

**January 2024**  
*\*Private Circulation Only*

**MDP Legal Updates**

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## **MDP & PARTNERS ACTED AS LEGAL ADVISORS IN RESPECT OF THE LOAN DOCUMENTATION FOR THE CREDIT FACILITY AGGREGATING TO INR 58,29,00,000- AVAILED FROM A PUBLIC SECTOR BANK**

Malav Virani (Partner), Sunay Kargatia (Associate Partner) and Dhruvi Shah (Senior Associate) of MDP & Partners, Advocates & Solicitors, advised and acted for a Public Sector Bank and (i) negotiated the terms, drafted the loan documentation including but not limited to the Facility Agreement, Deed of Hypothecation, Indenture of Mortgage, Escrow Agreement and Security Trustee Agreement (ii) drafted the compliance and ancillary documents; and (iii) advised on the applicable stamp duty and opined on the enforceability of the executed documents in respect of the loan documentation for a rupee term loan – lease rental discounting for an aggregate principal amount of up to INR 58,29,00,000/- (Indian Rupees Fifty Eight Crores Twenty Nine Lakh only) availed by a private limited company engaged in the business of industrial and logistics parks.

## **MDP & PARTNERS ACTED AS LEGAL ADVISORS IN RESPECT OF THE LOAN DOCUMENTATION FOR THE CREDIT FACILITY AGGREGATING TO INR 25,00,00,000/- AVAILED FROM A PUBLIC SECTOR BANK**

Malav Virani (Partner), Sunay Kargatia (Associate Partner) and Dhruvi Shah (Senior Associate) of MDP & Partners, Advocates & Solicitors, advised and acted for a Public Sector Bank and (i) negotiated the terms, drafted the loan documentation including but not limited to the Loan Agreement and Deed of Hypothecation in respect of the a rupee term loan, amounting to INR 25,00,00,000/- (Indian Rupees Twenty Five Crore only) to a non-banking finance company engaged in the business of micro financing.

**MDP & PARTNERS CONDUCTED THE TITLE DUE DILIGENCE IN RESPECT OF VARIOUS NON-AGRICULTURAL LAND PARCELS AND STRUCTURE STANDING THEREON SITUATED AT VILLAGE BADHALWADI, TALUKA MAVAL, DISTRICT PUNE.**

Malav Virani (Partner) and Sunay Kargatia (Associate Partner), of MDP & Partners, Advocates & Solicitors, acted as legal advisors for a Public Sector Bank and conducted the title due diligence in respect of non-agricultural land parcels collectively admeasuring approximately 1,60,900 square meters and the structures standing thereon situated at Village Badhalwadi, in Taluka Maval and District Pune being offered as security by private limited company engaged in the business of industrial and logistics parks.

## **MDP & PARTNERS SUCCESSFULLY REPRESENTED JAINA MARKETING & ASSOCIATES IN A COMMERCIAL ARBITRATION PETITION IS FILED BY JAIN UNDER SECTION 9 OF THE ARBITRATION AND CONCILIATION ACT, 1996.**

MDP & PARTNERS, successfully represented Jaina Marketing & Associates (“Jaina”) in a Commercial Arbitration Petition is filed by Jain under Section 9 of the Arbitration and Conciliation Act, 1996 to seek grant of interim protection and thereby direct the Department of Women & Child Development, Government of Maharashtra to Pay/Deposit or furnish the security as per the terms of the Arbitral Award dated 20th April, 2023, payable up till 31st May, 2023 with amounts to the tune of Rs.11,10,05,392.26/- (Rupees Eleven Crore Ten Lakh Five Thousand Three Hundred and Ninety-Two and Twenty-Six Paise Only).

Jaina is a Partnership firm working in the Indian Original Equipment Manufacturer of Karbonn Mobiles. The Department of Women & Child Development, is the Department of Government of Maharashtra involved in the implementation of one of the flagship projects of the Government of India i.e., the Integrated Child Development Scheme.

The Department of Women & Child Development, in June, 2017 invited bids for procurement of Android Based Smart Phones and Jaina had participated in the bid and complied by submitting all the requisite documents. The Department of Women & Child Development, thereby issued a letter dated 11th August, 2017 to Jaina which confirmed that they have been successfully declared as L1 Bidder. Later, an Agreement dated 05.09.2017, was executed between Jaina and the Department of Women & Child Development.

By a letter dated 19th January, 2018, Jaina informed that OTG features smart phones are ready for delivery and sought confirmation for date of delivery from the Department of Women & Child Development, upon which, the Department of Women & Child Development, in a very highly illegal and malafide manner informed Jaina regarding the cancellation of the Agreement and returning of the Performance Bank Guarantee vide letter dated 23rd April, 2018. Thereafter, Arbitration was invoked. Eventually, the Arbitral Tribunal constituted in the year 2019 and therein the Ld. Sole Arbitrator passed the Arbitral Award dated 20th April, 2023, allowing almost all the claims of Jaina.

As per the Arbitration Petition bearing No. 619 of 2018 was also filed by Jaina seeking protective reliefs. The Department of Women & Child Development, made an admission by way of a statement of providing bank guarantee of Rs.12,03,12,937/- till pendency of the Arbitration and twelve weeks

from the date of passing of the award. By way of Consent Order, the statement was accepted, and the Petition hence was disposed of.

However, the Department of Women & Child Development, filed a Notice of Motion (L) No. 1548 of 2018, praying to set aside the consent order, the said N.O.M was dismissed by the Hon'ble Court vide Order dated 06th July, 2018. The Department of Women & Child Development, then filed an Appeal bearing No. 340 of 2018 before the Hon'ble Bombay High Court challenging the dismissal. The Division Bench therein, partly set aside the Order and revived the Section 9 Petition. The Bench also directed the Department of Women & Child Development, to furnish Bank Guarantee for a sum of Rs. 12,03,12,937/-. However, the same was also not complied by the Department of Women & Child Development.

Hence, Jaina filed a Section 9 Petition before the Hon'ble High Court, Bombay, when vide Order dated 30th January, 2024, the Hon'ble High Court (Justice Bharati Dangre, J) questioned the Government Pleader, appearing on behalf of the Department of Women & Child Development, as to why the directions in order dated 07th September 2018 are still not complied with. **The Court has now ordered the Department of Women & Child Development, to come up with a timeline within which such Bank Guarantee will be given as directed in order dated 07th September 2018 before the next date or in the alternative if such timeline is not given, the Hon'ble Court has directed Principal Secretary of the Department of Women & Child Development, to be personally present in court before the next date i.e., 08th February 2024.**

**Jaina Marketing & Associates was represented by Ms. Niyati Merchant (Associate Partner) & Mr. Harsh Sheth (Associate) of MDP & Partners.**

## **MDP & PARTNERS REPRESENTED SEBI IN AN APPEAL FILED BY BRIGHTCOM GROUP LTD. AGAINST SEBI'S INTERIM ORDER FOR FUNDING ITS OWN PREFERENTIAL ALLOTMENT AND ROUND-TRIPPING OF FUNDS**

MDP & Partners represented SEBI before the Hon'ble Securities Appellate Tribunal in an appeal filed by the Brightcom Group. SEBI had passed an interim order in August 2023 wherein the then Managing Director Mr. Suresh Kumar Reddy and the Chief Financial Officer Mr. N Narayan Raju were inter alia directed to vacate their position. Both the MD and the CFO were at the helm of affairs and it was alleged that the company had funded its preferential allotment by financing the preferential allottees by round-tripping of funds. The company's wholly owned subsidiaries and some connected entities were used as conduits to funnel back the share application money to the allottees.

Aggrieved by the interim order, the Appellants moved to SAT for their reinstatement citing urgency as the operations and functioning of the company had come to a standstill in their absence. However, vide its order dated January 18, 2024 clearly refused to interfere with SEBI's interim order.

Mr. Nishit Dhruva, Ms. Shefali Shankar and Ms. Rasika Ghate represented SEBI in the matter.

Case: Brightcom Group Ltd. & Ors vs SEBI (Misc. Application No. 1667 of 2023 in Appeal No. 942 of 2023)

## **MDP & PARTNERS REPRESENTED SEBI IN AN APPEAL FILED AGAINST BSE'S ORDER REJECTING THE ARBITRATION APPLICATION SUBMITTED BY THE APPELLANT**

MDP & Partners represented SEBI before the Hon'ble Securities Appellate Tribunal wherein the Appellant was aggrieved by the decision of the Bombay Stock Exchange Ltd. (BSE) rejecting the Arbitration Application made by the Appellant before it

Pursuant to an Income Tax assessment order dated May 30, 2023 tax and penalty to the tune of Rs. 56,81,400/- were levied on Respondent No. 2 (constituent applicant of the Appellant till 2011) as her PAN details were captured against the Appellant's trades. Thereafter, Respondent No. 2 filed a complaint against the Appellant with BSE Investors Service Cell and vide order dated July 21, 2023 BSE admitted the claim amount of Rs. 56,81,400/- payable by the Appellant. Aggrieved by the said order, the Appellant filed a Statement of Claim to challenge the same; however, BSE rejected the Arbitration Application on November 2, 2023 on the ground that since the Appellant has not deposited the admissible claim amount with the BSE before filing of the Arbitration Application, the same is rejected. BSE relied upon the SEBI Circular dated September 26, 2013 to reject the said application on the ground of inadequate claim amount deposited by the Appellant.

The matter is now listed for further hearing on February 29, 2024.

Case: SATCO Capital Markets Ltd. vs BSE & Ors (Appeal No. 43 of 2024)



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