



**LEGAL *'KISSE'*  
OF LAST WEEK**

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**OCTOBER 23 – OCTOBER 29**

**Authored by:**

**INDO LEGAL SERVICES LLP**

**Advocates & Solicitors**

Legal 'Kisse' of Last Week

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**INSOLVENCY & BANKRUPTCY CODE, 2016**

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- **Lien created under Land Revenue Act, in respect to arrear of land revenue, will supersede other charge(s) / mortgage(s) created in favour of other financial creditors: NCLAT**
  - **Citation** – *Deputy Commissioner State Taxes and Excise VS Sanjay Gupta // Company Appeal (AT) (INS) NO. 336 of 2021 // NCLAT*
  - **Link to Citation:**  
[https://efiling.nclat.gov.in/nclat/order\\_view.php?path=L05DTEFUX0RvY3VtZW50cy9DSVNfRG9jdW1lbnRzL2Nhc2Vkb2Mvb3JkZXJzL0RFTEhJLzIwMjItMTAtMjAvY291cnRzLzMyZGFpbHkvMTY2NjI1NjAyNDEzMjU0NDAzMDI2MzUxMGM5ODhkYmFiLnBkZg](https://efiling.nclat.gov.in/nclat/order_view.php?path=L05DTEFUX0RvY3VtZW50cy9DSVNfRG9jdW1lbnRzL2Nhc2Vkb2Mvb3JkZXJzL0RFTEhJLzIwMjItMTAtMjAvY291cnRzLzMyZGFpbHkvMTY2NjI1NjAyNDEzMjU0NDAzMDI2MzUxMGM5ODhkYmFiLnBkZg)
  
- **IBC will not override Himachal Pradesh Value Added Tax Act, 2005: NCLAT.**
  - **Citation** – *Deputy Commissioner State Taxes and Excise (Supra)*
  - **Link to Citation:**  
[https://efiling.nclat.gov.in/nclat/order\\_view.php?path=L05DTEFUX0RvY3VtZW50cy9DSVNfRG9jdW1lbnRzL2Nhc2Vkb2Mvb3JkZXJzL0RFTEhJLzIwMjItMTAtMjAvY291cnRzLzMyZGFpbHkvMTY2NjI1NjAyNDEzMjU0NDAzMDI2MzUxMGM5ODhkYmFiLnBkZg](https://efiling.nclat.gov.in/nclat/order_view.php?path=L05DTEFUX0RvY3VtZW50cy9DSVNfRG9jdW1lbnRzL2Nhc2Vkb2Mvb3JkZXJzL0RFTEhJLzIwMjItMTAtMjAvY291cnRzLzMyZGFpbHkvMTY2NjI1NjAyNDEzMjU0NDAzMDI2MzUxMGM5ODhkYmFiLnBkZg)

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**ARBITRATION AND CONCILIATION ACT, 1996**

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- **No legal impediment to the enforceability of arbitration agreement pending payment of stamp duty on the substantive contract: Supreme Court**
  - **Citation** – *Weatherford Oil Tool Middle East Limited v. Baker Hughes Singapore PTE // Arbitration petition No. 3 of 2022 // Supreme Court*
  - **Link to Citation:**  
[https://main.sci.gov.in/supremecourt/2021/25061/25061\\_2021\\_1\\_1501\\_39252\\_Judgement\\_20-Oct-2022.pdf](https://main.sci.gov.in/supremecourt/2021/25061/25061_2021_1_1501_39252_Judgement_20-Oct-2022.pdf)
  
- **Matters which are still pending at a pre-appointment stage, cannot be left hanging until the larger bench settled the issue in respect to stamp duty: Supreme Court**
  - **Citation** – *Weatherford Oil Tool Middle East Limited (supra)*



## Legal 'Kisse' of Last Week

- **Link to Citation:**

[https://main.sci.gov.in/supremecourt/2021/25061/25061\\_2021\\_1\\_1501\\_39252\\_Judgement\\_20-Oct-2022.pdf](https://main.sci.gov.in/supremecourt/2021/25061/25061_2021_1_1501_39252_Judgement_20-Oct-2022.pdf)

- **Court under Section 11 of the Arbitration Act can not decide the question whether the petitioner is entitled to benefit of Section 14 of the Limitation Act, same can be decided by Arbitral Tribunal only : Madras High Court**

- **Citation** – *M/s Ram Prasad Tubers and Bars (P) Ltd. v. M/s Faurecia Emissions Control Technologies India (P) Ltd* // Arb.O.P.(Comm. Div.) No. 192 of 2022 // Madras High Court.

- **Link to Citation:**

<https://www.mhc.tn.gov.in/judis/index.php/casestatus/viewpdf/695425>

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## COMPANIES ACT, 2013

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- **In a case of scheme of arrangement between the wholly owned subsidiary and the holding company, the meeting of the shareholders can be dispensed with: NCLAT**

- **Citation** – *Adgyde Solutions Pvt. Ltd. And anr. With Momagic Technologies Private Limited* // Company Appeal No. 147 of 2022 // NCLAT.

- **Link to Citation:**

[https://efiling.nclat.gov.in/nclat/order\\_view.php?path=L05DTEFUX0RvY3VtZW50cy9DSVNfRG9jdW1lbnRzL2Nhc2Vkb2Mvb3JkZXJzL0RFTEhJLzIwMjItMTAtMTgyY291cnRzLzIvZGFpbHkvMTY2NjA5MDM5OTE2NTc2MTE0MTM2MzRIODU5ZmRhZDZjLnBkZg](https://efiling.nclat.gov.in/nclat/order_view.php?path=L05DTEFUX0RvY3VtZW50cy9DSVNfRG9jdW1lbnRzL2Nhc2Vkb2Mvb3JkZXJzL0RFTEhJLzIwMjItMTAtMTgyY291cnRzLzIvZGFpbHkvMTY2NjA5MDM5OTE2NTc2MTE0MTM2MzRIODU5ZmRhZDZjLnBkZg)

- **The removal of the Director is in the hands of the Shareholders depending upon the eventuality.**

- **Citation** – *Lala Saurabh Verma v. Technotech Synergy Private Limited & Ors.* // Company Appeal No. 357 of 2019 // NCLAT

- **Link to Citation:**

[L05DTEFUX0RvY3VtZW50cy9DSVNfRG9jdW1lbnRzL2Nhc2Vkb2Mvb3JkZXJzL0RFTEhJLzIwMjItMTAtMTgyY291cnRzLzIvZGFpbHkvMTY2NjA5MDM5OTE2NTc2MTE0MTM2MzRIODU5ZmRhZDZjLnBkZg](https://efiling.nclat.gov.in/nclat/order_view.php?path=L05DTEFUX0RvY3VtZW50cy9DSVNfRG9jdW1lbnRzL2Nhc2Vkb2Mvb3JkZXJzL0RFTEhJLzIwMjItMTAtMTgyY291cnRzLzIvZGFpbHkvMTY2NjA5MDM5OTE2NTc2MTE0MTM2MzRIODU5ZmRhZDZjLnBkZg)

