



12th May 2023 - Issue 407

Ministry of Corporate Affairs vide notification dated May 10, 2023, has issued the Companies (Removal of Names of Companies) Second Amendment Rules, 2023

- MCA vide notification dated May 10, 2023, has issued the Companies (Removal of Names of Companies) Second Amendment Rules, 2023.
- The following provision shall be inserted:

“Provided that the Company shall not file an application unless it has filed overdue financial statements under section 137 and overdue annual returns under section 92, up to the end of the financial year in which the Company ceased to carry its business operations.”

- The notification is herein attached.

[Click Here](#)

Reserve Bank of India vide circular dated May 08, 2023, has issued Master Circular - Income Recognition, Asset Classification, Provisioning and Other Related Matters - UCBs

- RBI vide circular dated May 08, 2023, has issued Master Circular - Income Recognition, Asset Classification, Provisioning and Other Related Matters - UCBs
- The enclosed Master Circular consolidates and updates all the instructions / guidelines
- The circular is herein attached.

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Competition Commission of India vide circular dated April 12, 2023, has issued The Competition (Amendment) Act, 2023

- CCI vide circular dated April 12, 2023, has issued The Competition (Amendment) Act, 2023.
- The Amendment Act has introduced changes to the merger control regime, provisions on behavioral issues as well as the enforcement framework under the Act.

Landmark judgement of 24*7 Pvt Ltd v. Reserve Bank of India

- **Facts**
- In the case, the petitioner **Play games 24X7 Pvt ltd** which provided platform for online games such as -
 1. Rummy circle,
 2. My 11 Circles,
 3. Ultimate Teen Patti and
 4. Call it Right.
- The petitioner received foreign remittances during the time period of 2006-2012, which were to be reported to the RBI under FEMA and regulations therein.
- **Foreign Exchange Management (Transfer of issue of security by a person resident outside India) Regulations 2000**, that the Indian entity that receives foreign investment, against which it proposes to issue and allot shares to a non-resident, must,
 - (i) report the remittance received within 30 days of receipt as required by **paragraph 9(1)(A) of Schedule 1** of the 2000 Regulations; and (ii) it must file a form in a prescribed format within 30 days of allotment of shares in accordance with **paragraph 9(1)(B) of Schedule 1**.



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- There were delays in reporting and also shares were not allotted to the foreign investors within the timelines provided under FEMA. Therefore, RBI refused to regularise the contraventions and directed the Petitioner to seek compounding of the contraventions and further referred it to DPIIT.
- DPIIT, informed the Court the business of the Petitioner fell under the prohibited category, thus, violating the FDI policy as it involved gambling and further it was referred to ED.
- In 2020, upon receiving no action from RBI or DPIIT, the Petitioner filed a writ petition before the High Court of Bombay (“**Court**”) seeking a direction to the RBI to consider and decide the Petitioner’s application for compounding of such non-compliances (“**Petition**”). The DPIIT was also made a respondent in the **Petition**.
- **Main Issue-**
- The main issue was whether the business activity of the Petitioner was **illicit, prohibited by law, or illegal** such that it would be disentitled to receive foreign investment at all. Specifically, the question is whether the online, i.e., website-based and mobile application games constitute ‘gambling’ as understood in law in this country.
- **Conclusion –**
- Casual/social games are not considered to be “gambling” under gaming laws in India and across international jurisdictions as no ‘prizes’ or ‘rewards’ of monetary or tangible value are involved and these are played by the users for leisure or social purposes.
- The revenue for the Petitioner from these casual/social games is mainly generated through in-app purchases of virtual goods by the users and in small part through placement of advertisements in these games.



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- In fact, this was made very clear by the petitioner through the terms and conditions of call it right and UTP.
- The T&C says that **“The Service may include an option to buy virtual goods upon payment of real money. These virtual goods shall not be redeemable for anything of value under any circumstances whatsoever.**
- **All purchases are final and are not refundable, transferable or exchangeable, except when specifically permitted by Games24x7 at its sole discretion.**
- Transactions in virtual goods outside of the Service are prohibited and would amount to a violation of the Terms.”
- “You understand that the virtual goods in your user Account do not carry any monetary value and cannot be sold or refunded for any reason whatsoever.” “There shall be no cash refund for any reason whatsoever in the event of the termination of your Account.

- **Judgment of the Court-**
The court declared that at no point will the Petitioner’s activities involve gambling, so long as it is prohibited by our law. The mere fact that there is a game of chance on the website does not in itself make the activity gambling unless there is an accompanying reward or promise of a reward.
- It relied on the point that the predominant element of the activity — skill or chance — determines the character of the game. But to constitute ‘gambling’, both conditions must be met: (i) it must be **predominantly a game of chance**, and (ii) **it must be played for reward.**
- In the absence of a legislative definition of a game of skill, the Supreme Court in ***Dr KR Lakshmanan v. State of Tamil Nadu***; has laid down that a game of chance is



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where the element of chance predominates over the element of skill, whereas a game of skill is where the element of skill predominates over the element of chance. The card games of rummy and bridge, along with other sports like golf and chess, have been classified as games of skill.

- Since the game of the petitioner contains no real award, money or reward of tangible value it cannot be considered as gambling.

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