



MDP LEGAL UPDATES

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MDP HIGHLIGHTS

MDP & PARTNERS ACTED AS THE LEGAL ADVISORS IN RESPECT OF THE LOAN DOCUMENTATION FOR A TERM LOAN OF INR 60,00,00,000/-

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 bank and negotiated terms, drafted the loan documentation and ancillary documentation in respect of a facility of INR 60,00,00,000/- availed by a real estate company.

MDP & PARTNERS ACTED AS THE LEGAL ADVISORS IN RESPECT OF THE LOAN DOCUMENTATION FOR A TERM LOAN OF INR 19,50,00,000/-

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 bank and negotiated terms, drafted the loan documentation and ancillary documentation in respect of a facility of INR 19,50,00,000/- availed by a real estate construction and commercial leasing company.

MDP & PARTNERS ACTED AS THE LEGAL ADVISORS IN RESPECT OF THE LOAN DOCUMENTATION FOR A TERM LOAN OF INR 20,00,00,000/-

Malav Virani (Partner), Sunay Kargatia (Senior Associate) and Dhruvi Shah (Associate) of MDP & Partners, Advocates & Solicitors, acted as the legal advisors for an NBFC and negotiated terms, drafted the loan documentation and ancillary documentation in respect of a facility of INR 20,00,00,000/- availed by a private limited company.

MDP & PARTNERS ACTED AS THE LEGAL ADVISORS IN RESPECT OF THE LOAN DOCUMENTATION FOR A TERM LOAN OF INR 10,60,00,000/-

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 bank and negotiated terms, drafted the loan documentation and ancillary documentation in respect of a facility of INR 10,60,00,000/- availed by a public limited company for payment of statutory dues, salary to staff and to meet all temporary liquidity mismatches in the operating cycle arising out of the adverse impact of COVID-19.

MDP & PARTNERS ACTED AS THE LEGAL ADVISORS IN RESPECT OF TITLE DUE DILIGENCE OF 90 ACRES OF LAND IN BANGALORE, INDIA

Malav Virani (Partner) and Dhruvi Shah (Associate) of MDP & Partners, Advocates & Solicitors, acted for a public sector bank and conducted the title due diligence in respect of land admeasuring approximately 90 acres situated in Bangalore, India.

MDP & PARTNERS ACTED AS THE LEGAL ADVISORS IN RESPECT OF ADDITIONAL LOAN DOCUMENTATION FOR FACILITIES AGGREGATING TO INR 67,00,00,000/-

Malav Virani (Partner) and Dhruvi Shah (Associate) of MDP & Partners, Advocates & Solicitors, acted as the legal advisors for a non banking financial institution and negotiated terms, drafted the addendum loan documentation and ancillary documentation in respect of facilities aggregating to INR 67,00,00,000/- availed by a real estate construction company and a partnership firm engaged in real estate activities.

MDP & PARTNERS ACTED AS THE LEGAL ADVISORS FOR DRAFTING THE STANDARD MORATORIUM AGREEMENT AS PER THE COVID 19 GUIDELINES OF THE RESERVE BANK OF INDIA

Malav Virani (Partner) and Dhruvi Shah (Associate) of MDP & Partners, Advocates & Solicitors, acted for a non banking financial institution and drafted a standard moratorium letter and moratorium agreement pursuant to the guidelines laid down on COVID-19 by the Reserve Bank of India vide its Regulatory Packages (i) dated March 27, 2020 (Ref No RBI/2019-20/186 DOR.No.BP.BC.47/21.04.048/2019-20); (ii) dated April 17, 2020 (Ref No. RBI/2019-20/220 DOR.No.BP.BC.63/21.04.048/2019-20 and (iii) dated May 23, 2020 (Ref No. RBI/2019-20/244 DOR. No.BP.BC.71/21.04.048/2019-20 to be entered into between the lender and the borrowers.

MDP & PARTNERS ACTED AS THE LEGAL ADVISORS TO A LONDON BASED LAW FIRM

Malav Virani (Partner) and Dhruvi Shah (Associate) of MDP & Partners, Advocates & Solicitors, acted for a London based law firm and opined on the capacity of a real estate company based in Bangalore, India to enter into a subordination deed for subordinating the facilities granted by them to their London based subsidiary.

MDP & PARTNERS ACTED AS THE LEGAL ADVISORS TO AN INFRASTRUCTURE COMPANY

Malav Virani (Partner) and Dhruvi Shah (Associate) of MDP & Partners, Advocates & Solicitors, acted for an infrastructure company and opined on the control exercised therein by a leading investment company.

MDP & PARTNERS ACTED AS THE LEGAL ADVISORS TO A SHIPPING COMPANY

Malav Virani (Partner) and Dhruvi Shah (Associate) of MDP & Partners, Advocates & Solicitors, acted for a company engaged in the shipping business and negotiated the terms of the term sheet for a business transfer agreement.

MDP & PARTNERS ACTED AS THE LEGAL ADVISORS IN RESPECT OF THE LOAN DOCUMENTATION FOR FACILITIES OF INR 100,00,00,000/-

Nishit Dhruva (Managing Partner), Malav Virani (Partner) and Dhruvi Shah (Associate) of MDP & Partners, Advocates & Solicitors, acted for a public sector bank and negotiated terms and reviewed the loan documentation in respect of a multiple banking facility of INR 100,00,00,000/- availed by a micro small and medium enterprises company

MDP & PARTNERS REPRESENTED THE LIQUIDATOR OF S KUMARS NATIONWIDE LIMITED IN AN URGENT HEARING BEFORE THE ACTING PRESIDENT OF THE NATIONAL COMPANY LAW TRIBUNAL DURING THE NATIONWIDE LOCKDOWN

Mr. Nishit Dhruva (Managing Partner) along with Mr. Rohan Agrawal (Senior Associate) and Mr. Darshit Dave (Associate) on 22nd April 2020 appeared before the Hon'ble Acting President of the National Company Law Tribunal representing, Mr. O.P Agarwal, Liquidator of S Kumars Nationwide Limited ("SKNL") for an urgent hearing of an Application filed against National Insurance Company Limited, where the Hon'ble Tribunal passed an order in the favour of the liquidator of SKNL.

National Insurance Company Limited in an order passed by the National Consumer Disputes Redressal Commission was directed to make certain payments to SKNL. Since SKNL is currently under liquidation, the liquidator has to receive the monies on behalf of SKNL, which was being withheld by the National Insurance Company Limited. On 22nd April 2020, on hearing the matter by the Hon'ble Tribunal on urgent basis, the Hon'ble Tribunal passed an order, directing National Insurance Company Limited to release the payments liable to be made to SKNL. The matter was heard via video conferencing during the nationwide lockdown, during the COVID-19 pandemic.

MDP & PARTNERS THE LIQUIDATOR OF S KUMARS NATIONWIDE LIMITED IN AN URGENT HEARING BEFORE THE ACTING PRESIDENT OF THE NATIONAL COMPANY LAW TRIBUNAL DURING THE NATIONWIDE LOCKDOWN

Mr. Nishit Dhruva (Managing Partner) along with Mr. Rohan Agrawal (Senior Associate) and Mr. Darshit Dave (Associate) on 11th June 2020 appeared before the Hon'ble Acting President of the National Company

Law Tribunal representing, Mr. O.P Agarwal, Liquidator of S Kumars Nationwide Limited (“SKNL”) for an urgent hearing of an Application filed against Income Tax Department for non-deduction of tax at source during the sale of the assets of the SKNL/ Corporate Debtor by the Liquidator.

The Hon’ble Tribunal upon hearing the arguments put forth by both the parties, was of the held that there are no provisions in the Income Tax Act and the Insolvency and Bankruptcy Code exemptions of nil deduction during the sale of the assets of the Corporate Debtor by the Liquidator.

MDP & PARTNERS REPRESENTS CORPORATION BANK IN WITHDRAWAL OF INSOLVENCY PROCEEDINGS INITIATED AGAINST EUROBOND INDUSTRIES PVT. LIMITED (NOW KNOWN AS 4MANN INDUSTRIES PVT. LTD.) BEFORE THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI

MDP & Partners successfully represented Corporation Bank before the National Company Law Tribunal, Mumbai Bench during the lockdown period for withdrawal of the Corporate Insolvency Resolution Process initiated against Eurobond Industries Pvt. Limited. The Committee of Creditors viz. Corporation Bank and CFM Asset Reconstruction Pvt. Ltd. vide a 100% vote had resolved to withdraw the Corporate Insolvency Resolution Process in view of a settlement arrived at between the parties. Vide an order dated 8th June 2020, the National Company Law Tribunal (via video conference hearing) has allowed the withdrawal of the corporate insolvency resolution process.

Corporation bank was represented by Mr. Nishit Dhruva (Managing Partner), Mr. Rohan Agrawal (Senior Associate), Mr. Darshit Dave and Ms. Swati Maradani (Associates) of MDP & Partners, Advocates and Solicitors.

MDP & PARTNERS SUCCESSFULLY REPRESENTED M/s. OSWAL INFRASTRUCTURE LTD. BEFORE THE HON'BLE HIGH COURT

MDP & Partners represented M/s. Oswal Infrastructure Ltd. in two separate Arbitration Petitions filed against Baker Hughes Asia and Baker Hughes Singapore Pvt. Ltd (“Respondents”). MDP & Partners successfully acquired an order from the Hon’ble Bombay High Court in both the petitions, wherein, the Hon’ble Court inter-alia directed the Respondents and the bankers to maintain *status-quo* with respect to the bank guarantee issued in favour of the Respondent.

Oswal Infrastructure Limited was represented by Senior Counsel Dr. Birendra Saraf alongwith Mr. Prateek Seksaria and Akshay Kolse-Patil, Mr. Nishit Dhruva (Managing Partner), Mr. Prakash Shinde (Partner), Ms. Khushbu Chhajed (Associate Partner) and Rohan Agrawal (Senior Associate) of MDP & Partners.

MDP & PARTNERS REPRESENTS IDBI BANK ON BEHALF OF THE INDIAN LENDERS AGAINST THE FOREIGN LENDERS OF GVK POWER (GOINDWAL SAHIB) LIMITED IN A DISPUTE BEFORE THE BOMBAY HIGH COURT

MDP & Partners is representing IDBI Bank Limited on behalf of the Indian Lenders in a suit filed by IDBI Trusteeship Limited (the security trustee for DB International (Asia) Limited, an affiliate entity of Deutsche Bank AG) in disputes over priority lending in the account of GVK Power (Goindwal Sahib) Limited. The matter was heard by the Hon’ble Bombay High Court on 26th June 2020, when, an interim order was passed that no Indian Lenders are permitted to withdrawn any monies from the Trust and Retention Account (“**TRA Account**”) and an amount of Rs.292 crores (the claim of IDBi Trusteeship limited) shall at all times be maintained in the TRA Account and the matter has been adjourned to 31st July 2020 for further hearing.

IDBI Bank Limited was represented by Senior Counsel Dr. Birendra Saraf alongwith Mr. Nishit Dhruva (Managing Partner), Mr. A.K. Mishra (Senior Partner), Mr. Rohan Agrawal (Senior Associate) and Ms. Niyati Merchant (Associate) of MDP & Partners. The Plaintiffs were represented by Senior Counsel Mr. Harish Salve and Mr. Janak Dwarkadas.

MDP & PARTNERS REPRESENTS RBL BANK LIMITED IN A COMMERCIAL SUIT FILED BY THE DIRECTORS OF JSK MARKETING LTD BEFORE THE CITY CIVIL COURT, BOMBAY AND IN A WRIT PETITION FILED BY JSK MARKETING LTD (COMPANY IN CORPORATE INSOLVENCY RESOLUTION PROCESS) BEFORE THE HON'BLE BOMBAY HIGH COURT

MDP & Partners represents RBL Bank Limited in a Commercial Suit filed by the Directors of JSK Marketing Ltd before the City Civil Court seeking an order of injunction against RBL Bank Ltd and other consortium lenders thereby restraining the consortium lenders from declaring, publishing, advertising, dissemination, taking any penal action of any kind and/or portraying the Directors of JSK Marketing Ltd as well as JSK Marketing Ltd as Fraud. An amount of Rs.286 crores is due and payable to the consortium lenders by JSK Marketing Ltd.

MDP also represented RBL Bank Limited in a Writ Petition filed by JSK Marketing Ltd (Company undergoing Corporate Insolvency Resolution Process) before the Hon'ble High Court, Bombay seeking an order from the Hon'ble High Court to declare that the order dated 23rd September, 2019 passed by the Hon'ble NCLT in a Section 7 Petition filed by a Financial Creditor is void ab initio on the grounds that the Financial Creditor is not entitled to invoke Section 7 of the Insolvency and Bankruptcy Code, 2016 and to further declare that no amounts are due and payable by JSK Marketing Ltd to any of the lenders.

**MDP & PARTNERS SUCCESSFULLY REPRESENTS
SYNDICATE BANK SEEKING INITIATION OF INSOLVENCY
PROCEEDINGS BOTHRA METALS AND ALLOYS LIMITED
BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI**

MDP & Partners successfully represented Syndicate Bank before the National Company Law Tribunal, Mumbai Bench in proceedings under Section 7 of the Insolvency and Bankruptcy Code 2016 seeking initiation of a corporate insolvency resolution process against Bothra Metals and Alloys Limited. Vide an order dated 6th July 2020, the National Company Law Tribunal, Mumbai Bench has admitted the Company Petition filed by Syndicate Bank and ordered the initiation of a corporate insolvency resolution process in respect of Bothra Metals and Alloys Limited. Syndicate Bank's claim was to the tune of Rs.61,47,52,521.59/-.

Syndicate Bank was represented by Mr. Nishit Dhruva (Managing Partner), Mr. Prakash Shinde (Partner), Mr. Rohan Agrawal (Senior Associate), Mr. Darshit Dave and Ms. Swati Maradani (Associates) of MDP.

**MINIMUM THRESHOLD OF DEFAULT AMOUNT UNDER
INSOLVENCY AND BANKRUPTCY CODE, 2016 INCREASED
TO RS. 1 CRORE**

The Hon'ble Finance Minister, in her media address on 24th March 2020 announced the revision of the minimum threshold of default envisaged under Section 4 of the Insolvency and Bankruptcy Code, 2016 from Rs.1,00,000/- (Rupees One Lakh Only) to Rs.1,00,00,000/- (Rupees One Crore only). While announcing the revised threshold the Finance Minister explained that the increase of the default amount threshold is to prevent the triggering of defaults against MSME's and to protect their interests.

The announcement was brought into force and put into immediate effect vide Notification dated 24th March 2020 by the Ministry of Corporate Affairs. Therefore, now, to file a Company Petition to initiate Corporate Insolvency Resolution Process against a Corporate Person, the minimum default amount should not be less than Rs.1,00,00,000/- (Rupees One Crore Only).

**INSOLVENCY AND BANKRUPTCY BOARD OF INDIA
(LIQUIDATION PROCESS) (SECOND AMENDMENT)
REGULATIONS, 2020 DATED 17TH APRIL 2020**

The Insolvency and Bankruptcy Board of India vide its notification dated 17th April 2020 passed an amendment to the Liquidation Process. The amendment shall come into force from 17th April 2020. The amendment inserted Regulation 47A to the existing Regulations granting an exclusion of time for the period of lockdown imposed by the Central Government in the wake of COVID-19 outbreak. The period of lockdown shall not be counted for the purposes of computation of the time-line for any task that could not be completed due to such lockdown, in relation to any ongoing liquidation process.

INSOLVENCY AND BANKRUPTCY CODE (AMENDMENT)

ORDINANCE, 2020

In view of the fact that the COVID-19 pandemic has adversely impacted various businesses and financial markets across the globe, the Union Cabinet on 3rd June 2020 approved the amendment and the President under the powers conferred by clause (1) of Article 123 of the Constitution promulgated the Ordinance dated 5th June 2020 which has amended the Insolvency and Bankruptcy Code 2016 (“Code”) as follows:

1. Insertion of Section 10A in the Code:

This newly inserted section provides that no application for initiation of a Corporate Insolvency Resolution Process (“CIRP”) against a corporate debtor can be filed under the provisions of Sections 7, 9 or 10 of the Code for any default arising on or after 25th March 2020, for a period of six months, which may be extended upto a period of one year. The explanation to this Section also clearly stipulates that this relief will not be applicable to any default that occurred prior to 25th March 2020.

2. Insertion of sub section (3) to Section 66 of the Code:

Section 66 of the Code provides that if the Resolution Professional, during the Corporate Insolvency Resolution Process learns that the Corporate Debtor had carried out any transaction with an intent to defraud its creditors, then under subsection (2) of section 66 of the Code, the Resolution Professional can apply for appropriate reliefs in respect of such fraudulent transactions.

This newly inserted sub section provides that no such application under sub section (2) can be filed by a Resolution Professional in respect of any default against which an application for initiation of a corporate insolvency resolution process is suspended under Section 10A of the Code.

BANKING REGULATION (AMENDMENT) ORDINANCE, 2020

The President on 27th June 2020 promulgated the Banking Regulation (Amendment) Ordinance, 2020 to bring all urban cooperative banks and multi-state cooperative banks under the supervision of the RBI in order to protect the interest of depositors.

The Ordinance amends the Banking Regulation Act, 1949 as applicable to Cooperative Banks. The Ordinance seeks to protect the interests of depositors and strengthen cooperative banks by improving governance and oversight by extending powers already available with RBI in respect of other banks to Co-operative Banks as well for sound banking regulation, and by ensuring professionalism and enabling their access to capital. The amendments do not affect existing powers of the State Registrars of Co-operative Societies under state co-operative laws. The amendments do not apply to Primary Agricultural Credit Societies (PACS) or co-operative societies whose primary object and principal business is long-term finance for agricultural development, and which do not use the word “bank” or “banker” or “banking” and do not act as drawees of cheques.

The Ordinance also amends Section 45 of the Banking Regulation Act, to enable making of a scheme of reconstruction or amalgamation of a banking company for protecting the interest of the public, depositors and the banking system and for securing its proper management, even without making an order of moratorium, so as to avoid disruption of the financial system.

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