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INFORM: Infrastructure Projects & Finance

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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.



From the Partner's Desk:

Dear Readers,

It is with great pride and excitement that we mark the one-year anniversary of our Infrastructure and Banking & Finance Newsletter. Over the past year, this publication has evolved into a vital resource, offering valuable insights and keeping our clients and colleagues updated on key developments in Banking, Infrastructure and Project Finance sector.

As we launched this Newsletter, our goal was simple: to deliver timely and practical information on the rapidly evolving legal, regulatory, and market trends in infrastructure and project finance space. With these industries undergoing profound changes driven by regulatory reforms, technological advancements, and global economic and climatic shifts, our intent was to provide you with the knowledge necessary to navigate this complex landscape effectively.

Our journey over the past year has covered everything from project financing and infrastructure development to the evolving regulatory framework for banking vertical. We have provided analysis on new policies, landmark judgments, and market trends, all with a focus on delivering actionable insights that benefit our clients in their strategic decision-making.

This milestone would not have been possible without the relentless efforts of our dedicated editorial team and the thought leadership of our partners and associates, who have contributed their expertise to each edition. It's their commitment to quality that has ensured the success of this publication. We are also deeply grateful for the positive feedback we have received from our readers and clients. Your engagement and suggestions have played a crucial role in shaping the direction of this publication, helping us to cover topics of importance and relevance to your business.

As we look ahead, we remain committed to enhancing the content of this newsletter, keeping pace with the ever-changing legal and financial environments. We will continue to provide the same level of insightful, relevant, and practical content that you have come to expect from us, while exploring new and innovative ways to add value to our clients.

Thank you for your continued trust and readership. We look forward to another year of growth, knowledge-sharing, and meaningful engagement.

Warm regards,

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>>> HIGHLIGHTS

CASE LAWS:

1. NHAI to Collaborate with State on Drainage Issues for National Highway Projects
2. Judicial Interference in Tender Matters to Limited
3. Contractor Not Responsible for Verifying Administrative Approvals Before Commencing Work
4. Income Tax Reassessment Notice Issued Post Approval of Resolution Plan Not Maintainable

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3. SEBI Proposes Mandatory Record-Keeping for Regulated Entities to Enhance Transparency

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2. RBI Aligns HFCs and NBFCs Norms
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8. SEBI Announces Key Amendments to Disclosure Processes for InvITs and REITs
9. IBBI Introduces New Guidelines for Committee of Creditors to Streamline Insolvency Resolution Process

>>> CASE LAWS



NHAI to Collaborate with State on Drainage Issues for National Highway Projects: Kerala HC

The Hon'ble High Court of Kerala in the case of Varappuzha Grama Panchayat v. The National Highways Authority of India (NHAI), [WP(C) No. 16539 of 2024(S)], has passed an order dated August 5, 2024, addressing the pressing issue of severe water logging along National Highways, which has been causing significant inconvenience to residents living nearby.

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Judicial Interference in Tender Matters to be Limited

The case M/s Sant International Jewellers v The State of Rajasthan and Ors., (2024:RJ-JP:32617), dated August 1, 2024, concerned the rejection of M/s Sant International Jewellers' application for a plot in the Special Economic Zone (SEZ) in Sitapura, Jaipur, as part of a tender process for setting up a Gems & Jewelry industry by the Rajasthan State Industrial Development and Investment Corporation Ltd., (RIICO).

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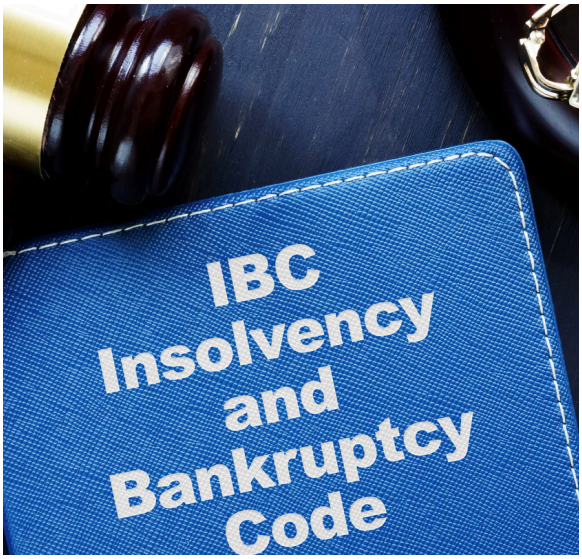




Contractors Not Responsible for Verifying Administrative Approvals

In a recent judgement, the Hon'ble High Court of Jammu and Kashmir in the case of M/S Cube Construction Engineering v UT of J&K & Ors., (WP(C) No. 1962/2022), dated August 5, 2024, underscored that contractors are not responsible for verifying whether administrative approvals, technical sanctions, and other formalities are in place before commencing work.

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Income Tax Reassessment Notice Issued Post Approval of Resolution Plan Not Maintainable

The Hon'ble High Court of New Delhi in the case of Asian Colour Coated Ispat Limited v. Additional Commissioner of Income Tax and Ors., (2024 SCC OnLine Del 5459), dated August 7, 2024, held that once a resolution plan is approved under the Insolvency and Bankruptcy Code (IBC), 2016, income tax reassessment for periods before the plan's approval is impermissible.

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>>> QUICK READS



RBI to Announce Final Project Loan Guidelines in Coming Months

Final guidelines for project loans are expected to be unveiled within the next two to three months. The RBI had, in May, released the draft project loan guidelines which proposed that banks set aside 5% of their total exposure to a project while construction is underway. This proposal has sparked concern among banks about potential impacts on profitability, prompting calls for a reassessment of the guidelines.

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NHAI Repeals 100m Exemption Rule for New Toll Plazas

In a recent policy shift, the National Highways Authority of India (NHAI) has revoked a controversial provision on waiting time at toll plaza introduced in May 2021, which mandated that toll plaza operators lift barriers and allow vehicles to pass without payment if the queue extended beyond 100 meters.

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SEBI Proposes Mandatory Record-Keeping for Regulated Entities to Enhance Transparency

The Securities and Exchange Board of India (SEBI) has released a consultation paper seeking public feedback on a proposal that would require all regulated entities to maintain records of mandatory communications, including acknowledgments, for a minimum of eight years. This initiative aims to bolster transparency, regulatory compliance, and investor protection within the securities market.

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NOTIFICATIONS/CIRCULARS



Inconsistencies in BDDR Treatment; Revised Instructions Issued

The Reserve Bank of India (RBI) has released, on August 2,2024, revised guidelines concerning the prudential Treatment of Bad and Doubtful Debt Reserves (BDDR) for co-operative bank. It is applicable to all Primary (Urban) Co-operative Banks, State Co-operative Banks, and Central Co-operative Banks, with immediate effect.

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RBI Aligns HFCs and NBFCs Norms

The RBI has announced a significant update to the regulatory framework for Housing Finance Companies (HFCs), bringing them in line with the stricter regulations applied to Non-Banking Financial Companies (NBFCs). Post transfer of regulation of HFCs from National Housing Bank (NHB) to Reserve Bank in 2019, HFCs are treated as a category of NBFCs, hence there has been an ongoing effort to harmonize the rules governing them.

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RBI Rationalizes Risk Weights for HFCs

The RBI has decided to cap the risk weights for undisbursed loans at levels equivalent on a notional basis to those of disbursed loans. Additionally, the RBI has updated the risk weights for Commercial Real Estate/ Residential Buildings. For fund-based and non-fund-based exposures to such properties classified as standard, the risk weight has been set at 75%. However, for non-standard exposures in this category, the risk weight will follow the 'Other Assets (Others)' category, currently set at 100%.

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RBI Tightens Regulations for P2P Lending Platforms to Ensure Transparency and Compliance

In a significant regulatory move, the Reserve Bank of India (RBI) has issued revised guidelines for Non-Banking Financial Company – Peer to Peer Lending Platforms (NBFC-P2P Lending Platforms), marking a shift aimed at reinforcing transparency, compliance, and protecting stakeholders in the P2P lending ecosystem on August 16, 2024.

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RBI Releases Draft Circular on Model Risk Management in Credit for Lenders

The Reserve Bank of India (RBI) has released a draft circular on August 05, 2024, addressing the management of model risks in credit, focusing on ensuring robustness and prudence in the deployment of credit risk models by regulated entities (REs).The circular highlights that model outputs inherently carry uncertainties due to assumptions that may not align with real-world scenarios.

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Temporary Suspension of Spar Geo Infra Amid Concerns Over Safety and Compliance

M/s Spar Geo Infra Pvt. Ltd. has been temporarily suspended from participating in ongoing and future bidding for a period of one month, effective from August 2, 2024. This decision comes in light of significant concerns regarding the company's adherence to safety standards and compliance with contractual agreements during the execution of highway restoration works.

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RBI Introduces Scheme for Sovereign Green Bonds in IFSC

The Reserve Bank of India (RBI) has launched a new scheme on August 29, 2024, aimed at facilitating the trading and settlement of Sovereign Green Bonds (SGrBs) within India's International Financial Services Centre (IFSC). This move is part of a broader effort to attract foreign investment and enhance non-resident participation in these environmentally focused instruments.

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MORTH Revises Policy on Single Bid in Open Tender Processes

The Ministry of Road Transport & Highways (MoRTH) has recently revised its policy concerning the handling of single bids in open tenders. Previously, the MoRTH mandated that any single bid received in the first call of a tender would automatically be cancelled, with the tender being re-invited. Additionally, acceptance of a single bid after re-tendering required approval from the competent authority.

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SEBI Announces Key Amendments to Disclosure Processes for InvITs and REITs

In a significant move to streamline business operations for Infrastructure Investment Trusts (InvITs) and Real Estate Investment Trusts (REITs), the Securities and Exchange Board of India (SEBI) has introduced crucial amendments based on recommendations from the working group established by SEBI on ease of doing business measures.

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IBBI Introduces New Guidelines for Committee of Creditors to Streamline Insolvency Resolution Process

The Insolvency and Bankruptcy Board of India (IBBI) has issued new "Guidelines for Committee of Creditors" (CoC) aimed at ensuring a more efficient and transparent Corporate Insolvency Resolution Process (CIRP). These guidelines, introduced on August 6, 2024, address longstanding ambiguities in the role of the CoC and seek to curb procedural delays, enhance value maximization, and improve coordination among creditors.

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