



MDP LEGAL UPDATES

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MDP **HIGHLIGHTS**

MDP & PARTNERS ACTED AS THE LEGAL ADVISORS IN RESPECT OF THE LOAN DOCUMENTATION FOR THE FOLLOWING:

1. Malav Virani (Partner) and Sunay Kargatia (Senior Associate) of MDP & Partners, Advocates & Solicitors , acted as the legal advisors for a consortium of public sector undertaking banks and negotiated the terms, drafted the supplemental round of loan documentation and ancillary documentation in respect of facilities aggregating to INR.4000,00,00,000/- availed by a public sector undertaking electricity provider.
2. Malav Virani (Partner), Sunay Kargatia (Senior Associate) and Dhruvi Shah (Associate) of MDP & Partners, Advocates & Solicitors , acted as the legal advisors for a public sector undertaking bank and negotiated the terms, drafted the loan documentation and ancillary documentation in respect of facilities aggregating to INR. 105,00,00,000/- availed by a construction company.
3. Malav Virani (Partner), Sunay Kargatia (Senior Associate) and Dhruvi Shah (Associate) of MDP & Partners, Advocates & Solicitors , acted as the legal advisors for a public sector undertaking bank and negotiated the terms, drafted the loan documentation and ancillary documentation in respect of facilities aggregating to INR. 133,00,00,000/- availed by a real estate company.

4. Malav Virani (Partner), Sunay Kargatia (Senior Associate) and Dhruvi Shah (Associate) of MDP & Partners, Advocates & Solicitors , acted as the legal advisors for a public sector undertaking bank and negotiated the terms, drafted the loan documentation and ancillary documentation in respect of facilities aggregating to INR. 550,00,00,000/- availed by a construction company.
5. Malav Virani (Partner), Sunay Kargatia (Senior Associate) and Dhruvi Shah (Associate) of MDP & Partners, Advocates & Solicitors , acted as the legal advisors for a public sector undertaking bank and negotiated the terms, drafted the loan documentation and ancillary documentation in respect of facilities aggregating to INR. 67,00,00,000/- availed by a development company.
6. Malav Virani (Partner), Sunay Kargatia (Senior Associate) and Dhruvi Shah (Associate) of MDP & Partners, Advocates & Solicitors , acted as the legal advisors for a public sector undertaking bank and negotiated the terms, drafted the loan documentation and ancillary documentation in respect of facilities aggregating to INR. 80,00,00,000/- availed by a real estate company.
7. Malav Virani (Partner), Sunay Kargatia (Senior Associate) and Dhruvi Shah (Associate) of MDP & Partners, Advocates & Solicitors , acted as the legal advisors for a public sector undertaking bank and negotiated the terms, drafted the loan documentation and ancillary documentation in respect of facilities aggregating to INR.292,00,00,000/- availed by a development company.
8. Malav Virani (Partner), Sunay Kargatia (Senior Associate) and Dhruvi Shah (Associate) of MDP & Partners, Advocates & Solicitors , acted as the legal advisors for a public sector undertaking bank and negotiated the terms, drafted the loan documentation and ancillary documentation in respect of facilities aggregating to INR.268,00,00,000/- availed by a real estate development company.
9. Malav Virani (Partner), Sunay Kargatia (Senior Associate) and Dhruvi Shah (Associate) of MDP & Partners, Advocates & Solicitors , acted as the legal advisors for a non banking financial institution and negotiated the terms, drafted the loan documentation and ancillary

documentation in respect of facilities aggregating to INR.17,50,00,000/- availed by an individual.

10. Malav Virani (Partner), Sunay Kargatia (Senior Associate) and Dhruvi Shah (Associate) of MDP & Partners, Advocates & Solicitors , acted as the legal advisors for a public sector undertaking bank and negotiated the terms, drafted the loan documentation and ancillary documentation in respect of facilities aggregating to INR.35,00,00,000/- availed by a partnership firm.
11. Malav Virani (Partner), Sunay Kargatia (Senior Associate) and Dhruvi Shah (Associate) of MDP & Partners, Advocates & Solicitors , acted as the legal advisors for a public sector undertaking bank and negotiated the terms, drafted the loan documentation and ancillary documentation in respect of facilities aggregating to INR.350,00,00,000/- availed by leading leasing company.

MDP & PARTNERS CONDUCTED THE DUE DILIGENCE IN RESPECT OF 7 MALLS:

Malav Virani (Partner), Sunay Kargatia (Senior Associate) and Dhruvi Shah (Associate) acted for a public sector bank and conducted the title due diligence in respect of 7 leading Malls, located in Udaipur, Bangalore, Mangalore, Mysore and Hyderabad belonging to a leading commercial real estate developer .

MDP & PARTNERS SUCCESSFULLY REPRESENTED CANARA BANK (E-SYNDICATE BANK) BEFORE THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI AGAINST BOTHRA METALS AND ALLOYS LIMITED:

Vide an order dated 6th July 2020, the National Company Law Tribunal (Mumbai Bench) admitted a petition under Section 7 of the Insolvency and Bankruptcy Code 2016 filed by Syndicate Bank and thereby initiated a corporate insolvency resolution process against Bothra Metals and Alloys Limited (“the Company”). The promoter of the Company challenged the order dated 6th July 2020 before the NCLAT, inter alia on the ground that the petition was barred by limitation.

The Hon’ble NCLAT has dismissed the Appeal inter alia holding that the Company had acknowledged the debt payable to the Bank in its audited balance sheets as also vide various One Time Settlement Proposals.

Canara Bank was represented by Mr. Nishit Dhruva (Managing Partner), Mr. Prakash Shinde (Partner), Mr. Rohan Agrawal (Senior Associate), Ms. Almira Lasrado, Mr. Zaid Mansuri and Mr. Harshad Vyas (Associates) of MDP & Partners.

MDP & PARTNERS SUCCESSFULLY REPRESENTED BANK OF INDIA IN ISSUES RELATING TO THE CORPORATE INSOLVENCY RESOLUTION PROCESS OF HOUSING DEVELOPMENT INFRASTRUCTURE LIMITED (“HDIL”) BEFORE THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH:

HDIL had executed a Business Transfer Agreement in respect of one of its projects namely ‘Project Majestic’, few days prior to the initiation of the corporate insolvency resolution process (and had taken approval of Suraksha ARC who was the exclusive charge holder of the project), whereby, Project Majestic was sought to be transferred as a whole, to one of HDIL’s wholly owned subsidiaries viz. Mazda Estates Pvt. Ltd.

Suraksha ARC had filed an Application in the NCLT seeking directions against the Resolution Professional to conclude the Business Transfer Agreement. This Application was heavily opposed by Bank of India (represented by MDP and Partners) inter alia on the ground that an asset of HDIL cannot be shifted out of the corporate insolvency resolution process. Similar application was filed by the home buyers of Project Majestic supporting the Application filed by Suraksha ARC.

Vide an order dated 24th March 2021, the NCLT Mumbai has dismissed the Applications filed by Suraksha ARC and the home buyers of Project Majestic.

Bank of India was represented by Mr. Nishit Dhruva (Managing Partner), Mr. A.K. Mishra (Senior Partner), Mr. Prakash Shinde (Partner), Mr. Rohan Agrawal (Senior Associate), Ms. Almira Lasrado and Mr. Harshad Vyas (Associates) of MDP & Partners.

SECTION 14 OF LIMITATION ACT, APPLIES TO SECTION 7 APPLICATIONS UNDER INSOLVENCY AND BANKRUPTCY CODE, 2016- NO NEED FOR A FORMAL APPLICATION UNDER SECTION 5 OF THE LIMITATION ACT.

The Hon'ble Supreme Court in the matter Sesh Nath Singh & Anr. versus Baidyabati Sheoraphuli Co-operative Bank Ltd. (C.A 9198 OF 2019) dated 22nd March, 2021 held that, in an application under Section 7 of the Insolvency and Bankruptcy Code, 2016, the Applicant can claim exception under Section 14 of the Limitation Act, 1963 while the proceedings under SARFAESI Act are ongoing.

The Hon'ble Supreme Court Bench comprising of Justice Hemant Gupta and Justice Indira Banerjee opined in the judgment that there is no rule that the exclusion of time under Section 14 is available only after the proceedings before the wrong forum have been terminated.

The Bench also held that the proceedings under SARFAESI Act will be considered as 'civil proceedings' for the purpose of Section 14 of the Limitation Act, 1963.

The Bench also clarified that, although it is the general practice to make a formal application under Section 5 of Limitation Act, there is no bar on Court/Tribunal to exercise its discretion to condone delay, in the absence of a formal application.

While extending a liberal and purposive meaning to the Insolvency and Bankruptcy Code, 2016, the Bench clarified that the words "as far as may be" in Section 238A of the Insolvency and Bankruptcy Code, 2016 makes the Limitation Act applicable to proceedings in NCLT/NCLAT 'as far as may be' and/or to the extent they may be applied.

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