Devadhaantu Insights – September 2021

Dear Reader,

Greetings!

We are happy to present the Devadhaantu Insights highlighting important legislative updates in direct taxes and regulatory updates in SEBI, IBC, FEMA and Corporate laws.

We hope that we are able to provide an insight into various updates that you would find to be informative as well as useful. For any deeper discussion as to how the updates covered in this document could affect your transactions, please do not hesitate to contact Devadhaantu.

Happy Reading!
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DIRECT TAX UPDATES

SEPTEMBER 2021

Direct tax updates (1/6)

Assessment Order passed against non-existent amalgamated company considered to be substantively illegal and accordingly construed to be 'bad under the law'[1]

Garrett Motion Technologies (India) Private Limited ('the Assessee'), being an Amalgamated Company, had merged with Honeywell Turbo Technologies (India) Private Limited [later name changed to Garrett Motion Technologies(India) Private Limited] vide order dated July 5, 2013 of Hon'ble High Court of Bombay, with an appointed date of April 1, 2012. For the assessment year 2013-14, the assessee filed its return of income in the name of Honeywell Turbo (India) Private Limited due to merger arrangement.

The tax authorities passed order under Section 92CA and Section 143(3) of the ITA in the name of Honeywell Turbo (India) Private Limited on January 28, 2014. The Assessee had intimated to the tax authorities about the amalgamation vide letter dated September 3, 2013. Accordingly, the Assessee contended that final assessment order passed by the tax authorities in the name of Honeywell Turbo Technologies (India) Private Limited , being an Amalgamated Company, which is non-existent as on the said date, is bad under law.

The Tax authorities contended that notice under Section 142(1) was issued in the name of Honeywell Turbo (India) Private Limited on July 3, 2013, on which date there was no order passed by the Hon'ble Bombay High Court approving the scheme of amalgamation.

The ITAT observed that the Assessee had informed the tax authorities about the amalgamation; however, the consequential proceedings like TP order under Section 92CA, draft order under Section 143(3) of the Act were passed by the tax authorities in the name of a non-existent Amalgamated Company. Therefore, the issuance of "notice" in the correct name does not attain any significance in view of consequential orders passed on non-existing amalgamated company. Thus, it was concluded that final assessment order and demand notice issued in the name of non-existent amalgamated company is bad under law, and the appeal of Revenue was dismissed.

1 Garrett Motion Technologies (India) Private Limited [TS-400-ITAT-2021(PUN)-TP]

Direct tax updates (2/6)

Loss on share sale held eligible for set off on facts such as, tax planning, timing of transaction and commercial prudence[1]

Michael E Desa ('the Assessee'), a Non-Resident Indian, earned a capital gain of approximately INR 95 lacs from sale of property and had also incurred capital loss of ~ INR 1.11 crore from sale of certain shares of a private limited company. During the scrutiny assessment proceedings, set off of loss against the capital gains was disallowed as the transaction of sale of shares of the private limited company seemed fictitious to the revenue authorities.

As the matter came to the consideration of Income Tax Appellate Tribunal, Mumbai bench ('Mumbai ITAT'), set off of capital loss was allowed against the capital gains based on below observations,

- The Mumbai ITAT noted that the shares in the private limited company were practically worthless and there was clearly a loss to the Assessee;
- It further went on to hold that while there was some tax planning involved, "it is not for the Assessing Officer to take a call on how should an Assessee organise his fiscal affairs so as to serve the interests of the revenue authorities. This transaction may be tax-motivated, but that factor does not, by itself, render the transaction a sham transaction or a colourable device";
- The Mumbai ITAT relied on the SC ruling in McDowell & Co. and has stated that "It is not the tax planning simplicter, but tax planning through dubious methods or colourable devices which has been deprecated by Their Lordships in the aforesaid observations" and has quoted from SC Ruling in Vodafone International, "every tax payer is entitled to arrange his affairs so that his taxes shall be as low as possible and that he is not bound to choose that pattern which will replenish the treasury".

1 Michael E Desa [TS-874-ITAT-2021(Mum)]

Direct tax updates (3/6)

Debentures issued to shareholders should not be recharacterized as "shares", and accordingly Arm's Length Price to be determined in respect of interest paid on such debentures[1]

City Corporation Limited ('the Assessee') had issued Compulsorily Convertible Debentures to its Associated Enterprises (AEs) in India and abroad, against which it had claimed an interest payment of ~ INR 3.92 crores.

During transfer pricing assessment proceedings of the Assessee for AY 2016-17, the Transfer Pricing Officer (TPO) observed that the Assessee had not done proper benchmarking of payment of interest on debentures. In respect of the same, the TPO held that the transaction was a "shareholder activity" and payment of interest was nothing but a self-inflicting loss. Further, TPO also held that agreement between the lenders (who are also the shareholders) and the company was entered to avoid paying tax on dividend which would be available for distribution.

Accordingly, the TPO took Arm's Length Price of the interest payment as Nil, and made an addition of INR 3.92 crores.

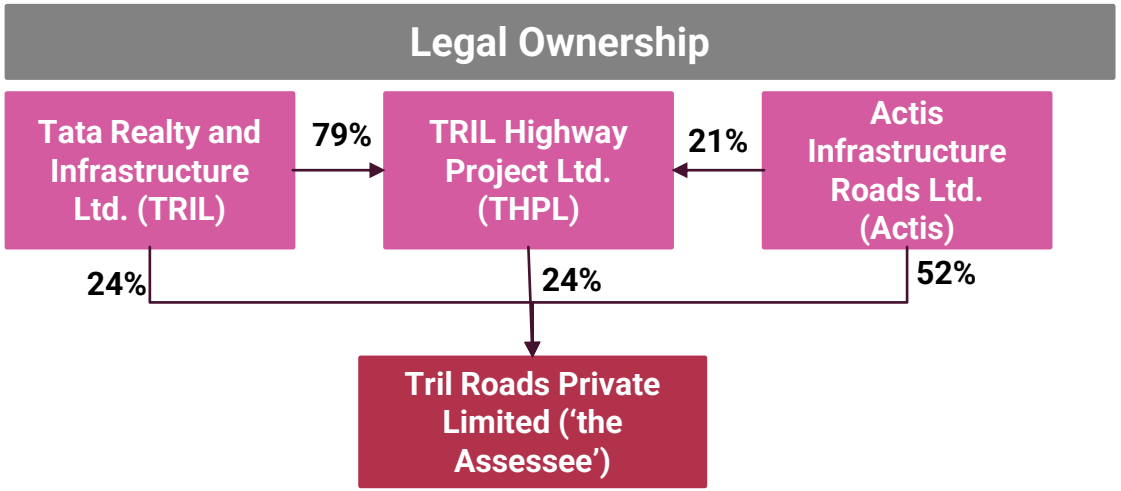
The Pune ITAT held that the Assessee rightly issued debentures to its AEs and the Assessing Officer was not justified in re-characterizing the debentures as "shares". Further, Pune ITAT restored the matter to AO / TPO for a fresh determination of Arm's Length Price on the interest payment.

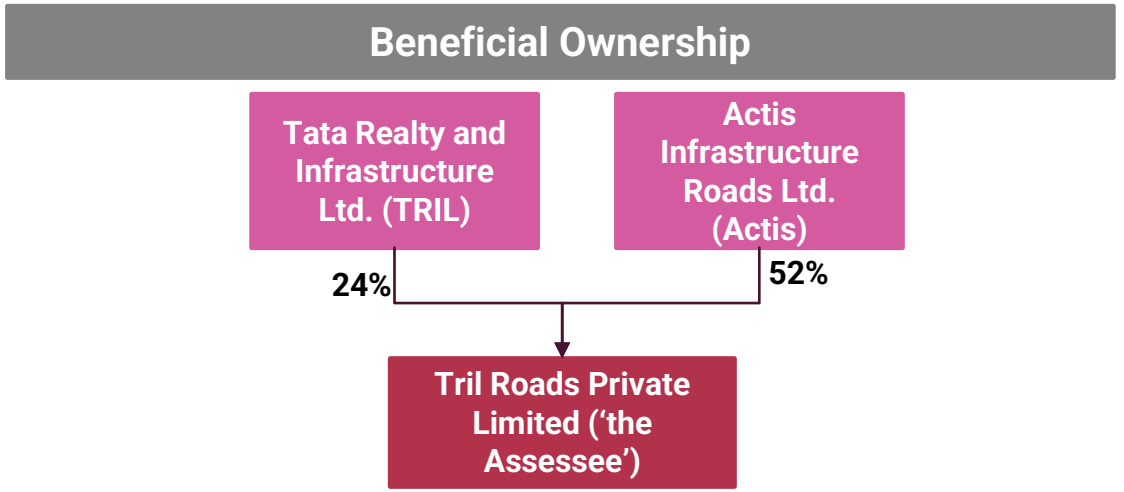
1 City Corporation Limited [TS-399-ITAT-2021(PUN)-TP]

Direct tax updates (4/6)

Allowance of set-off of losses under Section 79 of the ITA considering there is no effective change in management and voting rights of the company[1] (1/2)

Tril Roads Private Limited ('the Assessee') had declared total income as Nil for AY 2014-15, after setting off brought forward loss of ~INR 4.98 crores. As on 31 March 2013, shareholding of the Asessee is as under:





As observed from above, all the three companies held 100% stake in the Assessee-company, inter-se between these three companies. Also, THPL was in turn held by TRIL and ACTIS and therefore, beneficially the assessee company was directly or indirectly held by TRIL and ACTIS in the ratio of 65:35 respectively.

During FY 2013-14, there was change in the shareholding of the Assessee as under:

1. Transfer of shareholding held by THPL to TRIL, pursuant to merger of THPL with TRIL;
2. Transfer of shareholding held by ACTIS to TRIL.

1 Tril Roads Private Limited [TS-843-ITAT-2021(Mum)]

Direct tax updates (4/6)

Allowance of set-off of losses under Section 79 of the ITA considering there is no effective change in management and voting rights of the company (2/2)

Accordingly, as on March 31, 2014, entire shareholding of the Assessee was held by TRIL. Effectively, beneficial holding of TRIL increased from 65% to 100%.

During the assessment proceedings, assessing officer applied provisions of Section 79 of the ITA contending that legal ownership of the Assessee changed by more than 51% as legally, shareholding of TRIL increased from 24% to 100%. Assessee Submitted that given that the beneficial ownership/ voting power did not change in excess of 51% (i.e. since TRIL continued to hold more than 51%, beneficially, both in FY12-13 and FY13-14), the provision for lapse of brought forward losses u/s 79 were not triggered merely because of change in the legal ownership.

As the matter went for consideration of Income Tax Appellate Tribunal, Mumbai bench ('Mumbai ITAT'), it was ordered to be allowed the set off of losses under section 79 of the ITA. Mumbai ITAT observed as under:

- There is no change in the management as well as "voting rights" in the shareholding of Assessee;
- TRIL controlled the management directly (as well as indirectly) at the time of incurring losses, and continued to control post-merger;
- Effectively, all companies were a part of the same group, and the whole group is managed by the same set of directors and shareholders.

Accordingly, ITAT allowed set-off of brought forward of losses to the Assessee-company relying on the fact that TRIL was controlling and having beneficial ownership of 65%.

Direct tax updates (5/6)

Amount originally received towards allotment of shares, subsequently treated as "gift" on failure to issue shares due to non-compliance under FEMA, is not a taxable receipt[1]

Crescent Payments Pvt. Ltd ('Assessee') engaged in the business of ITES, received INR 3.46 crores from a Canadian company. It disclosed and credited the said amount under "Reserves & Surplus" in the balance sheet. The company could not issue shares against the money received to the Canadian company, as the Indian promoters missed the six month deadline stipulated under FEMA regulations. Accordingly, Assessee treated the sum of INR 3.46 crores as a "gift". Tax authorities held that the receipt was treated as a gift to circumvent the FEMA provisions, and held it to be taxable which was confirmed by CIT(Appeals).

As the matter went to the Income Tax appellant Tribunal, Mumbai bench ('Mumbai ITAT'), it was held that merely because there was a violation of FEMA regulations by not allotting shares within 6 months from the date of receipt of monies towards share capital, such amount cannot automatically become income of the Assessee. Accordingly, Mumbai ITAT examined the applicability of provisions of Section 28(iv) r.w. Section 2(24)(ix), and Section 56 of the ITA. On the applicability of Section 28(iv), Mumbai ITAT observed that the monies were not received in the ordinary course of business, and accordingly held that the conditions for applicability of the Section 28(iv) are not satisfied in the instant case. With regards to the taxability under Section 56(1), Mumbai ITAT observed that receipt should first be chargeable under Section 2(24) to be taxable under any of the heads of income. If the said receipt is not at all chargeable to tax under any heads of income, then the said receipt cannot be chargeable to tax in terms of Section 56(1) of the ITA. The Mumbai ITAT relied on the Hon'ble Supreme Court ruling in the case of G.S. Homes & Hotels, which was passed in the context of real income wherein it was held that amount received on account of share capital ought not to be treated as business income, and held that the amount received by the Assessee should not be taxable.

1 Crescent Payments Pvt. Ltd [TS-834-ITAT-2021(Mum)]

Direct tax updates (6/6)

Interest on debentures "payable" to non-resident is not covered under Article 11 of India-Cyprus DTAA, and hence no TP-adjustment can be made on "hypothetical receivable amount" in the hands of non-resident[1]

Mondon Investments Ltd ('the Assessee'), is incorporated in Cyprus. Assessee had subscribed to 15% Fully Convertible Debentures (FCDs) of face value INR 100 each of 4 Indian Associated Enterprises (AEs). During AY 2009-10, 15% of above debentures were converted into 0% FCDs. The Transfer Pricing Officer held that 15% of the FCDs were converted into 0% FCDs without assigning any reason, and hence the TPO made adjustment of interest at the rate of 15% (as it was being charged prior), amounting to INR 4.02 crores.

Aggrieved by the above TP adjustment, assessee filed appeal against the CIT(Appeals), who held that the word "interest paid" as per Article 11(1) of India – Cyprus DTAA, includes "interest payable". Accordingly, CIT(Appeals) upheld the order of the TPO / AO.

As the matter went to Income Tax Appellate Tribunal, Delhi bench ('Delhi Bench'), it was observed that Article 11(1) of India – Cyprus DTAA envisages that, for taxing the interest income in the hands of the non-resident, it is necessary that interest should arise in a Contracting State, i.e. twin conditions of accrual as well as payment are to be satisfied. In the given case, the TPO/AO have not been able to establish that notional interest satisfies the test of income "arising" or "received" under the charging provisions of the ITA. If income is not taxable in terms of Section 4, then transfer pricing provisions cannot be made applicable, because Section 92 provides for computing the income arising from international transactions with regard to the Arm's Length Price. Only the interest income chargeable to tax can be subject matter of transfer pricing in India.

Accordingly, Delhi ITAT concluded that transfer pricing adjustment would not be applicable since interest has neither been received nor accrued to the Assessee, and hence it cannot be held to be chargeable in terms of the ITA read with Article 11(1) of India – Cyprus DTAA.

1 Mondon Investments Ltd [TS-384-ITAT-2021(DEL)-TP]

MINISTRY OF CORPORATE AFFAIRS ('MCA') UPDATES

SEPTEMBER 2021

MCA - Regulatory update

NCLT: Approval of Scheme of Arrangement in the context of providing exit to the shareholders whereby conversion of equity shares into preference shares was proposed and held as valid 'arrangement' u/s 230-232[1] (1/2)

A scheme of arrangement was filed u/s 230 to 232 of the Companies Act, 2013 ('the Act') for amalgamation of Protrans Supply Chain Management Private Limited ('Transferor Company 1') and Ag-Vet Genetics Private Limited ('Transferor Company 2') with Baramati Agro Limited ('Transferee Company') and their respective shareholders ('the Scheme')

- Under the Scheme, equity shares held by Class A equity shareholders of the Transferee Company were proposed to be converted into 9% non-cumulative optionally convertible redeemable preference shares considering the insistence from a fraction of shareholders on payout of dividend on regular basis and also enable such shareholders to get an exit from the company within a fixed time frame

- During the process of approval of the Scheme, Registrar of Company, Pune ('RoC'), the Regional Director ('RD'), in their report, objected to the proposed conversion on following grounds:
  - Equity shares were different from preference shares in its value, terms, rights etc. and could not be termed as same kind of shares;
  - Ministry of Corporate Affairs had referred an ongoing litigation in relation to conversion of equity shares into preference shares and vice versa whereby reclassification of such type was rejected by ROC, Delhi

- The Transferee Company argued that the proposed conversion is a valid arrangement as,
  - Conversion of shares from one type to another is not barred by any provision of the Act;
  - Such conversion only amounts to reorganization of the share capital which is permissible u/s 61 of the Act;

1 C.P. (CAA) 996 /MB-II/2020

MCA - Regulatory update

NCLT: Approval of Scheme of Arrangement in the context of providing exit to the shareholders whereby conversion of equity shares into preference shares was proposed and held as valid 'arrangement' u/s 230-232 (2/2)

- Basis various judicial precedents, a scheme of compromise or arrangement may involve increase, consolidation, or subdivision of shares or reduction of share capital;
- The explanation u/s 230(1) of the Act gives a wide and inclusive interpretation to the term 'arrangement' as including 'reorganization of share capital';
- When a word is defined to 'mean' something, the definition is prima facie restrictive and exhaustive, whereas where the word defined is declared to 'include' a particular meaning, the definition is prima facie extensive or inclusive;
- As held by the Supreme Court in the case of Rajendra Prasad Gupta[2], courts are not to act upon the principal that every procedure is to be taken as prohibited unless it is expressly provided for by the Code, but on the converse principal that every procedure is to be understood as permissible till it is shown to be prohibited by the law;
- Further reference was made to the case of Vasant Investment Corporation Limited[3], a Scheme, which contains provisions ultra vires the existing memorandum and articles, can also be sanctioned;
- MCA letter referred by RoC, Pune cannot be binding on the courts or tribunal or companies in this case unless the same are made part of substantive law or delegated legislation as upheld by Supreme Court in several cases;
- The term 'arrangement' is not defined under the Act, however, the said term carries a very wide import.

Based on the arguments made by appellant, the National Company Law Tribunal, Mumbai Bench accepted approved the Scheme of Arrangement including conversion of equity shares into preference shares and passed an order in relation to same.

2 SLP No 984 of 2006 - Rajendra Prasad Gupta verses Prakash Chandra Mishra & Ors
3 Vasant Investment Corporation Ltd CA No 178 of 1978 (Bom HC

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA ('IBBI') UPDATES

SEPTEMBER 2021

IBBI Regulatory updates (1/2)

IBBI amends the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 vide Gazette Notification dated September 30, 2021

These Regulations may be called the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Third Amendment) Regulations, 2021.

Among other changes outlined in the Notification, some of the changes are mentioned below:

- In respect to invitation for expression of interest, a new sub regulation 4A has been introduced whereby any modification in invitation for expression of interest can be made provided there are in the similar manner as the initial expression of interest was made and such modification is not permitted more than once.
- In Regulation 39 (Approval of Resolution Plan) henceforth Resolution Professional (RP) can permit modification of the resolution plan but not more than once and he can also permit a challenge mechanism to enable resolution applicants to improve their plans.
- In Regulation 39 a new sub regulation 1B has been added whereby it describes situations where the committee shall not consider resolutions plans which:
  - Are received after the time as specified by the committee;
  - Are received from a person who does not appear in the final list of prospective resolution applicants.

IBBI Regulatory updates (2/2)

IBBI amends the IBBI (Liquidation Process) Regulations, 2016 vide Gazette Notification dated September 30, 2021

These Regulations may be called the Insolvency and Bankruptcy Board of India (Liquidation Process) (Second Amendment) Regulations, 2021.

Among other changes outlined in the Notification, some of the changes are mentioned below:

- In Regulation 39 (Stakeholders Consultation Committee), a new sub regulation has been added whereby the liquidator shall constitute a consultation committee within sixty days from the liquidation commencement date, based on the list of stakeholders.
- In the principal regulations, in Schedule I henceforth, the liquidator shall not require payment of any non-refundable deposit or fee for participation in an auction under the liquidation process however the earnest money deposit shall not exceed ten percent of the reserve price.
- Further, where the liquidator rejects the highest bid in an auction process, he shall intimate the reasons for such rejection to the highest bidder and mention it in the next progress report.

FOREIGN EXCHANGE MANAGEMENT ACT 1999 ('FEMA') UPDATES

SEPTEMBER 2021

Fema Regulatory updates

Amendment in FEMA Regulations to ensure that FDI in private banks having investment in insurance sector to be addressed to RBI for consideration

The Ministry of Finance issued a notification to bring amendments relating to FDI in insurance sector by notifying Foreign Exchange Management (Non-debt Instruments) (Second Amendment) Rules, 2021 (“the Amended Rules”).

Earlier this year the Government had amended the Foreign Exchange Management (Non-Debt Instruments) Rules, 2019 to enable the increase in foreign direct investment limit in the insurance sector to 74 per cent.

According to the Amended Rules, applications for FDI in private banks having joint ventures or subsidiaries in the insurance sector may be addressed to the Reserve Bank of India for consideration in consultation with the Insurance Regulatory and Development Authority of India, to ensure that the limit of foreign investment of 74 per cent for the insurance sector is not breached.

SEBI REGULATORY UPDATES

SEPTEMBER 2021

SEBI Regulatory updates (1/7)

SEBI amends SEBI (Listing Obligation and Disclosure Requirements) Regulations, 2015 ("LODR Regulations") vide Gazette Notification dated September 07, 2021

These Regulations shall be called SEBI LODR (Fifth Amendment) Regulations, 2021.

Among other changes, some of them are as under:

- Reference to SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021 have been made in the LODR Regulations to give better clarity in respect to the new regulations that had been notified;
- In Regulation 15 (Applicability), LODR regulations shall henceforth be applicable on listed entities that have listed their non-convertible debt securities of rupees five hundred crores and above (high value debt listed entity);
- As per Regulation 21 (Risk Management Committee), a high value debt listed company shall also henceforth constitute a risk management committee;
- Certain changes have also been made to Regulation 52 (Financial Results) on how a company shall report its financial statements.

SEBI Regulatory updates (2/7)

SEBI Board: Approval of proposal to amend existing framework for delisting of shares pursuant to open offer (1/2)

The SEBI Board has approved the proposal to make amendments to SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 ("Takeover Regulations").

Under the existing framework, if an open offer is triggered, compliance with Takeover Regulations could take the incoming acquirer's holding to above 75% or perhaps even 90%, however, to ensure compliance with Securities Contract (Regulation) Rules, 1957 (SCRR) the acquirer would be forced to first bring his stake down to 75% as the SEBI (Delisting of Equity Shares) Regulations, 2021 (Delisting Regulations) would not let the acquirer even to attempt at delisting unless the holding is first brought down to 75%. Such directionally contradictory transactions in a sequence pose complexity in the takeover of listed companies especially where the acquirer desires to get the company delisted pursuant to his take over.

The revised framework aims to make M&A transactions for listed companies a more rational and convenient exercise, balancing the interest of all investors in the process. The key features of revised framework for delisting pursuant to an open offer are as under: -

1. The framework shall be made available in the case of open offers under the Takeover Regulations for an incoming acquirer who is seeking to acquire control under Regulation 3(1) or Regulation 4 or Regulation 5.
2. If the acquirer is desirous of delisting the target company, the acquirer must propose a higher price for delisting with suitable premium over open offer price.
3. If the response to the open offer leads to the delisting threshold of 90% being met, all shareholders who tender their shares shall be paid the same delisting price and if the response to the offer leads to the delisting threshold of 90% not being met, all shareholders who tender their shares shall be paid the same takeover price.

SEBI Regulatory updates (2/7)

SEBI Board: Approval of proposal to amend existing framework for delisting of shares pursuant to open offer (2/2)

4. If a company does not get delisted pursuant to the open offer under this framework, and the acquirer crosses 75% due to the open offer, a period of 12 months from the date of completion of the open offer will be provided to the acquirer to make further attempts to delist the company under the Delisting Regulations using the reverse book building mechanism. If delisting during this extended 12-month period is not successful, the acquirer then must comply with the minimum public shareholding norm within a period of 12 months from the end of such period.

5. If the acquirer at the time of open offer, states upfront that it would opt for remaining listed, and the total stake at the end of the tendering period reaches above 75%, then the acquirer may opt for either proportionately scaling down of purchases made under both, i.e. the underlying share purchase agreement and the shares tendered under open offer, in such a manner that the 75% threshold is never crossed or alternatively, the acquirer shall have to become compliant with minimum public shareholding within the time stipulated under SCRR.

6. While undertaking delisting under this framework, all the provisions of the Delisting Regulations shall be applicable mutatis-mutandis, save otherwise provided in this framework.

SEBI has clarified that, while undertaking delisting under the revised framework, all other provisions Delisting Regulations shall continue to apply.

SEBI Regulatory updates (3/7)

SEBI Board : Approval of stricter norms relating to Related Party Transactions

SEBI approved the amendments to SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 in relation to regulatory provisions on related party transactions (RPTs), vide its board meeting held on September 28, 2021, which shall come into effect from April 01, 2022.

Key amendments are as follows:

i. **"Related Party"** shall now include all persons and entities forming part of promoter and promoter group. Further, with effect from April 01, 2023, any person holding beneficial interest of 10% or more in the listed entity, shall also be treated as "related party". This change seeks to also cover any shareholder who may not be related to the promoter/ promoter group but holds stake in excess of 10%;

ii. Definition of **"Related Party Transactions"** has been widened to cover transactions with any person or entity, the purpose of which is to benefit a "related party" of the listed entity. Further, it has also been widened to include transactions between the listed entity or any of its subsidiaries on one hand and a related party of the listed entity or any of its subsidiaries on the other hand, as opposed to transactions only undertaken by the listed company;

iii. **Prior approval of shareholders** shall be required for **"material RPTs"**. Material RPTs in this context means transactions of value of INR 1000 crores or 10% of consolidated turnover, whichever is lower;

iv. **Approval of Audit Committee** under certain cases such as material modifications subsequent to the approval of the RPT, and where a subsidiary is a party to the transaction but the listed entity is not, subject to the threshold of 10% of the consolidated turnover of the listed entity, ii. 10% of the standalone turnover of the subsidiary w.e.f. April 1, 2023;

v. **Enhanced disclosure of information** to be provided to Audit Committee, shareholders and Stock Exchanges.

SEBI Regulatory updates (4/7)

SEBI gives in-principle nod for shifting to concept of "controlling shareholders"

The Securities and Exchange Board of India has given an "in-principle" nod to the proposal of shifting from the concept of "Promoter" in a listed entity to the concept of "person in control" or "controlling shareholders" in a smooth, progressive and holistic manner.

The Board noted that investor landscape is now changing with private equity and institutional investors holding significant shareholding in listed companies. Further, the Board also noted that, in recent years number of businesses and new age companies with diversified shareholding and professional management that are coming into the listed space are nonfamily owned and/or do not have a distinctly identifiable promoter group.

Accordingly, SEBI Board has advised SEBI to:

a) engage with other regulators to ascertain and resolve regulatory hurdles, if any;

b) prepare draft amendments to securities market regulations and analyze impact of the same; and

c) further deliberate and develop a roadmap for implementation of the proposed transition.

SEBI Regulatory updates (5/7)

SEBI introduces shorter trade settlement cycle vide Circular dated September 07, 2021

SEBI through Circular dated February 06, 2003 had brought down the trade settlement cycle from T+3 to T+2. It means that trades will be settled within 2 days from the date of transaction.

However due to changing times and based on representation received, SEBI has decided to provided flexibility to stock exchanges ("SE") to either offer T+2 or T+1 settlement cycles.

In case a SE does want to reduce the settlement cycle to T+1 on any script, advance notice of at least one month for the same shall be needed to be provided. After reducing the settlement cycle for a particular script, the same shall have to followed for at least a period of six months.

In case the SE again intends to switch back to T+2 then advance notice of at least one month for the same shall be provided. No netting shall be allowed between T+1 and T+2 settlements.

The provisions of this Circular shall be effective from January 01, 2022

SEBI introduces amendments to the provisions of Superior Voting Rights

SEBI approves suggested changes to certain provisions of the Superior Voting Rights ("SR") framework, to inter alia cap a Superior Rights shareholder's net worth (as an individual) at Rs. 1000 Crs (against existing Rs. 500 Crs.) and reduces the minimum gap between issuance of SR shares and filing of Red Herring Prospectus from existing 6 months, to 3 months.

SEBI Regulatory updates (6/7)

SEBI approved the framework for Gold Exchange and SEBI (Vault Managers)

SEBI approved the framework for Gold Exchange and SEBI (Vault Managers) Regulations, 2021, some of the salient features of which are:

- The instrument representing gold will be called 'Electronic Gold Receipt' ("EGR") and will have similar features akin to other securities and recognized stock exchange, existing as well as new, can launch trading in them in a separate segment. The denomination for trading of EGR and conversion of EGR into gold, can be decided by the recognized stock exchanges, with the approval of SEBI.
- In respect of Vault Managers regulations, they will have to be incorporated as a body corporate having net worth of at least 50 crores.

SEBI approved the framework for Social Stock Exchange

SEBI approved the framework for Social Stock Exchange, some of the salient features of which include:

- It shall be a separate segment of the existing stock exchanges.
- Eligible entities who can participate - (Non-Profit Organization – ("NPO") and For-Profit Social Enterprise – ("FPE") having social intent and impact as their primary goals. Social Enterprises will have to engage in a social activity out of the list of 15 broad eligible social activities approved by the Board.

SEBI Regulatory updates (7/7)

SEBI introduces Swing Pricing Framework for Mutual Funds vide its Circular dated September 29, 2021

SEBI pursuant to its consultation paper and feedback received introduces a swing pricing framework for open ended debt mutual fund schemes (except overnight funds, Gilt funds and Gilt with 10-year maturity funds).

This Circular shall be applicable with effect from March 1, 2022.

Swing Pricing Framework will be made applicable only for scenarios related to net outflows from the schemes.

The Circular, inter alia among other things, includes:

- Swinging Pricing for normal times;
- Swinging Pricing for market dislocation;
- Other aspects pertaining to swing pricing