additional 30-day condonable period, even if it expires during court vacations. The Court further noted that Section 10 of the General Clauses Act, 1897, is expressly excluded from proceedings under the Arbitration Act, preventing any further relaxation of time limits.

[*My Preferred Transformation & Hospitality Pvt. Ltd. and Anr.* v. *Faridabad Implements Pvt. Ltd.* – 2025 SCC OnLine SC 70, decision dated 10 January 2025]

Judicial authorities to exercise restraint when interfering in matters governed under Part I of Arbitration and Conciliation Act, 1996

The Supreme Court has reaffirmed that it is the statutory duty of the Arbitral Tribunal to ensure equality between the parties and provide each party with a full opportunity to present its case. The Court also reiterated that judicial authorities have a statutory obligation to exercise restraint when interfering in matters governed under Part I of the Arbitration and Conciliation Act, 1996 ('**Arbitration Act**'), which includes arbitration agreements, the composition and jurisdiction of the Arbitral Tribunal, the conduct of proceedings, and the making, challenge, and enforcement of arbitral awards.

In the present case, the respondent/claimant filed an Interlocutory Application before the Arbitral Tribunal seeking an extension of time for the cross-examination of Respondent Witness (RW-1). The Arbitral Tribunal, while acknowledging the time-bound nature of arbitration proceedings, observed that the respondent had already exhausted twice the allotted time for cross-examination and exhibited a lack of preparedness. Consequently, the Arbitral Tribunal rejected the application.

The respondent/claimant challenged the Tribunal's order by filing a petition under Article 227 of the Constitution, seeking a direction to grant further opportunity for cross-examination. The High Court, citing exceptional circumstances, ruled in favor of the respondent and directed the Tribunal to provide an additional opportunity for cross-examination.

However, the Supreme Court held that interference under Article 227 is justified only when an order is completely perverse. As the Arbitral Tribunal had ensured equal treatment of the parties and provided a full opportunity for case presentation, the Supreme Court concluded that the High Court's intervention was unwarranted.

[*Serosoft Solutions Pvt. Ltd.* v. *Dexter Capital Advisors Pvt. Ltd.* – 2025 SCC OnLine SC 22, decision dated 3 January 2025]

Specific relief – Doctrine of merger ensures that appellate court's decree supersedes the trial court's decree

The Supreme Court has held that under the doctrine of merger, an appellate court's decree supersedes that of the trial court, and hence failure to deposit the balance sale consideration within the originally stipulated period does not automatically result in rescission unless explicitly provided in the decree. The Court upheld the Punjab & Haryana High Court's decision that the plaintiff's deposit of the balance amount, after the High Court's ruling, was valid, while it rejected the defendants' plea for rescission under Section 28 of the Specific Relief Act, 1963.

In this case, the trial court had decreed specific performance in favor of the plaintiff, requiring the deposit of the balance sale-consideration within 20 days. The defendants appealed, leading to a series of proceedings culminating in the High Court restoring the trial court's decree. Following this, the plaintiff deposited the amount with the executing court. The defendants, however, moved for rescission of the contract, contending that the plaintiff had failed to comply with the original 20-day timeline prescribed by the trial court. The High Court dismissed their application, and against the said order the present appeal was preferred before the Supreme Court.

The Supreme Court reaffirmed that once an appellate court modifies or confirms a lower court's decree, the doctrine of merger applies, making the appellate court's decree the operative one. Since the High Court's decree did not reimpose the 20-day timeline, the trial court's original stipulation was no longer enforceable. Thus, the plaintiff's deposit post-restoration of the decree remained valid, and the defendants' plea for rescission was rightly dismissed.

The Court further clarified that Section 28 of the Specific Relief Act, 1963, grants courts discretionary power to extend the time for compliance with a decree for specific performance, even post-issuance. It emphasized that failure to deposit the balance amount does not automatically rescind the contract unless expressly stipulated in the decree.

[*Balbir Singh and Another* v. *Baldev Singh (D) Through his Lrs and Others* – 2025 SCC OnLine SC 103, Judgement dated 17 January 2025]

News Nuggets

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- CII bats for all government approvals through a national single window
- Disclosure on social media hours before conveying to investors through stock exchanges is a lapse

MSME classification limits to be revised

The Union Finance Minister, in the Union Budget 2025-26 (**Budget 2025**) introduced upwards revision in the investment and turnover limits for the reclassification of Micro, Small, and Medium Enterprises (**MSMEs**). Accordingly, the revised limits shall now be as follows:

Nature of Enterprise	**Investment Threshold (in INR crores)**		**Turnover Threshold (in INR crores)**	
	Current	Revised	Current	Revised
Micro Enterprise	1	2.5	5	10
Small Enterprise	10	25	50	100
Medium Enterprise	50	125	250	500

[*Source:* Angel One, published on 1 February 2025]

Fund of Funds to be introduced for startups

The Finance Minister, as part of her Budget 2025 speech, has announced that the government plans to launch a new Rs 10,000 crore Fund of Funds to support startups, providing a significant boost to entrepreneurship in India, which currently ranks as the world's third-largest startup ecosystem. As per reports, the decision to launch a new FFS comes amid a growing emphasis on mobilising domestic capital for startup investments, particularly in the face of rapidly changing global macroeconomic conditions.

[*Source:* Your Story, published on 1 February 2025]

FDI limit for insurance sector to be hiked to 100 per cent

The Finance Minister, as part of the Budget 2025, announced that the automatic Foreign Direct Investment (**FDI**) limit for the insurance sector will be raised from the extant 74 per cent to 100 per cent. However, such benefit shall be available only for those entities that invest the entire premium amount in India.

[*Source:* Economic Times, published on 1 February 2025]

Union Budget 2025 – Other important measures for corporates

- ***Merger process:*** A procedure to ensure speedy approval of mergers will be rationalized for companies and to have broadened and simplified fast-track mergers.

- ***Regulatory Reforms:*** In order to boost ease of doing business, the Central Government shall ensure the current regulations are up to date with current technology and global policies and to make it flexible, modern and trust-based, it may propose new measures.
- ***High Level Committee for Regulatory Reforms:*** A High-Level Committee for Regulatory Reforms is to be set up by the Central Government by reviewing non-financial sector regulations, certifications, licenses, and permissions to enhance ease of doing business.
- ***Jan Vishwas Bill 2.0:*** Decriminalization of more than 100 legal provisions is proposed, similar to the previous Jan Vishwas Act, 2023.
- ***Credit Enhancement Facility:*** National Bank for Financing and Economic Development will set up 'Partial Credit Enhancement Facility' for corporate bonds.
- ***Central KYC Registry:*** A revamped Central KYC Registry will be rolled out to simplify the process of KYC and implement a streamlined system for updating periodically.
- ***Financial Stability and Development Council:*** A mechanism which will evaluate the impact of current financial regulations and subsidiary instructions, improve the responsiveness and development of the financial sector has been proposed.

[*Source:* Press Information Bureau, published on 1 February 2025]

DPIIT and ITC come together to help startups of the manufacturing sector

The Department for Promotion of Industry and Internal Trade ('**DPIIT**') has signed a Memorandum of Understanding ('**MoU**') with FMCG conglomerate, ITC Limited ('**ITC**') to help the startups in the manufacturing sector. Pursuant to the MoU, ITC would be deploying startup solutions in key areas like those of digital platforms for manufacturing execution systems, integrating renewable energy opportunities for manufacturing locations, and energy storage systems which would help provide hassle-free market access to startups, providing unbound opportunities to work out viable solutions as per each of their organisation's business requirements.

[*Source:* Financial Express, published on 16 January 2025]

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exceeding expectations

CII bats for all government approvals through a national single window

In its ten-point agenda for Ease of Doing Business, Confederation of Indian Industries (‘**CII**’) has proposed for all regulatory approvals at all central, state and local levels be provided mandatorily only through the National Single Window System. Amongst other pointers, the CII also called for a legislation that imposes statutory obligation on all public authorities for time-bound delivery of services and redressal; placing greater reliance on Alternative Dispute Resolution mechanism to expedite the process of dispute resolution; and the development of an Online Integrated Land Authority for easy access to land.

[*Source:* New Indian Express, published on 13 January 2025]

Disclosure on social media hours before conveying to investors through stock exchanges is a lapse

The Securities and Exchange Board of India has issued a letter of warning to a company stating that it failed to provide equal and timely access to its investors of the information about a planned store expansion, by sharing the said information on social media before disclosing it to investors. Notably, the company’s founder had shared the information about the expansion in a post on the social media platform X and to investors about four hours later through the stock exchanges.

[*Source:* The Hindu, published on 8 January 2025]

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