



THE BARRISTER

by S.B. Jain and Associates

The latest legal updates, news and views

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Taxation

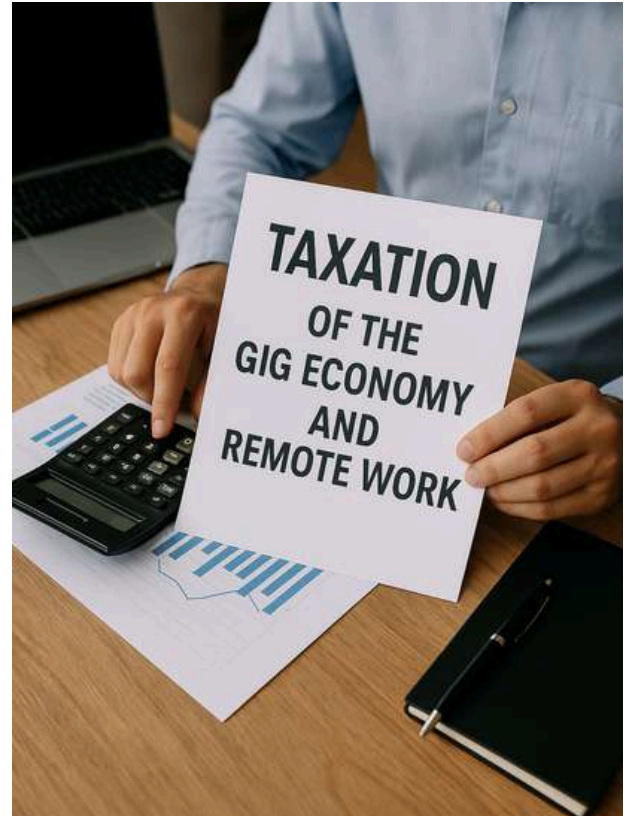
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DOUBLE TAXATION



Dual Taxation on Entertainment Services: SC Clarifies Centre & State Powers

In *State of Kerala vs Asianet Satellite Communications Ltd.*, the Supreme Court held that both the Centre and State governments can levy taxes on entertainment services. The Centre may impose service tax under the Finance Act, 1994 (broadcasting services), while states may continue taxing entertainment content (e.g., OTT, cable TV) under respective state laws. This dual framework, the Court clarified, addresses distinct aspects of the same transaction without overlap, offering much-needed clarity to stakeholders.

No "Unjust Enrichment" on Encashment of Bank Guarantees

In a significant ruling (*M/s Patanjali Foods Limited v. Union of India & Ors.*, 2025 INSC 733), the Supreme Court of India held that the "unjust enrichment" doctrine does not apply when customs duty secured by a bank guarantee is later encashed by the revenue. This decision overturns a High Court judgment that had denied a refund on this basis.

The case involved Patanjali Foods Limited (formerly Ruchi Soya Industries Ltd.), whose bank guarantees for differential customs duty on imported oil were encashed by the Customs department in 2013. The Court clarified that a bank guarantee is merely a security, not a "payment of duty" under Section 27 of the Customs Act. Therefore, proving that the duty burden was not passed on (unjust enrichment) is irrelevant. The Court deemed the department's retention of funds "unjust and unlawful," ordering an immediate refund of the encashed amounts with 6% interest from the date of encashment, to be completed within four months.

TAXATION



Income Tax Bill 2025: Big Reform on the Horizon

India is set for a significant tax overhaul with the proposed Income Tax Bill 2025, which aims to replace the existing 1961 Act. This legislation seeks to simplify and modernize the country's tax framework.

Key expected changes include:

- Unified "Tax Year" for streamlined compliance
- Expanded definition of Virtual Digital Assets (VDAs) covering crypto and NFTs
- New tax slabs under the restructured regime
- Enhanced scrutiny powers for tax officials
- Revised TDS and TCS frameworks

While yet to be officially introduced, the Bill is anticipated to simplify compliance and broaden the tax net.

Taxation of the Gig Economy and Remote Work

The gig economy and remote work are creating significant tax complexities, challenging traditional frameworks. A key issue is determining tax residency for cross-border remote workers, which can lead to double taxation or non-taxation.

For gig workers, their classification as independent contractors vs. employees profoundly impacts tax obligations and social security. Misclassification can result in penalties.

Compliance is also intricate. Gig workers often lack tax withholding, increasing their burden for income and self-employment taxes. Companies with international remote workers face complex payroll taxes, social security, and local compliance.

In conclusion, there's a clear need for stricter regulation and oversight on the taxation of gig workers.

LEGAL ISSUE



Insurance Settlements & Coercion: Still Arbitrable, Says SC

In the case of *Arabian Exports Pvt. Ltd. v. National Insurance Co.*, The Supreme Court has clarified that disputes over the validity of an insurance settlement, if coercion is alleged, can still proceed to arbitration. This overturns a High Court ruling which held that accepting payment implied "accord and satisfaction."

Justices Abhay S. Oka and Ujjal Bhuyan emphasised that merely signing a discharge voucher does not bar arbitration if fraud, coercion, or undue influence is alleged. Reaffirming previous judgments, the Court stated that an arbitration agreement remains valid even after a "full and final settlement" if the settlement's legitimacy is challenged on grounds like coercion. In such instances, the arbitral tribunal itself is empowered to decide its jurisdiction. This ruling ensures that claims of economic duress in settlement agreements have a forum for resolution within arbitration.

HC Can't Reject Complaint Under Article 227, Rules SC

In a recent significant judgment *K. Valarmathi & Ors. v. Kumaresan*, 2025 INSC 606, the Supreme Court of India addressed the extent of the High Court's supervisory jurisdiction under Article 227 of the Constitution.

The High Court, exercising its power under Article 227, rejected the appellants' complaint, ruling that the suit was barred by the Prohibition of Benami Property Transactions Act, 1988.

The Supreme Court, however, set aside the High Court's order, emphasizing that the power under Article 227 is supervisory and not a substitute for trial court procedures under Order VII Rule 11 of the CPC. Complaint rejection must follow procedural law, and appellate remedies remain available under Section 96 CPC.

CORPORATE LAW

INSOLVENCY AND BANKRUPTCY CODE RESOLUTION PROCESS, CIRP, SECTION 31(1) & EXTINGUISHMENT OF CLAIMS.



IBC Prevails: No Fresh Tax Claims Post Resolution Plan

In a significant ruling on March 20, 2025, *Vaibhav Goel & Anr. v. DCIT & Anr.* (2025 LiveLaw SC 330), the Supreme Court rejected the Income Tax Department's attempt to include a tax demand in a Resolution Plan after it had already been approved by the Adjudicating Authority under the Insolvency and Bankruptcy Code (IBC).

A bench of Justices Abhay S. Oka and Ujjal Bhuyan reiterated their stance from the *Ghanashyam Mishra* case: all claims not explicitly part of an approved resolution plan are extinguished. This includes statutory dues owed to the Central Government for the period prior to the plan's approval under Section 31 of the IBC.

The Court overturned NCLT and NCLAT orders that entertained post-approval tax demands.

Greenwashing Under Scanner: CCPA Issues 2024 Guidelines

Greenwashing, the deceptive practice of making misleading environmental claims, is a growing concern in India's expanding eco-conscious market. Companies often use vague terms like "eco-friendly" or present misleading visuals without verifiable evidence, or they highlight minor green attributes while ignoring significant environmental harm.

To combat this, India has introduced the Central Consumer Protection Authority (CCPA) Guidelines for Prevention and Regulation of Greenwashing or Misleading Environmental Claims, 2024. These guidelines clearly define greenwashing and mandate that all environmental claims must be substantiated with verifiable evidence, often requiring third-party certification. Violations can lead to substantial fines up to ₹50 lakh. Beyond regulation, solutions involve increasing consumer awareness, encouraging industry self-regulation, and promoting corporate accountability through robust ESG frameworks.

CITIZENSHIP & VOTER CHECK: BIHAR ELECTIONS 2025



Indian Citizenship and Voter Verification for the 2025 Bihar Elections

INTRODUCTION

As India now looks at the 2025 Bihar state elections, the Election Commission of India (ECI) has launched a Special Intensive Revision (SIR) of electoral rolls beginning on June 25, 2025, in order to ensure that only eligible Indian citizens are registered to vote. This makes it important to know what legal provisions govern Indian citizenship. The article discusses the acquisition of Indian citizenship under the Citizenship Act of 1955, giving a clear and crisp overview to the target audience seeking to know about their rights in the upcoming elections.

The Special Intensive Revision (SIR) Initiative

The SIR is a serious and determined effort taken by the ECI to update the voter list of Bihar. The last intensive revision of the voter list was done in 2003. The date for qualification for voter eligibility has been fixed as 1 July 2025. About 77,895 Booth Level Officers (BLOs) are conducting house-to-house verification, including the distribution and collection of pre-filled forms called Enumeration Forms. Besides these BLOs, there are over 100,000 volunteers assisting persons in vulnerable categories such as the old, physically challenged, and economically disadvantaged to ensure inclusivity. The deadline for submitting the forms is 25th July 2025. The SIR also stresses citizenship verification; hence, voters must understand how Indian citizenship is legally acquired.

Constitutional Provisions on Citizenship

The Constitution conferred citizenship under Part II, Articles 5 to 11, which covered the initial or transitional provisions on citizenship, with effect from the 26th of January, 1950. These provisions conferred citizenship based on domicile, birth, or residence in India at that time. Article 5, for example, gave citizenship to persons who were domiciled in India, who were born in the territory of India, or who had been residing therein for at least five years before the commencement of the Constitution. However, the Citizenship Act, 1955, an elaborate law regarding contemporary matters of citizenship, is now the main governing legislation for the acquisition and termination of citizenship.

CITIZENSHIP & VOTER CHECK: BIHAR ELECTIONS 2025

Acquisition of Indian Citizenship

The Citizenship Act of 1955 lays out five main ways for individuals to obtain Indian citizenship, each with its own set of requirements. This structured approach not only promotes inclusion but also demonstrates India's dedication to upholding democratic values while considering national interests.

By Birth (Section 3)

Section 3 of the Citizenship Act, 1955, governs citizenship by birth and has been amended to address concerns about illegal immigration. The provisions are as follows:

- Pre-1987: Individuals born in India between January 26, 1950, and July 1, 1987, are citizens by birth.
- 1987-2004: For those born between July 1, 1987, and December 2, 2004, citizenship is granted if at least one parent was an Indian citizen at the time of birth.
- Post-2004: Since December 3, 2004, citizenship by birth requires that both parents are Indian citizens, or one is an Indian citizen and the other is not an illegal migrant. An illegal migrant is defined under Section 2(1)(b) as a foreigner who entered India without valid documents or overstayed their visa. These amendments aim to prevent automatic citizenship for children of illegal migrants born in India.

By Descent (Section 4)

Section 4 addresses citizenship by descent for individuals born outside India, with specific conditions based on the date of birth and amendments to the Act:

- Pre-1992: For persons born outside India between January 26, 1950, and December 9, 1992, citizenship by descent is granted if their father was an Indian citizen at the time of birth.
- Post-1992: For those born on or after December 10, 1992, either parent (father or mother) must be an Indian citizen at the time of birth. This change reflects a gender-neutral approach introduced by the Citizenship (Amendment) Act, 1992.
- Registration Requirement: If either parent is a citizen by descent only, the birth must be registered at an Indian consulate within one year of its occurrence or, with Central Government permission, after this period. For births after the Citizenship (Amendment) Act, 2003, registration must follow a prescribed form and manner, and parents must declare that the minor does not hold another country's passport.

CITIZENSHIP & VOTER CHECK: BIHAR ELECTIONS 2025

By Incorporation of Territory (Section 7)

Section 7 gives the Central Government the authority to grant citizenship to people living in territories that join India. A couple of historical examples highlight this process. When Sikkim became part of India in 1975, and earlier with Goa in 1961, the government established certain conditions for the residents, allowing them to be recognized as Indian citizens. This shows how the nation has embraced new regions and their people over the years.

Recent Amendments to the Citizenship Act

The Citizenship (Amendment) Act of 2019 is a law that aims to provide a pathway to citizenship for certain minority groups- namely Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians, who have faced persecution in Afghanistan, Bangladesh, and Pakistan, as long as they arrived in India before December 31, 2014. This act has sparked a fair amount of controversy and has faced various legal challenges, but it's important to note that it doesn't directly affect the SIR process. Ultimately, this amendment highlights how India's citizenship laws are changing as the country responds to regional issues and humanitarian needs.

Significance of the SIR Initiative

The SIR is an essential step in making sure that Bihar's voter list is accurate and up-to-date. It helps to remove entries for those who are no longer eligible to vote, whether due to passing away, moving away for good, or being registered twice. By verifying citizenship, this effort highlights how important it is to understand the legal aspects of becoming an Indian citizen. This initiative really reflects India's commitment to democratic values, ensuring that only qualified citizens can take part in elections. Ultimately, it aims to strengthen the trust and fairness of the upcoming 2025 Bihar elections.

Conclusion

The upcoming Special Intensive Revision for the 2025 Bihar elections truly emphasizes the importance of Indian citizenship in our democracy. The Citizenship Act of 1955 lays out a clear pathway for how individuals can become citizens, whether through birth, descent, registration, naturalization, or if a new territory is incorporated. When we grasp these legal aspects, we not only understand our rights but also our responsibilities as citizens. This understanding becomes especially empowering as Bihar gears up for the elections, encouraging everyone to participate actively and ensure that our democratic system remains fair and inclusive.

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