

RG NUL FINANCIAL & MERCANTILE LAW REVIEW

AU COURANT

JULY - SEPTEMBER 2026



RAJIV GANDHI NATIONAL UNIVERSITY OF LAW

PREFACE



It gives us immense joy to present the July to September 2026 edition of our quarterly newsletter, “*Au Courant*”, to our readers.

This edition captures significant developments across various fields of law. The “*News Updates*” segment brings together noteworthy legal developments from the quarter, while the “*News Highlights*” section offers concise analyses of emerging legal issues and their broader implications.

Further, the “*Courts this Quarter*” section examines three significant judicial decisions: *ANI Media Pvt. Ltd. v. OpenAI OpCo LLC*; *National Skill Development Corporation v. Surya Wires Pvt. Ltd.* and *Tejas J. Shah & Amisha T. Shah v. Mantri Technology Constellations (P) Ltd.* These decisions offer valuable insights into evolving judicial approaches to contemporary legal challenges.

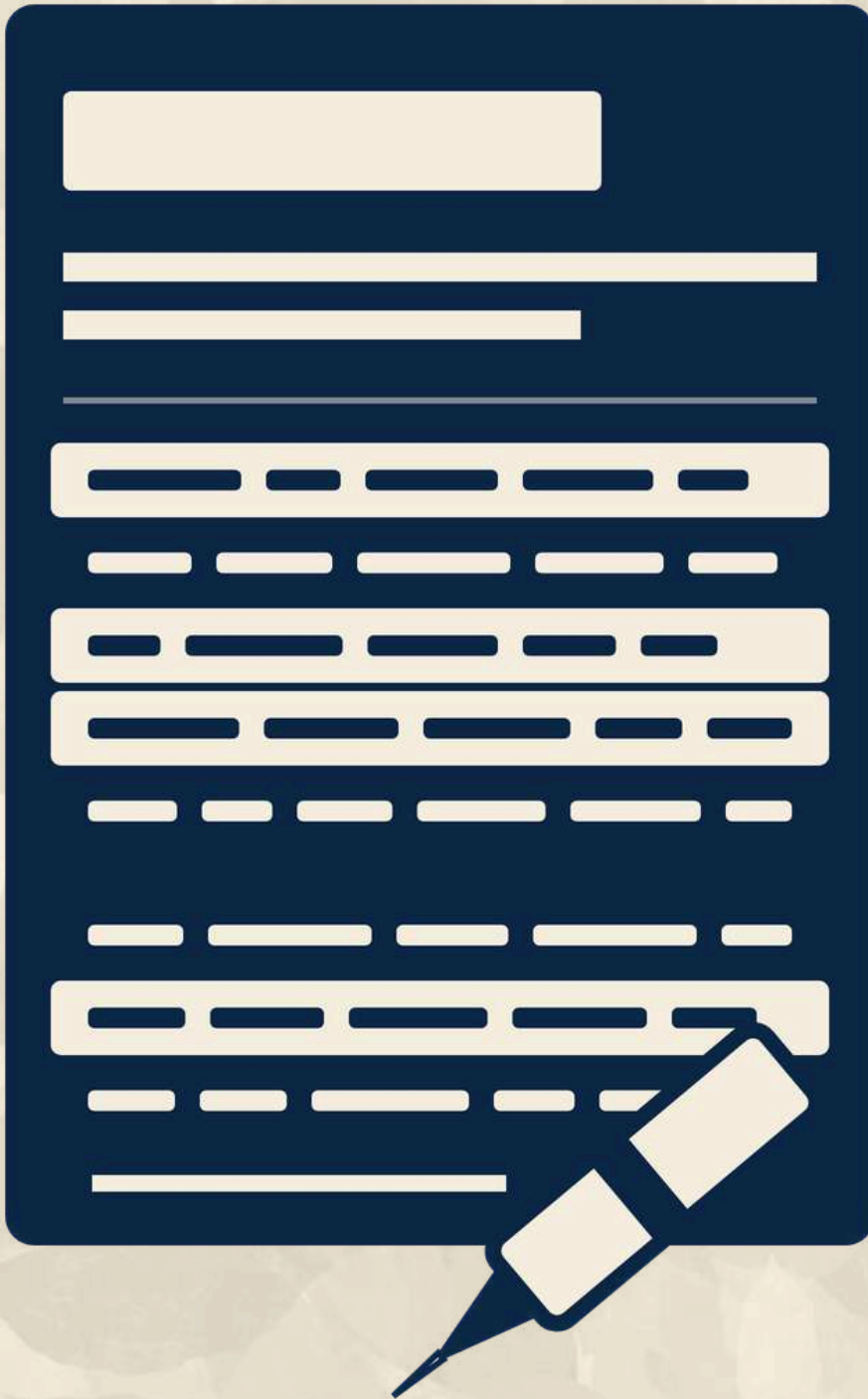
AU COURANT

PREFACE

In this edition, *Au Courant* features an interview on the *Taxation and Other Laws (Amendment) Act*, with Mr. Bipluv Jhingan, *Partner at Cyril Amarchand Mangaldas*. The Interview offers insights into the evolving tax regime, while exploring the policy objectives underlying the amendments, their implications for investment and tax certainty, and the challenges of balancing ease of doing business with effective tax administration.

We hope this edition of *Au Courant* keeps you informed, encourages critical engagement with recent legal developments, and proves to be an insightful and enjoyable read.

NEWS HIGHLIGHTS



AU COURANT

HIGHLIGHTS

SEBI LAUNCHES GARUDA MECHANISM TO FAST-TRACK ALTERNATIVE INVESTMENT FUND SCHEMES

The Securities and Exchange Board of India (SEBI) has taken a significant step towards expediting the launch of Alternative Investment Fund (AIF) schemes through the Green-Channel: AIF Rollout Upon Document Acknowledgement (GARUDA) mechanism. Following the amendments to the AIF Regulations notified earlier in July 2026, the mechanism seeks to enable the swifter processing of Private Placement Memoranda (PPMs) by reducing regulatory timelines while strengthening compliance and accountability.

Under the revised framework, regular AIF schemes can proceed to launch the first scheme from the date of SEBI registration, or after 10 working days of filing the SEBI application (whichever is later). The onus of due diligence with respect to the veracity and adequacy of the disclosures of the PPM has been placed upon merchant bankers.

Accredited-Investor only , Large Value Funds and Angel Funds have been exempted from filing of PPM through a merchant banker. Additionally, these schemes must make mandatory use of the suffix “AI only fund” or “AIOF” for Accredited-Investor only schemes and “LVF” for Large Value Fund schemes. Disclosure responsibility now rests with the AIF manager, supported by an undertaking from the CEO and compliance officer, rather than a merchant banker. The Merchant Banker appointed for filing of PPM shall not be an associate of the AIF, its sponsor, manager or trustee.

HIGHLIGHTS

SEBI has clarified that submission of the PPM does not amount to regulatory approval, placing greater accountability on fund managers and merchant bankers for the accuracy of disclosures. The mechanism echoes SEBI's recent initiatives to enhance ease of doing business and improving efficiency across India's financial markets.

SUPREME COURT CLARIFIES SCOPE OF SECTION 14: MORATORIUM SHIELDS THE CORPORATE DEBTOR ALONE

The Supreme Court in *Tejas J. Shah & Amisha T. Shah v. Mantri Technology Constellations (P) Ltd.* 2026 INSC 746, ruled that the corporate debtor alone is subject to the moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016 and does not extend to its promoters, directors, landowners or other non-corporate debtor respondents.

The case concerns appeals against an order of the National Consumer Disputes Redressal Commission (NCDRC) rejecting applications for continuation of the consumer complaints filed by homebuyers against the corporate debtor, its associated company, promoters/directors, and landowners. Citing the statutory protection provided by the moratorium, it adjourned the matter sine die. The homebuyers challenged the erroneous application, and sought to pursue their claims against the non-corporate respondents.

Examining the scope of Section 14, the Supreme Court reiterated that the statutory protection under the moratorium, applies solely to the corporate debtor and cannot be extended beyond its limit to protect other parties. As a result, the impugned order was set aside, and the NCDRC was directed to adjudicate the complaints against the remaining respondents. The ruling emphasised that Section 14 is not meant to be exploited as a haven by third parties, but rather to offer a calm period for the corporate debtor's recovery.

HIGHLIGHTS

REPLACEMENT OF A 135-YEAR-OLD BANKING EVIDENCE LAW: BANKERS' BOOKS EVIDENCE ACT, 2026 TO TAKE EFFECT FROM OCTOBER 1ST

The Finance Ministry has appointed 1st October, 2026 as the date of commencement of the Bankers' Books Evidence Act, 2026 that was granted Presidential assent on 13th August. Replacing the Bankers' Books Evidence Act, 1891, the revision takes a technology neutral approach: "bankers' books" now cover records held both onsite/offsite, at cloud locations and backup sites, with separate certificate formats prescribed for physical and electronic records. Further, there is the definition provided for "special cause", hitherto undefined, for compelling a bank officer to depose where the bank is not a party. Since banking records underpin recovery suits, Section 138 prosecutions and insolvency claims, the change reaches wide.

MUTHOOT FINANCE LIMITED V. TRUSTEES' ASSOCIATION OF INDIA & ORS.: COMPETITION COMMISSION OF INDIA HOLDS DEBENTURE TRUSTEES' ASSOCIATION LIABLE FOR FEE-FIXING

In Muthoot Finance Limited v. Trustees' Association of India & Ors., decided on 2 September 2026, the Competition Commission of India (CCI) held the Association and three debenture trustees liable for cartelisation.

HIGHLIGHTS

Muthoot Finance sought a quotation from IDBI Trusteeship Services in August 2021 for a ₹982 crore non-convertible debenture placement and was informed that the Trustees' Association had revised the fees and that any deviation from them would invite adverse consequences. CCI found that the benchmark pricing floor adopted in March 2021 was enforced by monitoring members' quotations and even disciplining non-members. However, no penalty followed; instead, the Commission gave a cease-and-desist order. Even so, the finding stands, and CCI warned that any repetition would be treated as recidivism, with heavier consequences for the entities and their officials.

BEYOND THE DRT DECREE: SARFAESI ACT AND THE CONTINUITY OF RECOVERY PROCEEDINGS

The Supreme Court of India examined the interplay between the overriding effect of Section 35 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) and the principles of res judicata in KK Praveen v. JM Financial Asset Reconstruction. The Court dismissed a writ petition under Article 32 of the Indian Constitution challenging the invocation of the SARFAESI Act. It held that its provisions could override an existing ex-parte decree passed by the Debts Recovery Tribunal (DRT) concerning the same debt. The dispute arose when the petitioner challenged the continuation of SARFAESI proceedings despite an ex-parte decree already passed by the DRT in an Original Application concerning the same debt. The petitioner contended that once a decree is passed, the underlying cause of action merges into the decree. It was further argued that the doctrine of res judicata barred the initiation or continuation of proceedings arising from the same cause of action.

HIGHLIGHTS

The Bench comprising Justice B. V. Nagarathna and Justice R. Mahadevan rejected the challenge. In doing so, the Court relied on Section 35 of the SARFAESI Act, which gives the legislation overriding effect over inconsistent laws. The decision recognizes the distinction between adjudication of a debt by the DRT and enforcement of security interests through the SARFAESI framework.

The ruling highlights the co-existence of distinct statutory mechanisms for debt recovery. The decree determines the creditor's claim through adjudicatory proceedings.

The SARFAESI Act provides a mechanism for secured creditors to enforce security interests without necessarily initiating fresh proceedings before a court or tribunal. Thus, the existence of a decree does not automatically eliminate the creditor's ability to pursue statutory enforcement measures.

In conclusion, this decision has implications for the recovery strategies of banks and Asset Reconstruction Companies. It underscores the importance of distinguishing between the determination of liability and the enforcement of security. By recognizing the continued availability of SARFAESI remedies in the circumstances before it, the Supreme Court reinforces the interaction between adjudicatory and enforcement mechanisms in India's debt recovery framework.

INTERVIEW



AU COURANT

INTERVIEW

CRITICAL ANALYSIS OF THE TAXATION AND OTHER LAWS (AMENDMENT) ACT 2026: CHANGES IN THE EASE OF DOING BUSINESS.

What pivotal experiences in your legal career have played a crucial role in shaping the course of your professional journey?

For me, the experiences that have had the greatest impact on my professional growth are those I have gained over the last decade at Cyril Amarchand Mangaldas. The responsibilities entrusted to me from an early stage, coupled with exposure to complex tax matters, accelerated my learning significantly and helped me develop both technical depth and practical judgment.

Working on cross-border transactions, international tax controversies, and large-scale structuring mandates taught me that effective tax advice is not only about being technically sound. It must also be practical, commercially viable, and capable of standing up to regulatory and judicial scrutiny. My experience in contentious matters further reinforced the importance of anticipating challenges, thinking several steps ahead, and evaluating issues from multiple perspectives. Equally valuable has been the opportunity to work alongside exceptional colleagues and mentors. Looking back, it is this combination of responsibility, exposure to complex matters, and guidance from talented professionals that has most strongly shaped my career and professional outlook.

The Act introduces and extends targeted tax incentives across sectors such as financial markets, diamond trading, electronics manufacturing and data infrastructure for foreign companies. Do you see a broader policy direction behind these changes?

The Act does not merely provide broad-based tax reliefs and concessions; it deliberately seeks to incentivise sectors that are considered strategically important to India's next phase of economic growth. Viewed collectively, these amendments reflect a broader policy objective of attracting investment into activities that generate wider economic benefits, including employment creation, technology transfer, infrastructure development, and deeper integration with global supply chains. The amendments also underscore the Government's continued focus on enhancing tax certainty, fostering investor confidence, and improving the ease of doing business in India.

Since the surcharge for SPVs opting for the concessional regime has increased from 10% to 25% under the new regime, while unit-holders have also been granted exemption for dividend income from business trusts like REITs and InvITs, do you believe that there is a link between the increase in surcharge and the exemption for the unit-holder? If so, could the higher surcharge have implications for the attractiveness of SPVs, particularly by affecting the dividends available for distribution to investors?

Yes, the two measures appear to be linked. A key objective of the amendment seems to be to facilitate the migration of special purpose vehicles (SPVs) of business trusts to the new corporate tax regime, particularly in light of the changes to the Minimum Alternate Tax (MAT) framework, under which the utilisation of MAT credit is generally aligned with companies that opt for the new regime.

In absence of an amendment, such a transition could have adversely affected investors by effectively removing the dividend exemption available at the unit-holder level.

The exemption therefore appears to have been introduced to preserve tax certainty and maintain the attractiveness of REITs and InvITs from an investor perspective. While the additional 15% surcharge, in turn, appears to be the mechanism through which the Government seeks to offset, at least in part, the revenue impact of extending this benefit. Hence, the amendments reflect an effort to encourage migration to the new tax regime without placing investors at a disadvantage, while simultaneously balancing the Government's revenue considerations.

In a structure where an Indian data centre provides support to a foreign company under a 15% safe harbour margin, while the foreign entity is exempted from tax on income from procuring such services, a tax asymmetry is evident. With the Act now removing the requirement to notify the foreign company and the data centre, and recognising lease-model ownership, could this framework inadvertently give global tech groups a blueprint to route costs and intellectual property overseas to minimize local tax? Also, how can tax authorities adjust transfer pricing rules to maintain balance?

The Government has introduced these amendments to make India a more attractive destination for data centre investments by aligning the tax framework with the commercial realities of the sector. The objective is to promote investment and ease of doing business, rather than to create a preferential regime that facilitates profit shifting. That said, given the framework set out in the Act, questions around profit allocation are inevitable. The core issue is not the availability of the tax exemption itself, but whether the resulting transfer pricing outcomes appropriately reflect where economic value is created within the group.

In my view, the answer lies not in revisiting the incentive, but in ensuring robust transfer pricing oversight. Where the Indian data centre operator performs routine functions and assumes limited risks, a routine return may be justified. However, transfer pricing outcomes should continue to align profits with the functions performed, assets employed, and risks assumed by the relevant entities. The key challenge is to balance tax certainty and ease of doing business with the fundamental principle that profits should be taxed where the underlying economic substance and value creation reside.

Under the Taxation and Other Laws (Amendment) Act, 2026, FIIs and the Bank for International Settlements are exempted from tax on interest and capital gains from specified Government securities for income arising on or after 1 April 2026. While this is intended to deepen India's G-Sec market, could giving foreign institutional investors a tax advantage over domestic investors raise concerns about tax neutrality and equal treatment?

The Government has been clear that the objective of these amendments is to deepen the Government securities market, attract stable long-term foreign capital, enhance market liquidity and price discovery, and further integrate India's debt markets with global financial markets.

Hence, the exemption appears to be a targeted policy measure designed to advance specific capital-market objectives, rather than a broader statement on the taxation of investors generally. The question is whether the increased foreign participation, deeper market liquidity, and additional capital inflows generated by the exemption justify the resulting differential tax treatment. From a policy standpoint, the Government appears to have concluded that the broader economic benefits outweigh the potential concerns arising from that disparity

What is your advice to young professionals and law students who aim to build a career in the field of Taxation Laws?

My advice to young professionals would be to focus on understanding how tax works, rather than simply learning tax laws. Tax statutes and regulations will continue to evolve, but the underlying principles of taxation, business, and economics remain largely constant. Building a strong foundation in these core concepts will help you adapt to legislative changes throughout your career.

At the same time, it is important not to view tax purely as a legal discipline. The most effective tax professionals are those who understand how businesses operate, how transactions are structured, and what commercial objectives clients are trying to achieve. I would also encourage gaining exposure to both advisory and controversy work. Advisory experience teaches you how to structure transactions and solve complex problems, while dispute-related work provides valuable insight into how those positions are scrutinized and challenged in practice.

Above all, be patient and remain curious. Developing expertise in tax is a long-term journey that takes years of continuous learning and experience. Invest in building technical knowledge, seek out strong mentors and communicate clearly.

NEWS UPDATES



AU COURANT

NEWS UPDATES

SEBI NOTIFIES BUY-BACK OF SECURITIES (AMENDMENT) REGULATIONS, 2026

On July 1, 2026, SEBI notified the Buy-back of Securities (Amendment) Regulations, 2026, bringing back the open-market route for share buy-backs through stock exchanges, something that had effectively been phased out earlier. Under the new rules, this route is capped at under 15% of a company's paid-up capital and free reserves, and companies now have to inform shareholders within a day of making the public announcement. Promoter shareholding also stays frozen for as long as the offer is open. Perhaps the most practical change is that appointing a merchant banker is no longer mandatory; companies can now handle several of those responsibilities themselves. The amendment kicks in from August 1, 2026.

SUPREME COURT SAYS THAT THE HIGH COURTS MUST EXERCISE "EXTREME CIRCUMSPECTION" UNDER ARTICLE 227 IN ONGOING ARBITRATIONS

In *Manash Kamal Bezboruah v. Bokahola Tea Company Pvt. Ltd.*, the Supreme Court weighed in on how much High Courts should really be stepping into arbitration proceedings while they're still ongoing. A bench of Justices K.V. Viswanathan and Vijay Bishnoi held that when an Arbitral Tribunal rejects a jurisdictional objection under Section 16, that order can usually only be challenged later, after the final award, under Section 34. The Court didn't take away the High Courts' power under Article 227, but made it clear that this power should be used sparingly and only where there's a prima facie case that the tribunal simply had no jurisdiction to begin with.

NEWS UPDATES

PLEDGED SHARES DISPUTE NOT A DEFENCE TO SECTION 7 PROCEEDINGS: NCLT GUWAHATI

The Guwahati National Company Law Tribunal (NCLT) has held in the case of IL&FS Financial Services Limited v. Adhunik Meghalaya Steels Private Limited that a dispute over the invocation and appropriation of pledged securities cannot defeat an insolvency petition under Section 7 of the Insolvency and Bankruptcy Code, 2016, once the existence of financial debt and default is established. The bench held that its jurisdiction is concerned with only verifying two things: existence of financial debt and occurrence of default. Thus, the court at this stage did not allow the questions relating to the way securities were utilised and valued to act as a defence to disallow CIRP proceedings under section 7 of IBC.

MEITY PROPOSES MODEL DATA SHARING FRAMEWORK FOR GOVERNMENT DATA

On 31st August 2026, the framework has been prepared by the ministry on the decision taken by the Committee of Secretaries in a meeting held in May, 2026. The framework aims to facilitate secure digital sharing of government data to enable evidence-based governance and innovation while strictly complying with the Digital Personal Data Protection Act. The framework also proposes classification of the data sets into four distinct categories from CAT-1 (Open Access) to CAT-4 (Non-Shareable) 2023 for balancing efficient governance and data accessibility with data security for confidential and personal information.

NEWS UPDATES

For government-to-government transfers, the framework proposes using API Setu to streamline data exchange and reduce administrative delays. Strict protocols for personal information, localisation of the cloud services and data centres and reporting to the authorities within 6 hours in case of a data breach are among the measures to ensure the safety of data being shared. Overall, the framework seeks to establish a risk-based governance architecture that enables wider use of government data while placing classification, controlled access and institutional oversight at the core of data security.

CCI APPROVES CLOUDNINE'S ACQUISITION OF APOLLO UNITS

The Competition Commission of India, on September 1, approved the multi-step acquisition of up to 100% equity in Apollo Fertility Centre and Apollo Specialty Hospitals by Kids Clinic India Limited (Cloudnine). To keep a check that large mergers and acquisitions do not harm competition in the market, such deals require the CCI's approval to qualify.

This highlights a crucial role that the CCI plays in merger control. This is also extended to healthcare sectors as hospital chain first needs clearance from the CCI and it goes ahead only if competition is not harmed.

NEWS UPDATES

CCI CARTEL RULING AGAINST DEBENTURE TRUSTEES

CCI found key Debenture Trustees and their association guilty of cartelization on September 2, 2026. These include IDBI Trustee and Axis Trustee. When competitors coordinate with each other instead of competing independently, on aspects like fees and terms, is cartel. In situations where several trustee firms agree on common fees so that clients have no real choice, that is cartel behaviour under competition law. The CCI held that this happened but chose not to impose a monetary penalty or fine on them. Although CCI acts against cartels in the financial sector to maintain fair competition in the market, it does not always come with a penalty if a violation is identified.

THE IBBI PROPOSES STRONGER SAFEGUARDS FOR PERSONAL GUARANTORS TO CORPORATE DEBTORS

The Insolvency and Bankruptcy Board of India (IBBI), on 12 September 2026, has issued a discussion paper proposing stronger safeguards for the personal guarantors to corporate debtors in the insolvency process. Public comments are open till 3 October, 2026. The aim is to bring the safeguards available in this process closer to those already available under Corporate Insolvency Resolution Process (CIRP). The paper proposes four major changes. The first is that related parties of the guarantor be given a NIL voting share on the repayment plan to avoid any conflict of interest.

NEWS UPDATES

Second, the Resolution Professional (RP) may be required to identify and report avoidance transactions such as preferential, fraudulent, undervalued and extortionate credit transactions and inform the creditors about the same. Third, a registered valuer, appointed by the RP, may be required to determine fair and realisable value of the guarantor's assets and place the valuation report before creditors. Fourth, the RP may be asked to record creditor's deliberations and reasons for their decision on approving or rejecting the repayment plan, especially when the proposed recovery is significantly lower than the claims or asset value.

SEBI PROPOSES CHANGES TO EXPIRY-DAY SETTLEMENT PRICES FOR DERIVATIVES

The Securities and Exchange Board of India (SEBI), on 12 September 2026, issued a consultation paper where it proposed changes to the settlement methodology for derivatives and certain aspects pertaining to Closing Auction Session (CAS). Public comments are open till 3 October 2026.

CAS was introduced on 3 August 2026 for stocks having derivative contracts. Earlier, the closing price was based on the VWAP of trades during the last 30 minutes of continuous trading, whereas now under CAS the closing price is determined through a short auction where buy and sell orders are matched to arrive at the closing price. SEBI has also proposed two options for expiry-day settlement. The first is a blended VWAP, which would consider trades during the last 30 minutes of continuous trading along with the 10- minute CAS.

NEWS UPDATES

The second option is to continue with the existing continuous trading VWAP, based only on the last 30 minutes of continuous trading.

SEBI has suggested that the existing continuous trading VWAP could continue as an interim measure until a possible shift to the blended VWAP is made after at least one year, depending on liquidity, participation and familiarity with CAS. The consultation also considers delinking derivative settlement prices from the cash-market closing price as part of the broader review.

MUTHOOT FINANCE LIMITED V. TRUSTEES' ASSOCIATION OF INDIA & ORS.: COMPETITION COMMISSION OF INDIA HOLDS DEBENTURE TRUSTEES' ASSOCIATION LIABLE FOR FEE-FIXING

In *Muthoot Finance Limited v. Trustees' Association of India & Ors.*, decided on 2 September 2026, the Competition Commission of India (CCI) held the Association and three debenture trustees liable for cartelisation. Muthoot Finance sought a quotation from IDBI Trusteeship Services in August 2021 for a ₹982 crore non-convertible debenture placement and was informed that the Trustees' Association had revised the fees and that any deviation from them would invite adverse consequences. CCI found that the benchmark pricing floor adopted in March 2021 was enforced by monitoring members' quotations and even disciplining non-members. However, no penalty followed; instead, the Commission gave a cease-and-desist order. Even so, the finding stands, and CCI warned that any repetition would be treated as recidivism, with heavier consequences for the entities and their officials.

NEWS UPDATES

MADRAS HIGH COURT RULES RERA CANNOT DECIDE DISPUTED LAND OWNERSHIP

The Madras High Court ruled that the Tamil Nadu Real Estate Regulatory Authority (TNRERA) cannot decide land ownership disputes, which must be resolved by civil courts. In *Balakrishnan v. TNRERA*, N. Balakrishnan challenged the registration of a real estate project on land he claimed to own. The Court held that under Section 4(2)(1) of the Real Estate (Regulation and Development) Act, 2016, TNRERA may reject registration where records clearly reveal defective title or disqualifying encumbrances. However, registration does not determine ownership rights, and the petitioner may pursue his claims before the civil court.

SEBI REVISES SETTLEMENT RULES AND ADOPTS COMMON ADVERTISING CODE

The Securities and Exchange Board of India revised its settlement framework, allowing entities under investigation to conclude proceedings without admitting or denying guilt. Settlement terms will include a base amount, disgorgement of wrongful gains where applicable, and remedial measures. The base amount will depend on the minimum penalty, adjusted for the stage and gravity of proceedings as well as aggravating factors. A settlement notice will provide 60-day window to apply before a show-cause notice is issued. SEBI also approved a Common Advertising Code, requiring prior approval only for celebrity endorsements.

LEX SIMPLIFICA



AU COURANT

LEX SIMPLIFICA

SEBI'S PROPOSAL ON STREAMLINING THE ONLINE DISPUTE RESOLUTION FRAMEWORK IN SECURITIES MARKET

SEBI, through its Consultation Paper on Streamlining the Online Dispute Resolution Framework in the Indian Securities Market released in July 2026, has proposed changes to the existing securities-market dispute resolution mechanism. The proposal aims to improve the efficiency of the process by addressing delays and procedural issues relating to the appointment of conciliators and arbitrators, fund movement, and enforcement of arbitral awards.

The ODR framework provides an online avenue for resolving disputes through conciliation and arbitration. It operates alongside SEBI's primary grievance-redressal mechanism, the SEBI Complaints Redress System (SCORES). While SCORES enables investors to raise and track grievances against regulated entities, ODR provides a separate avenue through which disputes requiring adjudication or settlement between the parties can be resolved. SEBI had introduced this mechanism with the objective of providing investors with a more structured and efficient means of dispute resolution. SEBI's review has been prompted by certain issues in the operation of the existing framework. The consultation paper identifies, among other matters, concerns relating to the appointment of conciliators and arbitrators, the movement of funds between intermediaries and ODR institutions, and the enforcement of arbitral awards. The proposed changes therefore seek to simplify the administrative structure and reduce delays in the resolution of disputes.

LEX SIMPLIFICA

A significant proposal is to entrust Market Infrastructure Institutions (MIIs), including stock exchanges and depositories, with the administration of the ODR process. Under the proposed arrangement, MIIs would undertake functions such as empanelling conciliators and arbitrators and facilitating the proceedings through the ODR platform. The Institutional shift aims to streamline the procedure and accelerate resolution timelines.

SEBI has also proposed changes to the movement of grievances from SCORES to ODR. Unresolved SCORES complaints may proceed directly to conciliation, bypassing redundant administrative steps. The consultation paper additionally suggests modifications related to Alternative Investment Funds (AIFs), including the manner in which contractual dispute-resolution mechanisms would interact with the ODR framework.

These proposals are therefore directed not at replacing the existing dispute-resolution framework, but at streamlining its functioning and reducing procedural difficulties. If implemented, the proposed changes could make the securities-market ODR mechanism more efficient and less procedurally cumbersome for investors and market participants. However, since the changes have been placed for public consultation, they remain proposals and do not constitute final regulatory requirements at present.

LEX SIMPLIFICA

SEBI'S PARRVA: A FRAMEWORK FOR VERIFYING THE PAST PERFORMANCE CLAIMS OF INVESTMENT ADVISERS AND RESEARCH ANALYSTS

Investment advertisements and the social media posts of influencers often cite figures such as “40% returns in 6 months,” with little indication of how such figures were arrived at. This makes it easy to present only the most favourable numbers while leaving out the rest. To address this, the Securities and Exchange Board of India (SEBI) introduced the Past Risk and Return Verification Agency (PaRRVA), a framework for independently verifying the performance claims made by regulated market intermediaries.

The framework itself is not new. SEBI first laid down the structure for PaRRVA through a circular dated 4 April 2025, in response to a long-standing demand from Investment Advisers (IAs) and Research Analysts (RAs) for a credible mechanism to display their performance records, as well as growing concern over unverifiable claims made by unregistered influencers. SEBI Chairman Tuhin Kanta Pandey inaugurated a pilot version of the framework in December 2025, describing it as a first-of-its-kind global initiative. The framework was made fully operational through SEBI's circular dated 29 April 2026, which laid out the enrolment process and deadlines that have since become relevant to IAs and RAs. The underlying idea is fairly simple. IAs and RAs previously self-reported their performance, which let them omit periods that did not reflect well on them. PaRRVA is intended to remove that discretion.

LEX SIMPLIFICA

SEBI has put in place a two-tier verification process: a credit rating agency verifies the figures, while a stock exchange holds the underlying data. At present, CARE Ratings functions as the PaRRVA, and the NSE as the PaRRVA Data Centre. The framework extends beyond IAs and RAs to cover algorithmic trading members as well, and is intended to standardise how performance metrics are calculated and displayed, so that investors can meaningfully compare different providers. Once an entity is onboarded, every return or risk figure shown to a client must be verified against this uniform method, rather than selectively presented.

What makes this particularly relevant at present is the enrolment deadline. SEBI's circular dated 29 April 2026 required IAs and RAs to enrol by 3 August 2026, failing which they would lose the right to share any certified past performance data. Following industry representations citing operational difficulties, SEBI extended this deadline by a month, to 3 September 2026, through its circular dated 3 August 2026. It is worth noting that PaRRVA's verification applies only prospectively, that is, to performance data generated after an entity onboards with the agency. For the period before onboarding, SEBI had separately permitted IAs and RAs, through an interim circular dated 30 October 2025, to continue sharing past performance data certified by a chartered or cost accountant, allowing the industry a bridge while the PaRRVA framework was being operationalised.

What stands out here is that SEBI is treating a verified track record less as a marketing tool and more as a regulated claim, comparable to how a food label cannot simply state "healthy" without being able to substantiate it. For IAs and RAs, non-compliance with the framework does not merely entail a monetary penalty in the conventional sense.

LEX SIMPLIFICA

It results in the loss of their voice, and their ability to point back at what they have accomplished. For an industry that runs almost entirely on client trust, this may end up costing more than a monetary penalty would, and for investors, it offers, for the first time, a single and credible reference point against which performance claims can actually be measured.

COURTS THIS QUARTER



AU COURANT

COURTS THIS QUARTER

ANI MEDIA PVT. LTD. V. OPENAI OPCO LLC [2026 SCC ONLINE DEL 5291]

FACTS:

The dispute arises between ANI, one of India's largest news agencies, and OpenAI, the developer of ChatGPT. ANI instituted a suit in November 2024, alleging that OpenAI had trained ChatGPT on its copyrighted news reports without authorisation, and that ChatGPT's responses, on certain occasions, reproduced ANI's reporting and generated quotations falsely attributed to ANI. It sought ₹2 crore in damages and an interim injunction restraining OpenAI from storing, reproducing, or otherwise using its content pending the final adjudication of the suit.

The ensuing interim proceedings involved extensive hearings, with the application being heard on more than thirty occasions, with the assistance of two amici curiae and six interveners, three supporting each side, before Justice Amit Bansal reserved judgment in March 2026 and delivered a 135-page order four months later. The principal controversy before the Court was whether the reproduction and use of copyrighted journalistic works in training an artificial intelligence model, together with the subsequent generation of outputs allegedly derived therefrom, constitute copyright infringement, or whether such activities are protected by the statutory exceptions recognised under the Copyright Act, 1957.

COURTS THIS QUARTER

ISSUES:

The Court framed four questions for determination:

1. Whether OpenAI's storage of ANI's data to train ChatGPT constitutes copyright infringement?
2. Whether ChatGPT's outputs, to the extent they reproduce ANI's data, constitute copyright infringement?
3. Whether OpenAI's use of ANI's copyrighted works qualifies as "fair dealing" under Section 52 of the Copyright Act, 1957?
4. Whether Indian courts possess territorial jurisdiction to adjudicate the dispute, given that OpenAI's servers are located in the United States of America?

CONTENTIONS:

ANI advanced three principal submissions. First, ANI contended that OpenAI reproduced its copyrighted articles, or substantial parts of them, in the course of training, thereby engaging the reproduction right under Section 14(a)(i) of the Act. Second, ANI submitted that ChatGPT's outputs, where they paraphrase or closely restate ANI's reporting, may implicate the reproduction and adaptation rights recognised under Section 14 of the Act. Third, and the claim on which it principally relied, ANI contended that the commercial deployment of ChatGPT operates as a potential substitute for the source of its journalism and consequently causes material prejudice to the market for licensed syndication of its journalism.

COURTS THIS QUARTER

OpenAI's defence was that training amounts to research or private use within Section 52(1), and was, in any event, protected by the fair dealing exception, given the limited and transformative nature of the underlying copying. It further submitted that the nature and extent of the use were sufficiently limited and transformative to attract the protection of the statutory exception. It also raised a jurisdictional objection, contending that Indian courts lacked territorial jurisdiction over the dispute, as OpenAI is incorporated in the United States and its servers are located outside India. ANI pushed back on this last point, submitting that jurisdiction could still lie in India since the harm is felt here and ChatGPT remains accessible to Indian users; the question therefore arose in the context of the transnational operation of OpenAI's services and the territorial application of Indian law.

HOLDING:

A significant fact emerging from the proceedings was that OpenAI had independently placed ANI's domain on a blocklist from October 2024 onward and had undertaken to exclude it from future training. This measure had been adopted well before the Court was called upon to adjudicate the dispute and therefore formed part of the factual context against which the interim relief was considered. Against this backdrop, Justice Amit Bansal declined to grant the interim injunction, principally on three findings:

Jurisdiction: The Court held, *prima facie*, that Indian courts have territorial jurisdiction over the dispute because OpenAI actively targets Indian users and collects subscription fees from them, and the location of overseas servers is only the final step in a broader chain of commercial activity with a sufficient nexus to India.

COURTS THIS QUARTER

Fair Dealing Exception: The Court held, at the prima facie stage, that storing publicly available web data to train an AI model may fall within the ambit of fair dealing under Section 52(1)(a) of the Copyright Act, 1957.

No Substantial Output Infringement: At the interim stage, ANI had not produced sufficient evidence of substantial reproduction or regurgitation of its articles in ChatGPT's ordinary outputs.

The Court clarified that all three findings are prima facie only, confined to the adjudication of the interim application, and would neither prejudice nor determine the ultimate merits of the main suit.

REASONING:

The judgment commences with an exposition of the technical architecture of LLMs, including tokenisation, vectorisation, training and post-training, thereby establishing the technological foundation for the subsequent copyright analysis. The court addressed the issue of jurisdiction and rejected OpenAI's offshore-server argument. Relying on *Neetu Singh v. Telegram FZ* (2022), it held that territoriality cannot be interpreted so strictly in the context of cloud computing, and that accepting OpenAI's view could potentially permit entities to circumvent the application of Indian law merely by locating their technological infrastructure outside India. Similarly, on the issue of fair dealing, the Court held that even temporary electronic storage of ANI's works for AI training engages the reproduction right under Section 14(a)(i), thereby making the statutory exception under Section 52(1)(a) the central inquiry.

COURTS THIS QUARTER

It applied a two-stage analytical framework comprising a ‘Purpose Test’ and a ‘Fairness Test’. Under the former, the Court held that commercial use is not per se excluded and that AI training could qualify as “private use” and “research”, even where the process is undertaken by an AI system rather than a human researcher. Under the fairness inquiry, it considered inter alia, the scope and nature of OpenAI’s use, the absence of demonstrated market substitution or quantifiable economic injury to ANI, and the broader public interest implicated by the development and deployment of generative AI, including its benefits for research, education and access to information. Upon a cumulative assessment of these considerations, the Court found both tests satisfied at the prima facie stage.

As to outputs, the Court examined fourteen instances relied upon by ANI and found that they did not demonstrate verbatim or substantial reproduction of ANI’s protected expression. Several examples also post-dated the relevant training cut-off dates, thereby diminishing their evidentiary relevance to the allegation that ANI’s content had been incorporated into the training process. The Court accordingly distinguished between copyrightable expression and the underlying facts or information. At the same time, it left certain technical and evidentiary questions concerning the training process and reproduction of protected works for determination at trial.

Overall, the Court adopted a technology-sensitive approach to the application of established copyright principles to generative AI, balancing the exclusive rights vested in copyright holders against the emerging public interest in AI-driven research and innovation.

COURTS THIS QUARTER

THE SEPTEMBER 2026 APPEAL:

ANI has since challenged the order before a Division Bench. After an adjournment from September 8 to September 14, the Bench of Justices Avneesh Jhingan and Manmeet Pritam Singh Arora issued notice to OpenAI on September 15 and directed that the matter be listed on December 5.

Accordingly, India's emerging judicial position on AI training and copyright should, at present, be understood as a prima facie determination at the interlocutory stage rather than a finally settled position of law.

COURTS THIS QUARTER

NATIONAL SKILL DEVELOPMENT CORPORATION V. SURYA WIRES PVT. LTD (2026) INSC 977

FACTS:

National Skill Development Corporation (NSDC) (Appellant), a not-for-profit company, was the implementing agency for the "Pradhan Mantri Kaushal Kendra" (PMKK) scheme. Surya Wires Private Limited (Respondent No.1), and Disha Education Society (Respondent No.4), were allotted districts to jointly establish Model Training Centres. Respondent No. 2 was the Managing Director/ Authorised Representative of the Company.

On 20.12.2016, the parties executed a cluster of contemporaneous agreements including a Service Level Agreement, a Loan Agreement for Rs. 7,17,63,197/-, and ancillary "Facility Agreements." Respondent No. 2 executed a Personal Guarantee in favour of the Appellant on 27.12.2016 as a mandatory pre-disbursement condition. A second identical set, including another Personal Guarantee by Respondent No. 2, was executed on 18.08.2017 for Rs. 2,13,83,194/-.

Upon default, the Appellant initiated arbitral proceedings in 2022. Respondent No. 2 challenged jurisdiction under Section 16 of the Arbitration and Conciliation Act, 1996 ("the Act"), contending he was not a signatory to the Loan Agreements in his personal capacity. The Sole Arbitrator allowed the application. The High Court of Delhi affirmed, holding that a mere general reference to a document does not automatically import an arbitration clause into a secondary contract.

COURTS THIS QUARTER

ISSUES:

The Court framed following questions for determination:

1. Whether the arbitration clause in the Loan Agreements stands incorporated into the Personal Guarantees under Section 7(5) of the Act.
2. Whether Respondent No. 2, as a non-signatory to the Loan Agreements in his personal capacity, is bound by the arbitration clause through his execution of the Personal Guarantees.

CONTENTIONS:

The appellants argued that the Personal Guarantees were not independent instruments, but mandatory pre-disbursement conditions contractually defined as "Facility Agreements" and deemed to form an integral and inseparable part of the Loan Agreements. The Appellant further submitted that the High Court had applied Section 7(5) in an unduly technical and restrictive manner. It was submitted that of the seven instruments executed between the parties, only four contained arbitration clauses, and the arbitration clause in the Loan Agreements had at no stage been incorporated into the Personal Guarantee. It was urged that Clause 11.2 confines arbitration to disputes concerning the Loan Agreement alone, and that the instant case was a "two contract case" involving distinct parties and instruments. It was further submitted that the intention to bind a non-signatory must be gathered from the language of the document and not presumed.

COURTS THIS QUARTER

HOLDING:

The Supreme Court allowed the appeal, setting aside both the High Court judgment and the Sole Arbitrator's order. The arbitration clause in Clause 11.2 of the Loan Agreements stands incorporated into the Personal Guarantees under Section 7(5) of the Act, and Respondent No. 2 is accordingly bound to submit to arbitration.

REASONING:

On Section 7(5): The Court reiterated the principles from *M.R. Engineers v. Som Datt Builders*, (2009) 7 SCC 696, requiring for incorporation by reference: a clear reference to the document containing the arbitration clause; an indication of intent to incorporate it; and an arbitration clause capable of application to disputes under the contract. A general reference to another contract does not suffice. The Constitution Bench in *Cox and Kings v. SAP India Pvt. Ltd.* further held that in composite transactions involving multiple agreements, courts must assess whether the agreements are consequential or follow-up to the principal agreement.

On the Nature of the Personal Guarantees: Schedule IV expressly enumerated "Personal Guarantee(s)" as a "Facility Agreement." Clause 12.1 of Article XII stipulated that Facility Agreements "shall be deemed to be part of this Agreement as if the provisions thereof were set out herein in extension," operating as a deeming fiction binding the Personal Guarantee within the same arbitral framework as the Loan Agreement. Schedule I stipulated execution of Facility Agreements as a mandatory pre-disbursement condition. The entire cluster of documents accordingly constituted a single composite transaction.

COURTS THIS QUARTER

On the Absence of Personal Signature: The fact that Respondent No. 2 did not sign the Loan Agreements in his personal capacity was held not to be decisive. Training partners under such schemes are frequently thinly capitalised entities, and personal guarantees of their controlling individuals are the real and often only assurance of recovery of public funds. A guarantee so integrated cannot be severed from Clause 11.2 for purposes of dispute resolution while remaining tethered to the Loan Agreement for all other purposes.

COURTS THIS QUARTER

TEJAS J. SHAH & AMISHA T. SHAH V. MANTRI TECHNOLOGY CONSTELLATIONS (P) LTD. 2026 INSC 746

FACTS:

The appellants were homebuyers who had booked apartments in Mantri Manyata Energia, developed by Respondent No. 1. Respondent No. 2 was associated with the project. Respondent Nos. 3–5 were its alleged promoters/directors, and Respondent Nos. 6–7 were the landowners. Agreements were executed in 2016, with possession due by 31 December 2018.

As possession was not delivered despite payments and assurances, the appellants and other homebuyers filed Consumer Case No. 13/2023 before the NCDRC, alleging deficiency in service and unfair trade practices against Respondent Nos. 1–7.

During the proceedings, the NCLT admitted a Section 9 IBC application against Respondent No. 1 on 23 August 2024 and initiated CIRP, resulting in a Section 14 moratorium against it. The appellants subsequently sought continuation of the consumer complaint against Respondent Nos. 2–7 despite the moratorium. The NCDRC rejected their applications, holding that the liability of Respondent Nos. 2–7 could not then be independently examined, and adjourned the complaint sine die. The appellants challenged this order before the Supreme Court.

COURTS THIS QUARTER

ISSUES:

The Court framed the following question for determination:

1. Whether the NCDRC was justified in rejecting the IAs filed by the appellants on account of the moratorium operating against Respondent No. 1?

CONTENTIONS:

The appellants sought continuation of the consumer proceedings against Respondent Nos. 2–7, notwithstanding the Section 14 moratorium operating against Respondent No. 1. They contended that the moratorium was confined to the corporate debtor and did not bar proceedings against the other respondents.

The respondents opposed continuation of the proceedings, raising objections regarding privity of contract, maintainability of the complaint, and the absence of any independent obligation or liability on their part. They also disputed whether proceedings could be maintained against them separately from Respondent No. 1.

HOLDING:

The Supreme Court partly allowed the appeals and set aside the NCDRC's order rejecting the applications. It directed the NCDRC to proceed with Consumer Case No. 13/2023 against Respondent Nos. 2–7 in accordance with law. The proceedings against Respondent No. 1, however, remained subject to the Section 14 moratorium.

COURTS THIS QUARTER

REASONING:

The Court held that the Section 14 moratorium operates against the corporate debtor alone and cannot automatically extend to subsidiaries, promoters, directors or other persons unless the statute specifically provides for such protection.

Relying on the principles discussed in *Ansal Crown Heights* and *Saranga Anilkumar Aggarwal*, the Court reiterated that the moratorium cannot be extended beyond its statutory scope so as to prevent proceedings against non-corporate respondents.

The NCDRC had incorrectly assumed that liability could only lie against Respondent No. 1 and that the proceedings could not be split. The Supreme Court held that this effectively determined the merits before adjudication. The question at the interlocutory stage was only whether proceedings could continue against Respondent Nos. 2–7, not whether they were ultimately liable. In the absence of a statutory bar, the NCDRC was required to hear the matter and determine their liability on merits.

CLAUSE & EFFECT



AU COURANT

CLAUSE & EFFECT

SECURITIES AND EXCHANGE BOARD OF INDIA (BUY-BACK OF SECURITIES) (AMENDMENT) REGULATIONS, 2026

INTRODUCTION

On 1 July 2026, the Securities and Exchange Board of India (SEBI) notified the SEBI (Buy-Back of Securities) (Amendment) Regulations, 2026, amending the SEBI (Buy-Back of Securities) Regulations, 2018. Its principal aim is to reintroduce the stock-exchange route for buy-backs by listed companies, effective 1 August 2026, after the route was discontinued in April 2025.

A buy-back is a corporate action through which a company repurchases its own shares, usually at a price higher than the prevailing market price, or other specified securities, thereby returning surplus capital to shareholders and reducing the number of securities outstanding. Governed by Sections 68–70 of the Companies Act, 2013, read with the applicable SEBI regulations, buy-backs may be undertaken through a tender offer, under which shareholders are invited to tender their securities at a specified price, or through open-market purchases executed on a stock exchange. While the former provides eligible shareholders with a common opportunity to participate, the latter enables a company to acquire shares through market transactions over a prescribed period. A buy-back may enhance earnings per share and alter the ownership structure by reducing the number of outstanding shares. However, these effects are contingent on the price paid, the company's financial position and the circumstances of the transaction. For shareholders who sell their securities, it also provides an avenue to realise their investment.

CLAUSE & EFFECT

This reduces the number of outstanding shares in the market, consequently increasing the value of remaining shares and improving earnings per share. It also provides liquidity to shareholders by offering them an opportunity to sell their shares and realise their investment. The amendment provides companies with greater flexibility and a more efficient mechanism to return surplus capital to shareholders, while ensuring safeguards relating to promoter shareholding and minimum public shareholding.

CHANGES INTRODUCED:

The amendment reintroduces the stock-exchange route, giving companies greater flexibility to repurchase shares through market transactions, and makes the appointment of a merchant banker discretionary, which lowers compliance costs. The more consequential changes are the limits and safeguards that accompany this flexibility.

- *First*, the reinstatement of the stock-exchange route enables companies to repurchase shares, restoring flexibility in capital allocation; however, it also revives concerns regarding unequal shareholder participation and the potential influence of buy-back transactions on market prices.
- *Second*, Regulation 4(iv)(b) caps buy-backs through the stock-exchange route at less than 15 per cent of paid-up capital and free reserves, calculated on both standalone and consolidated bases. The dual test implies that the lower of the two would prevail, sitting well below the ceiling available under the tender-offer route. This raises a question about how far the reintroduced route can actually be used by companies seeking larger buy-backs.

CLAUSE & EFFECT

- *Third*, Regulation 4(vii) revises the framework governing successive buy-backs by aligning the applicable interval with the cooling-off period prescribed under the Companies Act, 2013. While this modifies the temporal restrictions on repeat transactions, the more fundamental questions regarding shareholder participation and market-price integrity remain unresolved.
- *Fourth*, the newly inserted Regulation 4(xi) prohibits any buy-back that would result in a breach of the minimum public shareholding requirements under the Securities Contracts (Regulation) Rules, 1957, or the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015. While this seeks to prevent the erosion of public shareholding, compliance with these thresholds does not necessarily prevent increased promoter concentration within permissible limits.
- *Finally*, the amendment makes merchant banker appointments discretionary for stock-exchange buybacks, reducing compliance costs but raising concerns about the adequacy of independent oversight. SEBI's circular dated 21 July 2026 further provides for an ISIN-level freeze on promoter and promoter group holdings, including those of their associates, during the relevant buy-back period. While this seeks to curb promoter-related transactions, its effectiveness depends on robust disclosure, surveillance and enforcement. Taken together, the amendment restores flexibility but limits it through a size cap, a timing restriction, a float-protection requirement and a promoter freeze. These are examined critically below.

CLAUSE & EFFECT

CRITICAL ASSESSMENT

The principal drawback of the stock-exchange route is its failure to ensure equitable shareholder participation. Unlike a tender offer, which provides eligible shareholders a common opportunity to tender their securities, an open-market buy-back benefits only those whose shares are actually purchased during the buy-back window. Participation depends on prevailing prices, market demand and the volume of shares acquired, potentially disadvantaging retail investors who lack the resources to time their transactions effectively. Consequently, access to the benefits of a corporate decision becomes contingent on market timing rather than shareholder eligibility.

More significantly, open-market repurchases may distort price discovery. A company's sustained purchasing activity can artificially support demand, creating price signals that investors may mistake for improvements in its underlying performance. Where buy-backs are executed as ordinary exchange trades without transaction-level identification of the company as the purchaser, distinguishing buy-back-driven demand from independent market activity becomes more difficult. The 15% ceiling limits the scale of repurchases but does not, by itself, prevent price distortion or information asymmetries.

The minimum public shareholding requirement and ISIN-level freeze on promoter holdings address specific risks but offer limited protection against increased promoter concentration within permissible thresholds. Further, making merchant banker appointments discretionary may reduce compliance costs while weakening independent scrutiny of transaction execution and disclosures. Ultimately, quantitative limits and procedural safeguards cannot independently guarantee fair participation or reliable price discovery.

CLAUSE & EFFECT

THE MICRO, SMALL AND MEDIUM ENTERPRISES DEVELOPMENT (AMENDMENT) ACT, 2026

INTRODUCTION

The Micro, Small and Medium Enterprises Development Act, 2006 ("MSMED Act") was enacted to facilitate the promotion and development of micro, small and medium enterprises ("MSMEs"). It established a framework for their classification, registration, and access to credit, and created a mechanism for resolving disputes arising from delayed payments to MSME suppliers through Micro and Small Enterprises Facilitation Councils ("MSEFCs"). The expansion of the MSME sector has necessitated the need for a robust legal and institutional framework that is capable of responding to the changing needs of the sector. According to the Economic Survey 2025–26, MSMEs contribute 31.1% of India's GDP, 35.4% of manufacturing output and 48.58% of exports. As of August 2026, more than 9.16 crore MSMEs were registered on the Udyam platform, employing over 40 crore people.

Against this backdrop, the 2026 Amendment seeks to modernise the MSMED framework. Before the 2026 amendment, MSMEs were classified using a composite criterion combining both investment in plant and machinery/equipment and annual turnover. Further, Section 18(5) required references to the MSEFC to be decided within 90 days. However, the provision did not prescribe a separate outer limit or consequence for delay in completing the arbitral process.

The amendment seeks to address these concerns by expediting the resolution of delayed-payment disputes, strengthening mechanisms for recovery of dues, improving ease of doing business, and creating a more enabling business environment.

CLAUSE & EFFECT

CHANGES INTRODUCED

The Amendment introduces significant changes to the regulatory and dispute-resolution framework governing MSMEs. For classification purposes, it removes fixed investment thresholds and empowers the Central Government. Under Section 7 to classify enterprises based on investment in plant and machinery or equipment and turnover, with thresholds to be specified by notification. This allows the classification framework to be modified without requiring repeated statutory amendments.

The Amendment also seeks to address one of the persistent operational difficulties faced by MSMEs, namely delayed payment for goods and services; a new Section 15A requires every Central Public Sector Enterprise to settle invoices for goods and services procured from MSMEs through the Trade Receivables Discounting System (TReDS) platform. The aim is to address payment-related issues faced by MSMEs. States may mandate their Public Sector Enterprises (PSEs), authorities, or entities to use TReDS for invoice settlement.

Where payment disputes nevertheless arise, the Amendment introduces a more time-bound dispute-resolution mechanism. Central Government may establish an online mechanism for conducting online mediation or arbitration. Specific timelines have been introduced for mediation and arbitration: a) The MSEFC or mediation service provider must complete mediation within 90 days from the date fixed for the first appearance. b) If mediation is terminated, the MSEFC are required to refer the matter for arbitration within 30 days. c) The MSEFC or an institution providing alternative dispute resolution services must make the arbitral award within 90 days from the completion of pleadings.

CLAUSE & EFFECT

Further, the introduction of Section 18A allows mediated settlements and arbitral awards to be recovered as arrears of land revenue, while recognising them as legally enforceable debts under the Insolvency and Bankruptcy Code. Thus, the amendments seek to address the MSME payment cycle at multiple stages: by facilitating timely invoice settlement, expediting resolution of payment disputes, and strengthening the enforceability of settlements and awards.

CRITICAL ASSESSMENT

The 2026 Amendment seeks to shift the MSMED framework from a primary dispute-resolution mechanism to a broader framework addressing different stages of the MSME payment cycle. The restructuring of Section 18 prescribes timelines for mediation and arbitration and introduces a proposed online dispute-resolution mechanism. However, fixed timelines alone may not ensure faster disposal. The strengthened 75% pre-deposit requirement, along with the provision for interim release of part of the deposited amount, similarly seeks to prevent MSMEs from being deprived of working capital while an award is being challenged. At the same time, these provisions raise questions about the balance between protecting suppliers and preserving the interests of the party challenging the award. Interim release may provide much-needed liquidity to an MSME, but the underlying award could subsequently be modified or set aside. This creates a potential recovery risk and therefore raises the question of whether adequate safeguards are required before permitting such interim release.

CLAUSE & EFFECT

Further, routing an invoice through TReDS does not, by itself, guarantee timely payment. TReDS primarily operates as a receivables-financing mechanism for accepted trade receivables, rather than as a mechanism for determining or enforcing disputed payment liabilities. It does not resolve disputes over the invoice or compel a buyer to recognise a disputed liability. Thus, where delayed payment arises from non-acceptance of an invoice rather than a delay in paying an undisputed receivable, mandatory TReDS routing may not address the underlying cause of the delay. The Amendment therefore strengthens the infrastructure for financing eligible receivables, but its ability to function as a broader mechanism for ensuring timely payment remains dependent on the buyer's acceptance of the underlying invoice and the absence of a substantive dispute regarding the liability.

EDITORIAL BOARD

Managing Editor

Aishwarya S. Nair

Shreya Singhal

Senior Editors

Amishi Jain

Nachiketa Narain

Shoptorishi Dey

Soham Niyogi

Associate Editors

Deepali Bisht

Divyansh Chauhan

Kisna Mittal

Piyush Singla

Priyansh Jain

Riya Mishra

Junior Editors

Amritha Ravindra Palissery

Devashish Dixit

Manini Patwal

Manya Dutt

Miheeca Jindal

Reyanshi Joshi

Saisha Malik

Assistant Editors

Aarnavi Bhattacharyya

Avani Gujrati

Mannya Singhal

Parisha Singhal

Pragati Bathla

Tanishk Bhawsar

Tanvi Garcha

Ojas Uniyal

Copy Editors

Shreya Singhal

Sneha Pradhan

AU COURANT