INFORM: Infrastructure Projects & Finance

APRIL 2024

We bring you the latest updates on the dynamic intersection of infrastructure projects with banking and finance. Join us to navigate the evolving landscape of infrastructure curated to empower you with strategic intelligence.

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CASE LAWS



Complaint Against Bounced Cheque to Be Filed Within One Month of Cause of Action

The Allahabad High Court, in the case of Sudesh Kumar v. State of U.P. and another (2024 AHC 38337), decided on March 1, 2024, examined the date on which the cause of action arose and whether it was within the period of limitation of one month in a complaint against an offence under Section 138 of the Negotiable Instruments Act, 1881 (N.I. Act) for the court to be able to take cognizance as per Section 142 of the N.I. Act.

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Refund of Interest Cannot Be Sought After Consenting to Terms in Loan Agreement

The Supreme Court, in the case of Rajesh Monga v. Housing Development Finance Corporation Limited and Ors. (2024 INSC 162), held that after having executed an agreement, having received the loan amount, and repaying it with interest, an individual cannot raise an objection in hindsight and seek a refund of the amount paid.

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Bank May Enter into One Time Settlement with Borrower if Auction Sale Not Confirmed

The High Court of Kerala, in the case of Ajmal K V v. Union Bank of India (2024 KER 18508) held that where a sale certificate has not been issued in favour of the auction purchasers for the confirmation of the auction sale, the bank may enter into a one-time settlement with the borrowers.

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Deductions From Performance Security to Be Made Within Period Specified in Contract

In a decision dated March 13, 2024, delivered by the Calcutta High Court in the case of M/s. UCC – RLA – STA (JV) and Another v. Eastern Coalfields Limited and others (WPA No. 26622 of 2023) it was held that deductions or appropriations from the performance security and retention money had to be made within the period specified within the contract for the refund of the security deposit, after such a period has lapsed, withholding of such refunds in the absence of any defect or deficiency in work was not justifiable.

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Limitation For Loan Recovery Suit to Be Computed from Date Of Issuance Of Loan Recall Notice

In a decision dated March 19, 2024, delivered by the High Court of Delhi in the case of Kulbhushan Sachdev v. ICICI Bank Limited & Anr. (2024 DHC 2165-DB) it was held that the date of limitation for a suit filed for the recovery of a loan cannot be calculated from the date of first default in payment of EMI but rather from the date of issuance of a loan recall notice, which is the date when the cause of action arose.

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>>> NOTIFICATIONS/CIRCULARS



Agreements with Card Networks for Issuance of Credit Cards

On March 6, 2024, the RBI issued directives aimed at enhancing customer choice and flexibility in credit card issuance to banks and non-banks. The RBI identified that certain agreements between card networks and card issuers were not conducive to promoting customer choice. This prompted the RBI to revise these agreements between the lenders and card networks.

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Master Direction on Card Issuance and Conduct Guidelines for 2022 Amended

·The RBI has revised its regulations regarding credit and debit cards, effective from March 7, 2024. These modifications aim to enhance transparency and accountability in card usage and payment processes by implementing a robust monitoring system for financial transactions.

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Additional Performance Security in Case of Abnormally Low Bid

The Ministry of Road Transport and Highways (MoRTH) issued a circular on February 29, 2024, bearing reference number NH-37015/01/2027-H (Comp. No. 208778), regarding the release of Additional Performance Security in EPC (Engineering, Procurement, and Construction) contracts.

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Ministry of Road Transport and Highways amends Model Concession Agreements for BOT and TOT Models

The Ministry of Road Transport and Highways (MoRTH) has made significant revisions to the Model Concession Agreement (MCA) for Capacity Augmentation on BOT model and for Monetization of Public Funded Operational National Highway Projects on Tolling, Operation, Maintenance, and Transfer (TOT) model.

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RBI Revises Regulations for Bank Investments in Alternative Investment Funds

In December 2023, the Reserve Bank of India (RBI) imposed constraints on banks and NBFCs, prohibiting them from investing in AIFs with downstream investments in debtor companies. These financial institutions were instructed to either liquidate their holdings within 30 days or make 100% provisions against them.

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Government Mandates Bridge Sensor Installations

Ensuring the safety of bridges is paramount in averting traffic disruptions and potential accidents. Recognizing this, on March 4, 2024, the Ministry of Road Transport and Highways (MoRTH) issued directives to agencies overseeing national highway development, mandating the installation of sensors on bridges. These sensors aid in identifying corrosion and facilitating real-time monitoring of bridge conditions.

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>>> QUICK READS



RBI Prohibits JM Financial from Providing Loans Against Shares and Debentures

The Reserve Bank of India (RBI) issued a directive to JM Financial Products Limited, instructing the immediate cessation of all types of financing against shares and debentures, including loans against initial public offerings (IPOs) of shares and debenture subscriptions.

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NaBFID is Required to Establish a Credit Enhancement Facility

The National Bank for Financing Infrastructure and Development (NaBFID) intends to introduce a structured partial credit enhancement facility to strengthen bond markets and establish a data repository for the infrastructure sector.

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Cintra to Acquire a 24% Stake in IRB Infra Trust from GIC

Cintra, a subsidiary of Ferrovial, has acquired a 24% stake in IRB Infrastructure Trust from GIC Affiliates and IRB Infrastructure Developers Ltd. The completion of this acquisition is contingent upon meeting certain conditions, including obtaining necessary regulatory and third-party approvals.

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NaBFID and Axis Bank to lend Rs 3,790 Crore to DP World for Building Box Terminal at Tuna-Tekra

Hindustan Infralog Pvt Ltd, the Indian subsidiary of DP World, a global port operator owned by the Dubai government, has signed a concession agreement with the Deendayal Port Authority for a significant venture at Tuna-Tekra. Securing the bid with the highest royalty offer of Rs6,500 per TEU, the project boasts a concession term of 30 years, featuring a yearly escalation of 2% in royalty, extendable for an additional 20 years.

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RBI Broadens Monitoring of Credit 'Exuberance'

In response to mounting concerns about burgeoning retail lending practices, the Reserve Bank of India (RBI), is intensifying its efforts to address potential risks to the financial system. The latest focus of the RBI's scrutiny lies on mortgage-linked "top-up" loans, marking a significant expansion in its regulatory oversight.

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RBI Imposes Penalties on Tamilnad Mercantile Bank and DCB Bank for Violating Regulations

The Reserve Bank of India (RBI) has imposed penalties on Tamilnad Mercantile Bank Limited amounting to Rs 1.38 crore and on DCB Bank Ltd. with a fine of Rs 63.6 lakh due to non-compliance with regulatory standards. for failing to adhere to regulatory norms.

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NHIT Raises Over Rs 16,000 Crore for NHAI Road Acquisition

The National Highways Infra Trust (NHIT) has recently concluded its fundraising endeavor through 'InvIT Round-3'. In this latest round, NHIT has triumphantly garnered more than Rs 16,000 crore through a combination of equity and debt. This significant capital infusion, sourced from 'InvIT Round-3', is earmarked for the acquisition of nearly 900 kilometers of road infrastructure from the National Highway Authority of India (NHAI), marking NHAI's most extensive asset monetization initiative thus far.

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