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RESERVE BANK OF INDIA

Incorporation of Name of the Purchaser on the Face of the Demand Draft

The Reserve Bank of India (“**RBI**”) vide their *notification dated July 12, 2018* made certain significant changes to the Know Your Customer norms which will come to effect from September 15, 2018.

In order to address the issue of money laundering and the concerns raised out of the anonymity provided by payments through demand drafts, the issuing banks have been asked by the RBI to incorporate the name of the purchaser on the face of the demand draft, pay order, banker’s cheques etc.

To accommodate the same the RBI amended Section 66 of the Master Direction on KYC dated February 25, 2016 to incorporate the following clause:

> *“Further, the name of the purchaser shall be incorporated on the face of the demand draft, pay order, banker’s cheque, etc., by the issuing bank. These instructions shall take effect for such instruments issued on or after September 15, 2018.”*

Master Circular – Facility for Exchange of Notes and Coins

The Reserve Bank of India ("**RBI**") vide its *Circular dated July 02, 2018* ("**Circular**") has provided certain guidelines and instructions on facility for exchange of notes and coins. Certain important guidelines have been explained in brief below: -

1. Facility for exchange of notes and coins at bank branches

Regulation 1 of the Circular provides that it is mandatory for all the branches of all the banks to provide the customers with certain services and even more so to the members of the public so that it eliminates the no need for them to approach the RBI Regional Offices. Some of the services are:

i. Issuing fresh / good quality notes and coins of all denominations on demand;

ii. Exchanging soiled / mutilated / defective notes; and

iii. Accepting coins and notes either for transactions or exchange.

The Regulation states that it will be preferable to accept coins, particularly, in the denominations of Rs. 1 (Rupees One) and Rs. 2 (Rupees Two), by weighment.

The above services are to be provided to all the members of the public on all working days. None of the bank branches should refuse to accept small denomination notes and / or coins tendered at their counters.

2. Reserve Bank of India (Note Refund) Rules, 2009 – Delegation of powers

According to Section 28 read with Section 58 (2) of Reserve Bank of India Act, 1934, no person has a right to recover from the Government of India ("**GOI**") or RBI the value of any lost, stolen, mutilated or imperfect currency note of the GOI or banknote. However, in certain genuine cases, the RBI may refund such currency or bank notes with the sanction of the Central Government.

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Regulation 2(b) of the Circular has made a provision under Rule 2(j) of Reserve Bank of India (Note Refund) Rules, 2009 ("**Rules, 2009**") as under:

> *"With a view to extending the facility for the benefit and convenience of public, all branches of banks have been delegated powers under Rule 2(j) of Reserve Bank of 3 India (Note Refund) Rules, 2009 for exchange of mutilated / defective notes free of cost."*

3. Liberalized definition of a Soiled Note

In Regulation 3 of the Circular the definition of the term 'soiled note' as given in Rule 2(k) of the Rules, 2009, has been amended as follows:

> *"A 'soiled note' means a note which has become dirty due to normal wear and tear and also includes a two-piece note pasted together wherein both the pieces presented belong to the same note and form the entire note with no essential feature missing."*

These notes are to be accepted by the banks on payment of the Government dues. Hoever, they should not be re-issued to the public.

4. Mutilated Notes – Presenting and Passing

A note of which a portion is missing or which is composed of more than two (2) pieces, are to be accepted by the banks and the notes so presented shall be accepted, exchanged and adjudicated in accordance with the Rules, 2009.

5. Extremely brittle, burnt, charred, stuck up Notes

Notes which have turned extremely brittle or in any such condition that cannot withstand normal handling, shall not be accepted by the bank branches for exchange. Instead, the holders may be advised to tender these notes to the RBI Issue Office where they will be adjudicated under a Special Procedure.

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6. Procedure for exchange of soiled/ mutilated/ imperfect notes

6.1 Exchange of soiled notes

6.1.1 *Notes presented in small notes*: maximum value of Rs. 5,000 (Rupees Five Thou sand Only) per day if the number of notes are up to twenty (20) pieces;

6.1.2 *Notes presented in bulk*: if the quantity exceeds twenty (20) pieces or the amount by Rs. 5,000 (Rupees Five Thousand Only) then the bank can accept it for later credits. Precaution has to be taken for amounts exceeding Rs. 50,000 (Rupees Fifty Thousand Only).

6.2 Exchange of mutilated and imperfect notes

The procedure has been laid down in the Circular as follows:

> *"6.2.2 Notes presented in small number: Where the number of notes presented by a person is up to 5 pieces, non-chest branches should normally adjudicate the notes as per the procedure laid down in Part III of NRR, 2009 and pay the exchange value over the counter. If the non-chest branches are not able to adjudicate the mutilated notes, the notes may be received against a receipt and sent to the linked currency chest branch for adjudication. The probable date of payment should be informed to the tenderers on the receipt itself and the same should not exceed 30 days. Bank account details should be obtained from the tenderers for crediting the exchange value by electronic means.*
>
> *Notes presented in bulk: Where the number of notes presented by a person is more than 5 pieces not exceeding ₹ 5000 in value, the tenderer should be advised to send such notes to nearby currency chest branch by insured post giving his / her bank account details (a/c no, branch name, IFSC, etc.) or get them exchanged thereat in person. All other persons tendering mutilated notes whose value exceeds ₹ 5000 should be advised to approach nearby currency chest branch. Currency chest branches receiving mutilated notes through insured post should credit the exchange value to the account of sender by electronic means within 30 days of receipt of notes."*

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6.3 Tenderers aggrieved with the service provided by the banks in this regard may approach Banking Ombudsman concerned.

7. Vide Regulation 11 of the Circular all banks are required to display at their bank premises a board indicating the availability of note and coin exchange facility.

8. Regulation 14(b) states that the non-compliance of any of the above Regulations will be considered a violation of instructions issued by the RBI and action may be taken accordingly.

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SUPREME COURT OF INDIA

State of Bihar & Ors Versus Bihar Rajya Bhumi Vikas Bank Samiti

The Hon'ble Supreme Court of India delivered its judgement on July 30, 2018 in the matter of *State of Bihar & Ors.* ("**Appellants**") *versus Bihar Rajya Bhumi Vikas Bank Samiti* ("**Respondent**"). The bench comprising of Hon'ble Justice RF Nariman and Hon'ble Justice Indu Malhotra adjudicated upon the question whether Section 34 (5) of the Arbitration and Conciliation Act, 1996 (the "**Act**"), inserted by the Amending Act 3 of 2016 (w.e.f October 23, 2015), is mandatory or directory.

Background

The amendment of 2015, inserted subsections viz subsection (5) and subsection (6) to the Section 34 of the Act which is set out as follows:

> *"34. Application for setting aside arbitral award:*
> *.....*
> *(5) An application under this section shall be filed by a party only after issuing a prior notice to the other party and such application shall be accompanied by an affidavit by the applicant endorsing compliance with the said requirement.*
> *(6) An application under this section shall be disposed of expeditiously, and in any event, within a period of one year from the date in which the notice referred to in subsection (5) is served upon the other party."*

Various courts debated the aforementioned provisions. The Hon'ble Bombay High Court and Hon'ble Calcutta High Court had held that since there were no consequences provided for the breach of the specified time limit, the provision was directory, whereas a few other courts held it to be mandatory.

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The Hon'ble Patna High Court held the view of it being mandatory which was then challenged by the Hon'ble Supreme Court of India in the instant matter.

Decision

The Appellants in the instant matter argued that if an application filed under Section 34 of the Act would not be disposed within a year it would lead to no consequences making the aforesaid provision directory despite the language being mandatory in nature.

Whereas, the Respondent contended that though no consequence has been provided, any application that is filed under Section 34 of the Act which is not in compliance with all the conditions is *non est* in law.

To this, the Hon'ble Supreme Court of India observed that every court should endeavour for an application under Section 34 of the Act to be filed in accordance to the given time limit, that is, one (1) year from the date of service of notice to the opposite party. In case the court issues notice after the abovementioned period lapses, the court should endeavour to dispose the application issued through Section 34 within a period of one (1) year from the date of filing of the said application.

The appeal was accordingly allowed and the judgement of the Hon'ble Patna High Court was thereby set aside. The Section 34 petition that has been filed in the present case will now be disposed of on its merits.

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MAHARASHTRA ELECTRICITY REGULATORY COMMISSION

Ghatge Patil Industries Limited ("Petitioner") versus Maharashtra State Electricity Distribution Company Limited (Respondent)

Hon'ble Maharashtra Electricity Regulatory Commission ("**MERC**") has pronounced its Order dated July 02, 2018 in the matter of Ghatge Patil Industries Limited ("**GPIL"/" Petitioner**") versus Maharashtra State Electricity Distribution Company Limited ("**MSEDCL**"/" **Respondent**") in *Case No. 83 of 2018.* The petition was filed for seeking directions against denial of Short Term Open Access ("**STOA**") under Section 42 of the Electricity Act, 2003 ("**EA, 2003**").

Background

The Petitioner had approached the Hon'ble MERC against MSEDCL under section 42 of the EA, 2003 for wrongful denial of the STOA permission for month of February, March and April 2018 despite termination of the WEPAs entered between the Petitioner and Respondent on account of non-payment of outstanding dues.

MERC Ruling

The Hon'ble MERC in the line of Orders dated January 9 and 12, 2017 in Case No. 83 of 2016 in the matter of Western Precicast Private Limited Vs MSEDCL & Anr. and in Case No. 122 of 2016 and in the matter of Jsons Foundry Private Limited versus MSEDCL & Anr, passed by the Hon'ble MERC has held that payment for the energy supplied, along with payment of Delayed Payment Charges ('**DPC**') for late payments, is a basic and express obligation of MSEDCL under the WEPAs and the failure to discharge it or to cure such failure within the stipulated time is an event of 'immediate default' and would, therefore, entitle the Seller to terminate the WEPAs.

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In view thereof, the Hon'ble MERC held that the WEPAs with MSEDCL stand terminated with immediate effect. The Hon'ble MERC has further directed the Petitioner to raise bills for the power injected till the termination of WEPAs including DPC. The Hon'ble MERC has also directed MSEDCL to consider the Open Access Applications of the Petitioner on merits as prescribed under Maharashtra Electricity Regulatory Commission (Distribution Open Access) Regulations 2016.

The Petitioner herein was represented by **Eternity Legal.**

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Warm Regards,

Dipali Sarvaiya Sheth

Founder

D-226, Neelkanth Business Park,

Vidyavihar (West), Mumbai– 400086

Email: contact@eternitylegal.com Tel no.: +91 22 2515-9001

Website: www.eternitylegal.com

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