

THE BARRISTER

by S.B. Jain and Associates

The latest legal updates, news and views

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Sports Law and Its Significance

Sports law relates to the sporting activity in a country. It is a newly emerging branch of law which deals with the legal issues pertaining to acts and issues of players, teams, managers and associates. It includes the traditional area of laws like contract laws, tort laws, trademark law, arbitration and many more.

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CORPORATE AFFAIRS



NCLT not a debt collection forum

It was held in the case of *SS Engineers v. Hindustan Petroleum Corporation Ltd.* (2022) that the adjudicating authority under IBC i.e., NCLT is not a debt collection forum and the objective of IBC is not to penalize solvent companies for non-payment of disputed dues claimed by an operational creditor. It was further held that there are noticeable differences in the IBC between the procedure of initiation of CIRP by a financial creditor and initiation of CIRP by an operational creditor.

Earnest money for purchase of land not a financial debt

It was held in the case of *S. Chandriah vs. Sunil Kumar Agarwal & Co.*, held that payment of Earnest Money towards purchase of land is a financial liability but not a financial debt & as per the Insolvency and Bankruptcy Code, 2016 (IBC), as it has not been disbursed for consideration of time value of money. For a debt to be financial debt, essential condition is that the debt is disbursed against the consideration for the time value of money. Time value of money means the price received for the length of time for the money for which the money has been disbursed.



TAXATION



TDS on Cryptocurrency

After a 30% tax rate, cryptocurrencies will also face a 1% tax deducted at source (TDS) in India effectively from July 1. It means, that an Indian citizen selling their crypto assets either among others will receive 1% less the value of its assets at the selling price.

However, TDS will not be deducted if the consideration is ₹50,000 in a financial year for a specified person who is an individual or (HUF) who does not have any other income under “profit and gains of business/profession” and an individual or HUF having income under “profits and gains of business/profession” whose gains from business does not exceed 1 crore or in case of profession does not exceed 50 lakh.

Implemented mentioning of HSN codes in GSTR-1

Implementation of mandatory mentioning of HSN codes in GSTR-1 vide notification No. 78/2020- Central Tax, it is mandatory for the taxpayers to report minimum 4 digits or 6 digits of HSN Code in Table-12 of GSTR-1 on the basis of their Aggregate Annual Turnover (AATO) in the preceding Financial Year. To facilitate the taxpayers, these changes are being implemented in a phase-wise manner on GST Portal.





5% GST to implied on pre-packed and labelled goods

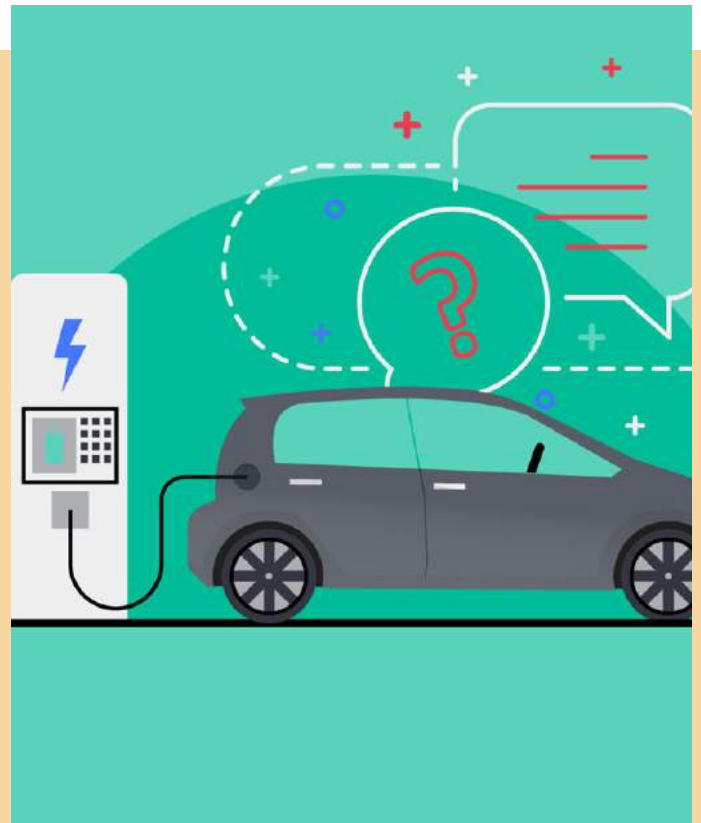
Consumers will have to pay 5 per cent GST on pre-packed, labelled food items like atta, paneer and curd from 18th July 2022 with the GST councils decision coming into force. A single package of these items containing a quantity of more than 25kg/25litre would not fall in the category of pre-packaged and labelled commodity for the purposes of GST and would therefore not attract GST.

The notification suggested that a pre-packaged and labelled commodities (specified commodities) would cover those commodities which require a declaration under the Legal Metrology Act, 2009.

EV makers hail industry wide GST cutdown

Electric vehicles, whether or not filled with a battery pack, are eligible for the concessional GST rate of 5 per cent.

This step of GST cut down of the government has declared a clear intention to boost domestic EV adoption and usage by making the industry eligible for a concessional GST rate of 5 per cent. This move will encourage the industry to pass on more cost benefits to the users and also lend a necessary push to people who are still looking for incentives to adapt to the EV way-of-life.





Mother has Right to give Step-father's Surname to child after demise of biological father

In *Akella Lalitha vs. Konda Rao and ors*, Supreme Court observed that mother being the only natural guardian of the child has the right to decide the surname of the child, as also give the child up for the adoption.

A division bench of Justices Dinesh Maneshwari and Krishna Murari said that such a direction of the High Court to a mother, who had remarried after her first husband's death, to restore her child's original surname, was "almost mindless and cruel".

Supreme Court on PMLA

The Judgement reads as follows:

- Where ED officials are not police officers and the statement recorded by them not hit by Article 20(2) of the Constitution
- ECIR not FIR, supplying ECIR to accused not mandatory, disclosure of reasons of arrest sufficient.
- ED's power to arrest, search & seizure, attachment constitutionally valid.
- Reserve burden of proof under PMLA reasonable.
- Offence of money laundering not limited to projecting property as untainted
- The word "AND" in section 3 to be read as "OR".





SPORTS LAW AND ITS SIGNIFICANCE IN INDIA

There is no national or state legislation for regulation of sports in India. The Ministry of Youth Affairs & Sports was set up by the Govt. of India to create the infrastructure and promote capacity building for broad-basing sports as well as for achieving excellence in various competitive events at the national and international levels. Sports promotion is primarily the responsibility of the various National Sports Federations (NSFs) which are autonomous in nature. The Ministry of Sports and Youth Affairs issues notifications and guidelines from time to time for the purpose of regulation of NSFs.

The Sports Law in India is governed and regulated by:

- National Sports Policy
- Sports Law and Welfare Association of India
- Sports Authority of India
- The Sports Broadcasting Law in India.

Despite having any specified legislation related to sports law in India is majorly governed by Contract Act.

HISTORY

Although the participation of Indian Sports persons is at large but mere participation of Indian Sports persons in various events and competitions was not enough to establish a strong image of sports in India. The lawmakers felt the need to introduce a certain policy to raise the standard of sports in the country. With this thought, a resolution was passed on the National Sports Policy in both the Houses of Parliament in August 1984. It was decided that the progress of this policy will be looked after every 5 years if felt necessary. The National Sports Policy of 1984 had some encouraging points however, its implementation could not be done. To reformulate this policy and correct whatever was wrong with the previous bill, National Sports Policy, 2001 was drafted with a three-fold objective.

Even the Central Government came up with certain objectives of its own with accordance to the provisions of the National Sports Policy, 2001 like Broad Basing of Sports, helping in the promotion of sports and achieving excellence in sports at both national and international levels along with the help of the State Government, the Olympic Association and National Sports Federation.

ASSOCIATIONS THAT GOVERN SPORTS LAW IN INDIA

- **Sports law and welfare association of India**

The Sports Law and Welfare Association of India is a professional non-profit organization working at the national level to the promotion of the ethical practice of Sports Law in India. Its goal is to understand and improve the existing laws relating to Sports and to ensure that these laws run smoothly to maintain the sports industry. The association also acts as a consultant on matters like regulation of the Sport's governing bodies, general disputes related to sports, intellectual property matters, online advocating and promoting, etc.

- **Sports Authority of India**

The Sports Authority of India (SAI) is an apex body set up in 1984 by the Ministry of Youth Affairs and Sports, working at a national level to conduct and coordinate various sports activities in the country.

- **Sports broadcasting law in India**

The Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Act was passed in the year 2007 to provide access to those sporting events that had national importance, to a large number of listeners and viewers on a free-to-air basis. This can be done through the sharing of sports broadcasting signals with Prasar Bharati for matters related to it. The Act does not allow any of the content right owner or holder television or radio broadcasting service providers to carry a live television broadcast on any cable or direct to a home network or radio unless it is continuously sharing broadcasting signals.

- **Ministry of Youth Affairs and Sports**

It is the Ministry of Youth Affairs and Sports that lays down the eligibility conditions for various National Sports Federations to get recognition and grants to promote sporting events. It supervises the bodies that govern sports in India, supports them, and gives them aid when in need.



SPORTS AND COMPETITION LAW

Competition is what gets the players paid for their services and ensures a flow of income in the industry too. Sport is generally organized in a 'pyramid' structure where on one end, a single governing body controls most of the commercial aspects of each sport. This governing body is the dominant one that looks after the games and their competition. The competition law looks over these bodies and makes sure that there is an anti-competitive organization rising as a rival. As is the case in India, the Board of Control for Cricket (BCCI) holds the de facto 'dominant' position in the structure. They make rules to prevent rival organizations from emerging as they tie players in, prohibiting them from competing in other events. These rules are a subject of challenge under competition law.

Sports law and arbitration as a dispute resolving mechanism

It is a simple settlement technique that allows a third person or party to review the case brought by the other parties and then make a decision that would be legally binding on both the parties. Arbitration is governed by the Arbitration and Conciliation Act of 1996, in India. This Act has two parts- one which deals with the resolution of disputes on a national level and sometimes international too. The second part deals with arbitration outside India only. In the field of Sports, any dispute that comes up is first referred to those federations that govern the particular sport that is related to the dispute, and then, if necessary, the international federation is also involved in resolving the dispute.



As the games are becoming more professional and competitive, the need for arbitration is also increasing. Not only does this mechanism give a quick judgment on what to do but also provides the most suitable solutions understanding the diversity and incontestability of sports. Other than this, arbitration mechanism also reduces the burden of sports-related disputes on the courts, as they already have many cases pending before them and can take up a long time to come to a final decision.

Suggestions

A few suggestions to make the legal component of sports better could be to first introduce laws that ensure the protection of the rights of the sportspersons irrespective of the fact that they are the star players or not. Their rights and contracts that they have entered into should be safeguarded and not illegally terminated whenever they want to. There should be laws looking after the wages and facilities given to each player and whether or not they are exactly what the player had agreed to. Also, they should introduce legislation which helps to promote every sport, big or small, famous or not in newspapers, televisions, and media. Lastly, the competitions set up for sportspersons should be properly organized and structured.

FROM THE ARCHIVES

M/s. Trident Industries Limited
versus
Commissioner of Sales Taxes, Delhi

Present for the respondent: Mr. S.B. Jain

Date of order:24.08.2004

EX-PARTE ORDER - SECTION 23(6)- REPRESENTATIVE OF THE COMPANY APPEARED BEFORE THE ASSESSING AUTHORITY ON 22.05.95 AND 01.06.95 AND AGAIN ON 04.01.96 AND DISCONTINUED PARTICIPATION THEREAFTER FOR THE ASSESSMENT YEAR 1993-94 AND NO RESPONSE GIVEN TO NOTICES FOR THE ASSESSMENT YEAR 1994-95-THE ASSESSING AUTHORITY FRAMED EXPARTE ASSESSMENT AND CREATED HUGE DEMAND AGAINST THE DEALER UNDER LOCAL AND CENTRAL ACTS ON THE GROUND THAT SALE WAS MADE FROM DELHI AND ALSO IMPOSED PENALTY-ADDL.COMMISSIONER REFUSED TO ACCEPT THE CONTENTION THAT NO SALE WAS MADE FROM DELHI AND CONFIRMED THE ORDER OF THE A.A. – ON APPEAL BEFORE THE TRIBUNAL-

BRIEF FACTS OF THE CASE:

THE APPELLANT PLEADED THAT COMPANY WAS REGISTERED IN U.P. UNDER TRADE TAX ACT AND CENTRAL ACT AND THE TAX PAYABLE BY THE APPELLANT COMPANY TO THE U.P.GOV'T. UNDER THOSE ACTS FOR THE YEAR 1992-93, 1993-94, AND 1994-95 HAS BEEN ASSESSED BY THE TRADE TAX OFFICER AND NO SALE HAS BEEN MADE FROM DELHI. THE DEALER COMPANY FILED BEFORE THE TRIBUNAL LARGE NUMBER OF DOCUMENTS TO PROVE THAT SALE WAS MADE FROM U.P. AND NO SALE WAS MADE FROM DELHI.

HELD:

WE HAVE CAREFULLY CONSIDERED THE SUBMISSIONS MADE ON BEHALF OF THE PARTIES. THE LOWER AUTHORITIES SEEM TO HAVE RELIED ON THE INFORMATION PROVIDED BY THE APPELLANT TO THE LD.STO (WARD 95) ON 01.06.95 WITHOUT CRITICALLY EXAMINING THE SAME IN THE LIGHT OF OTHER EVIDENCE WHICH WOULD HAVE BEEN RELEVANT IN CONCLUDING WHETHER OR NOT A SALE IN AN INTRA-STATE SALES AS DEFINED U/S 4 OF THE CENTRAL ACT OR AN INTER-STATE SALE AS DEFINED IN SECTION 3 OF THAT ACT; AND IF IT IS AN INTRA STATE SALE, WHETHER OR NOT IT WAS A SALE WITHIN DELHI AS DEFINED U/S 4(2) OR SALE OUTSIDE DELHI AS DEFINED IN SECTION 4(1); AND FURTHER, IF IT IS AN INTER-STATE SALE WHETHER OR NOT THE MOVEMENT OF RELEVANT GOODS COMMENCED FROM DELHI FOR PURPOSES OF SECTION 9(1) OF THE CENTRAL ACT. THERE IS ALSO NO EVIDENCE ON THE DATE, IF ANY, ON WHICH THE TURNOVER OF THE APPELLANT COMPANY ON SALES AS DEFINED U/S 2(O) OF THE LOCAL ACT EXCEEDED THE TAXABLE QUANTUM SPECIFIED, U/S 3(7) OF THAT ACT OR OF THE DATE FROM WHICH THE APPELLANT BECAME LIABLE TO PAY TAX IN DELHI UNDER CENTRAL ACT WHICH PROVIDES FOR THE IMPOSITION OF PENALTY FOR A DEALER WHO MAY BE LIABLE TO PAY TAX UNDER THE CENTRAL ACT AND NOT GETTING ITSELF REGISTERED U/S.7.



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