

TBA BULLETIN

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ANTITRUST

- CCI refuses to approve Amazon's stake in Future Group levying a further penalty of Rs 200 Cr

IBC

- SC reaffirmed that insolvency courts can only encourage parties to resolve their disputes, not force them to do so

ARBITRATION

- If conciliation fails, the council can resolve the disagreement through arbitration, SC noted

SEBI

- SEBI issued a circular requiring custodians and DDPs to post their investor charters and complaints on their websites

ANTITRUST NATIONAL

Amazon is fined Rs 200 Cr by the CCI which halted the Future acquisition

- The CCI has put Amazon's 2019 contract with Future Coupons Pvt. on hold and has fined the company with Rs 200 Cr, claiming that it failed to identify and disclose its strategic interest in the Indian company.
- Amazon has 60 days to file a new notice with all essential papers and information for the transaction.
- The issue started when Amazon requested clearance for the deal

with Future Coupons in 2019, it failed to report the shareholder agreement involving Future Retail Ltd., which has resulted in an extra Rs 2 Cr penalty for the absence of relevant information.

- Amazon, on the other hand, testified before the CCI that it had no direct or indirect stake in Future Retail.
- However, the Commission relied on the company's internal correspondence to underline that the position adopted before the CCI was diametrically opposed to that. The agreements in question were provided by Amazon, according to the Commission, but

the purpose of the transaction was not stated.

- Amazon purposefully concealed the true scale and purpose of the merger as its major focus was on Future Retail all along, the Commission stated.

Source: [Link](#)

IBC **NATIONAL**

The SC clarifies that Company Law Tribunals have no authority to compel parties to resolve their differences

- In the matter of Bharath Hi Tech Builders Pvt., the National Company Law Tribunal's Bengaluru bench and, later, the appellate tribunal had ordered the company to satisfy its claims within three months. After observing that the corporation had already begun settlement talks with its creditors, the tribunal was compelled to issue this order.
- The apex court was petitioned by financial creditors who questioned the legality of both decisions. They maintained that if a corporate debtor admits a default, the adjudicating body is legally required to allow the petition under the IBC.
- However, the creditors claimed that the tribunal went beyond its authority by refusing to hear the

case because it believed there was a chance of a settlement between the debtor and the creditors. The financial creditors argued that the NCLT and NCLAT orders are unconstitutional and must be overturned.

- The SC, citing its ruling in the matter of Reliance Infratel Ltd., stated that adjudicatory authorities under the IBC are not "equity" courts and that their authority does not extend to examining the merits of a business decision reached by the creditors' committee's which requires majority.
- The division bench found that the NCLT had obviously acted outside of its authority and sent the case back to it for further consideration.

Source: [Link](#)

ARBITRATION **NATIONAL**

The SC emphasised the council's competence to arbitrate if conciliation fails

- In a case involving the Jharkhand Electricity Board's late payment of dues to a conductors supplier, the SC held that Section 18 of the Micro Small and Medium Enterprise Development Act 2006 [MSMED Act] and noted that when conciliation fails and is

terminated, the parties' dispute can be resolved by arbitration under S. 18(3) of the Arbitration and Conciliation Act, 1996. The council has the authority to initiate arbitration procedures on its own or to submit them to any of the institutions listed in the section.

- The bench also said that “if the appellant had not submitted its reply at the conciliation stage and had failed to appear, the facilitation council could, at best, have recorded the failure of conciliation and proceeded to initiate arbitration proceedings in accordance with the provisions of the Arbitration and Conciliation Act, 1996, to adjudicate the dispute and make an award. Proceedings under conciliation and arbitration cannot be clubbed.”
- It further observed, that since the facilitation council did not initiate arbitration proceedings in accordance with the relevant purposes of the Arbitration and Conciliation Act, 1996, the order dated 06.08.2012 is a nullity and runs contrary not only to the provisions of the MSMED Act but the Arbitration and Conciliation Act, 1996.

Source: [Link](#)

SEBI
NATIONAL

SEBI has mandated that custodians and DDPs publish an investor charter and submit monthly complaint data

- SEBI has drafted the Investor Charters for Custodians and Designated Depository Participants (DDPs), which deal with services offered to investors, deadlines, and general recommendations for investors, among other things. From January 1, 2022, the provisions of this [circular](#) will be in force.
- In this regard, all registered Custodians and DDPs must take the necessary steps to bring the Investor Charter, as set forth in "Annexure-A" to the circular, to the attention of their clients and ensure that the Investor Charter is prominently displayed on their respective websites for investors' convenience.
- Furthermore, in order to improve transparency in the Investor Grievance Redressal Mechanism, it has been decided that all Custodians and DDPs will publish monthly data on complaints received and redressed on their respective websites, no later than the 7th of the following month, in the format provided in "Annexure-B" to this circular.

Source: [Link](#)

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Sources: SCCOnline, BloombergQuint, LiveLaw and SEBI