Legal Updates

Supreme Court rules that press releases do not qualify as "change in law" events

The Supreme Court, vide judgment dated 04.08.2025 in Civil Appeal No. 8694 of 2017 titled ***Nabha Power Limited v. Punjab State Power Corporation Limited and Others***, held that press releases or administrative clarifications cannot be treated as a "Change in Law" under Power Purchase Agreements **("PPAs")**. The Court dismissed the appeals of Nabha Power Limited **("NPL")** and Talwandi Sabo Power Limited **("TSPL")** against Punjab State Power Corporation Limited **("PSPCL")** and upheld the findings of the Appellate Tribunal for Electricity **("APTEL").**

The companies, which had developed thermal projects in Punjab under competitive bidding route, argued that a press release dated 01.10.2009 on Mega Power Policy benefits, and subsequent directions of DGFT, changed the policy framework and entitled them to compensation. The Court held that only laws made through statutes, rules or notifications in the Official Gazette can qualify as "Change in Law." Since the relevant customs notifications were issued only on 11.12.2009 and 14.12.2009, after the bids were submitted, the press release could not be relied upon.

The appellants also claimed benefits under the Foreign Trade Policy **("FTP")** 2009–14, treating their power plants as "capital goods" for deemed export benefits. The Court rejected this, stating that the FTP benefits relate only to the supply of goods to a project by a main contractor or sub-contractor, not to a project procuring equipment for itself. The attempt to treat the entire power plant as "goods" was held to be impermissible, since one cannot "supply a power plant to itself." The Supreme Court explained that FTP requires procurement through International Competitive Bidding **("ICB")**, but here the developer had procured components through subsidiaries and

joint venture companies. Thus, the basic pre-conditions under FTP were never met, and the developer was never eligible for the claimed benefits. Even if the later notifications were accepted as "Change in Law," it would make no difference, as the appellant had not fulfilled the conditions be eligible for the benefits in the first place.

Therefore, it was held that neither the press release nor the claims under the FTP could qualify as a "Change in Law." As the appellant did not meet the required conditions, they had no entitlement to compensation, and their appeal was dismissed.

NCLAT holds that failure of Insolvency Resolution Professional to personally notify homebuyers about insolvency proceedings vitiates CIRP

In ***Bharti Goyal & Anr. v. Hector Reality Venture Pvt. Ltd.***, Company Appeal (AT) (Ins.) No. 1545/2024, vide order dated 20.08.2025, the National Company Law Appellate Tribunal ("**NCLAT**") has held that the Resolution Professional ("**RP**") must individually inform homebuyers about the start of Corporate Insolvency Resolution Process ("**CIRP**") as required under Regulation 6A of the CIRP Regulations, 2016. Regulation 6A stipulates that the IRP must send a communication along with a copy of the public announcement to all the creditors as per the last available books of accounts of the corporate debtor through post or electronic means.

The NCLAT highlighted that Regulation 6A was introduced to protect scattered homebuyers and to make sure they are not excluded from insolvency proceedings due to lack of information. During the Covid-19 period, publishing notices only in newspapers was not an effective way to reach homebuyers. Since the details of homebuyers were available, the RP had a duty to directly notify them so they could file their claims on time however, no such efforts were made by the RP. Due to the same, several homebuyers were left out of the process, which is against the basic purpose of the Insolvency and Bankruptcy Code, 2016 ("**IBC**") to ensure fairness and transparency, and there were unfair settlements with only a few homebuyers, leaving others without remedy, which violates the principle of equal treatment under the IBC.

The NCLAT reiterated that even though it did not have the power to review, it possesses an inherent power to recall its judgment on appropriate grounds under Rule 11 of the NCLAT Rules, 2016, and fraud played on the Court is one such ground. It also clarified that once the Committee of Creditors ("**CoC**") is formed, withdrawal of CIRP is possible only with the approval of 90% of the CoC under Section 12A of the IBC read with Regulation 30A of the CIRP Regulations, in the absence of which this process is invalid and amounts to fraud.

NCLAT holds that a litigant cannot be asked to argue on merits without filing a reply to the Insolvency Resolution Professional's report under Section 99 of the Insolvency and Bankruptcy Code, 2016 when the reasons for non-filing are sufficient and valid

In ***Nandini Choudhary v. Canara Bank & Anr.***, Company Appeal (AT) (Insolvency) No. 814/2025, vide order dated 18.08.2025, the NCLAT has held that when a litigant has not filed a reply to the RP's report under Section 99 of the IBC due to sufficient and valid reasons, they cannot be compelled to argue the matter on merits without filing a reply.

In the CIRP proceedings against both the personal guarantors, husband and wife, time was sought to file a reply to the RP's report citing the husband's illness along with medical prescriptions. In the husband's case, counsel's appearance was recorded, and time to file reply was granted. In the wife's case, the appearance was not recorded, and it was proceeded ex-parte. On account of non-appearance on the subsequent date, the bank's application was admitted. Subsequently, the NCLT dismissed the wife's recall application on the ground that an adjournment was sought when the counsel was asked to state his defence on the previous date.

The NCLAT set aside the order passed by the NCLT stating that such an approach would amount to denying a fair chance to present the defence and would be against the principles of natural justice. In such cases, the litigant must be granted an opportunity to file a reply, and any order passed without giving such an opportunity is unjustified and liable to be set aside. The NCLAT clarified that illness and related circumstances, if supported by evidence, constitute sufficient and valid cause for non-filing of a reply.

NCLAT holds that once the Committee of Creditors approve the release of guarantees and assets on payment under the Resolution Plan, the NCLT cannot direct their invocation

In ***Mukesh Goyal v. Santanu Brahma & Anr.***, Company Appeal (AT) (Ins) No. 1192/2025, vide order dated 11.08.2025, the NCLAT held that once the CoC has approved a Resolution Plan unanimously, which provides for the release of personal and corporate guarantees and third-party assets upon full payment, the NCLT cannot issue directions for their invocation as the same would defeat the binding nature of the approved Resolution Plan under Section 31 of the IBC. The NCLAT further clarified that since the CoC itself had agreed to release guarantees on payment, there was no occasion for the NCLT to impose additional directions for invocation. Such observations were held to be inconsistent with the terms of the approved Resolution Plan and therefore unsustainable.

NCLAT holds that if the investors accept the terms of a settlement and waive their claim under the Resolution Plan, they cannot agitate their claims under the Resolution Plan

In ***Shobhana Thakkar & Ors. v. Monitoring Committee of Ashiana Landcraft Realty Pvt. Ltd.***, Company Appeal (AT) (Insolvency) No. 2156/2024, vide order dated 20.08.2025, the NCLAT has held that once investors of the Corporate Debtor have received payment under a Settlement Agreement and have given an unconditional undertaking to waive all claims under the Resolution Plan, they cannot agitate their claims under the Resolution Plan.

In this case, the Resolution Plan was approved by CoC and NCLT. Non-Convertible Debenture ("**NCD**") holders, represented by IDBI Trusteeship ("**IDBI**") and Piramal Fund Manager ("**PRM**"), were to receive some money and shares. Some of them lodged an FIR against PRM and IDBI for fraud and misrepresentation. PRM filed a quashing petition. The High Court recorded a settlement – PRM to deposit the principal amount invested, which will be disbursed to investors subject to an irrevocable voluntary undertaking to withdraw all proceedings and not initiate any new ones. If the settlement was not acceptable by an investor, he / she could proceed with remedies under the Resolution Plan. All the investors received their principal investment as per the settlement however, they still approached the NCLT for the money and shares under the Resolution Plan.

It was held that investors had two options – either to accept the settlement and forgo claims under the plan, or to pursue rights under the plan by not opting for settlement. They could not claim under both simultaneously. It was observed that permitting dual recovery would be contrary to the principles of fairness under the IBC. The NCLAT observed that the investors were attempting to receive the money due to them, twice. The NCLAT upheld the order of the NCLT dismissing the appeals filed by the NCD holders.

NCLAT holds that Resolution Plan cannot be interfered with for providing *nil* payment to the operational creditors if their claims are properly addressed

In ***Masyc Projects Pvt. Ltd. v. Pulkit Gupta***, Company Appeal (AT) (Insolvency) No. 831 of 2025, vide order dated 12.08.2025, the NCLAT has held that approval of a Resolution Plan cannot be interfered with only because it provides *nil* payment to operational creditors, so long as their claims have been properly considered and dealt with in the plan.

In this case, the Resolution Plan was approved by the CoC with 100% voting shares and was approved by the NCLT. The Plan stipulated *nil* payment to the operational creditors, other than employees, government dues and workmen. It was argued that the Resolution Plan was not in accordance with Regulation 38(1A) of the CIRP Regulations, 2016, which mandates a statement on how the plan has dealt with the interest of all stakeholders, including financial and operational creditors. In response to the same, it was argued that *nil* payment to operational creditors was justified under Section 30(2)(b) of the IBC, which stipulates that operational creditors receive an amount not less than what they would receive in liquidation, and since the liquidation value was not sufficient to discharge the claims of the secured financial creditors, the operational creditors were not entitled to any payment.

The NCLAT observed as follows:

a. Under the existing legislative scheme of the IBC, operational creditors are not entitled to any payment if the corporate debtor goes into liquidation. Thus, where CoC has approved

the Resolution Plan with 100% voting share, there is no violation of Section 30(2) of the IBC.

b. While Regulation 38 of the CIRP Regulations requires the plan to consider the interests of all stakeholders, including operational creditors, it does not guarantee payment to them when the liquidation value is *nil*.
c. The Resolution Plan had properly dealt with the claims of operational creditors and was approved unanimously by the CoC.

Judicial interference with the commercial wisdom of CoC is limited and is only permissible if there is a breach of any provision of the IBC.

Ministry of Corporate Affairs notifies the Companies (Indian Accounting Standards) Second Amendment Rules, 2025

The Ministry of Corporate Affairs, vide G.S.R. 549(E) dated 13.08.2025, has notified the Companies (Indian Accounting Standards) Second Amendment Rules, 2025, whereby wide-ranging revisions have been introduced across multiple Indian Accounting standards, primarily focusing on liability classification, supplier finance arrangements, and the treatment of Pillar Two income taxes. The amendments are intended to align Indian standards with recent International Financial Reporting Standards, while focussing on improvement in transparency and comparability in financial reporting.

The key features of the said amendment are as follows:

i. There are new disclosure requirements for supplier finance arrangements under Ind AS 7 (Statement of Cash Flow) and Ind AS 107 (Financial Instruments: Disclosures) to enhance transparency around supplier finance arrangements.
ii. It introduces revisions to Ind AS 1 (Presentation of Financial Statements) and Ind AS 10 (Events After the Reporting Period) clarifying the classification of liabilities as current or non-current in the context of loan covenants and rights to defer settlement, reducing interpretation challenges.
iii. It aligns references across Ind AS 115 (Revenue from Contracts with Customers) and Ind AS 116 (Leases) with international practices.
iv. It updates transitional reliefs for first-time adopters of Indian Accounting Standards under Ind AS 101, thereby easing compliance burdens in the initial adoption phase.
v. It introduces the OECD Pillar Two tax disclosure requirements under Ind AS 12 (Income Taxes) to enhance transparency in tax reporting and ensure that multinational enterprises disclose exposures under the evolving international tax regime.

The liability-related provisions will apply retrospectively from 01.04.2025 and certain covenant-specific changes will be effective from 01.04.2026. Copy of the Companies (Indian Accounting Standards) Second Amendment Rules, 2025 can be accessed from the following *link*.

Ministry of Power issues notification on revision of limit of capital expenditure of Hydro Generating Stations requiring concurrence by CEA

The Ministry of Power ("**MoP"**), in exercise of powers conferred by sub-section (1) of Section 8 of the Electricity Act, 2003 and in suppression of the notification of the Government of India, Ministry of Power, S.O. 550(E), dated 18.04.2006, has issued the following notification being Notification No. S.O. 3561 (E), which states as under:

1) Schemes for setting up hydro generating stations involving an estimated capital expenditure exceeding rupees three thousand crores shall require the concurrence of the Central Electricity Authority ("**CEA"**). First proviso states that the off-stream closed-loop pump storage schemes shall be exempted from requirement of concurrence by the CEA, irrespective of the quantum of capital expenditure. The second proviso states that for the schemes falling under exempted category, the developer may seek technical guidance from the CEA.

2) The developer referred to in para 1 hereinabove, shall ensure adherence to the provisions of the National Dam Safety Act, 2021.

A copy of the Notification can be viewed here.

Telcom Regulatory Authority of India Releases Manual for Rating Properties on Digital Connectivity

Vide Press Release No.75 of 2025 dated 13.08.2025, the Telecom Regulatory Authority of India has announced the issuance of the '*Manual for Rating of Properties for Digital Connectivity*' ("**Manual**"), which is India's first ever framework to assess how well buildings support high-speed, reliable digital access.

With over 80 % of mobile data being consumed indoors, the Manual provides guidelines for rating properties, planning upgrades, and encouraging developers to integrate robust in-building digital infrastructure for work, education, healthcare, and daily digital services etc. The Manual has been developed under the Rating of Properties for Digital Connectivity Regulations, 2024.

The key features of the Manual are as follows:

a. It establishes a uniform assessment methodology for Digital Connectivity Rating Agencies (DCRAs).
b. It serves as a reference framework for Property Managers (PMs) and Service Providers to plan, implement, and maintain future-ready Digital Connectivity Infrastructure (DCI).
c. It defines transparent, standardized criteria for property ratings, including fiber readiness, in-building mobile coverage, Wi-Fi coverage, broadband speeds, and overall user experience.
d. It enables buyers, tenants, and businesses to make informed decisions based on actual digital connectivity performance.

It encourages developers to integrate robust digital infrastructure from the design and construction stage.

BERC issues draft Deviation Settlement Mechanism Regulations for public comments

The Bihar Electricity Regulatory Commission ("**BERC"**), in exercise of its powers under Section 181 of the Electricity Act, 2003, has initiated Suo-Motu Proceeding No. SMP 31/2025 for framing the Bihar Electricity Regulatory Commission (Deviation Settlement Mechanism and Related Matters) Regulations, 2025. In this regard, a Public Notice (Notice No. 16, dated 14.08.2025) has been issued inviting comments, suggestions, and objections from stakeholders and the general public by 08.09.2025. A Public hearing is scheduled for 11.09.2025 at 11:30 A.M. in the court room of the Commission, in Patna.

These draft regulations are intended to replace the existing BERC (Intra-State Availability Based Tariff and Deviation Settlement Mechanism) Regulations, 2020, aligning the State framework with the updated national regulatory framework notified by the Central Electricity Regulatory Commission ("**CERC"**) in 2024.

The primary objective of the draft DSM Regulations, 2025, is to ensure grid discipline, security, and stability through a transparent commercial mechanism. All grid-connected entities to adhere strictly to their approved schedules of electricity injection (generation) and drawal (consumption). Any deviation from the schedule shall attract financial settlement in the form of charges or payments, thereby discouraging undisciplined grid behaviour and safeguarding the integrity of Bihar's electricity system.

The draft regulations define key terms, establish the scope, and set out the procedures for all entities connected to the intra-state transmission system. They emphasize that every entity must adhere strictly to its scheduled generation or consumption, with any deviations being settled commercially through the State Load Despatch Centre ("**SLDC"**), which will manage metering,

data collection, deviation calculations, and accounts settlement and issue weekly statements of deviation charges. State entities are also required to disclose their contracts and comply with the applicable grid codes.

The draft regulations explain how deviations are calculated for both sellers and buyers, including renewable energy projects, and describe how charges are determined based on system frequency and volume limits. They include specific provisions for different types of generating stations, such as run-of-river hydro plants, municipal solid waste plants, wind and solar projects, and standalone energy storage systems. Deviation charges are linked to reference charge rates, contract rates, and market prices, including the Day Ahead Market ("**DAM"**) and Real Time Market ("**RTM"**) rates, ensuring transparency and fairness in the settlement process.

To ensure timely payments, entities must settle deviation charges within 10 days, with late payments attracting a surcharge. In certain cases, a Letter of Credit may be required as a payment guarantee. A State Deviation Pool Account will manage all deviation charges with surplus funds will be used to improve grid reliability, training, and capacity building, while any shortfalls will be recovered through supplementary charges from the state entities.

BERC draft Deviation Settlement Mechanism Regulations for public comments can be accessed from this *link*.

BERC issues Draft Renewable Tariff Regulations 2025 for public comments

BERC, exercising its powers under Sections 61, 66, 86(1)(e) read with Section 181(2) (zd) of the Electricity Act, 2003, has published the draft BERC (Terms and Conditions for Tariff Determination from Renewable Energy Sources) Regulations, 2025 for the control period 2025–26 to 2027–28. These draft regulations are intended to replace the existing 2022 regulations and bring Bihar in line with the latest national framework issued by the Central Electricity Regulatory Commission ("**CERC"**) in 2024.

The Commission has proposed norms for tariff determination for various renewable technologies including solar PV, floating solar, solar thermal, wind, small hydro, biomass, biogas, biomass gasifiers, municipal solid waste ("**MSW"**), refuse derived fuel ("**RDF"**), renewable hybrid projects, and renewable projects with storage.

The draft regulations have been uploaded on the Commission's website, and comments, suggestions, or objections are invited from all stakeholders and general public on or before 11.09.2025. A public hearing is scheduled to be held on 16.09.2025 at 11:30 A.M. in the BERC Courtroom, Patna.

BERC draft Renewable Tariff Regulations 2025 for public comments can be accessed from this *link.*

BERC issues Draft 1st Amendment to BERC (Fees, Fines and Charges) Regulations, 2019

BERC on 12.08.2025 has released the draft 1st Amendment to the BERC (Fees, Fines and Charges) Regulations, 2019. The amendment seeks to revise and rationalize the fee structure that funds the Commissions operations under the BERC Fund Rules, 2011 framed under Section 103 of the Electricity Act, 2003. The draft notified under Section 181 read with Section 86(1)(g) of the Act, has been uploaded on the Commission's website for public consultation. Comments and objections may be submitted by 10.09.2025, and a public hearing will be held on 16.09.2025 at BERC, Patna.

Draft 1st Amendment to BERC (Fees, Fines and Charges) Regulations, 2019 can be accessed from this *link.*

TGERC issues Draft Rooftop Solar PV Grid Interactive Systems Regulations, 2025 – Comments invited by 05.09.2025

The Telangana Electricity Regulatory Commission (TGERC), in exercise of its powers under Sections 61, 66, 86(1)(e) read with Section 181 of the Electricity Act, 2003, has issued the Draft Telangana Electricity Regulatory Commission (Rooftop Solar PV Grid Interactive Systems) Regulations, 2025, repealing the earlier 2016 regulations and their amendments. The draft has been hosted on the Commission's website and notice has been given under Section 181(3) of the Act read with the Electricity (Procedure for Previous Publication) Rules, 2005. The Commission has invited comments, suggestions, and objections from stakeholders and interested persons on the provisions of the draft regulations, which may be submitted in writing to the Secretary, TGERC, Vidyut Niyantran Bhavan, Hyderabad–500045, or by email to secy@tserc.gov.in, on or before 5:00 PM, 05 September 2025.

Key Features of the Draft Regulations:

- Provides for Net Metering, Group Net Metering, Gross Metering and Virtual Net Metering arrangements on a non-discriminatory, transformer-wise "first come, first serve" basis.
- Capacity limits: Net metering allowed up to 500 kW; Gross metering up to 1 MW; Group/Virtual net metering up to 100 kW; minimum system size 1 kW (Net/Gross) and 10 kW (Group/Virtual).
- Consumer eligibility: Residential and Government consumers can install up to 100% of sanctioned load; Industrial/Commercial/Other consumers up to 80%.
- Exemptions: Prosumers with net/gross metering are exempted from wheeling, banking, cross-subsidy surcharge and additional surcharge; limited exemptions also provided for group/virtual net metering.
- Validity: The facility of net/gross/group/virtual net metering will be applicable for 25 years from grid connection.
- Technical & safety standards: Compliance with CEA regulations on grid connectivity, safety, anti-islanding protection, and metering requirements mandated.
- Settlement of surplus power: Excess exported units to be settled at the lowest solar tariff discovered in the preceding year's bidding or as per DISCOM PPAs/PSAs/PUAs.
- Application process: Time-bound processing by DISCOMs with deemed approval for rooftop systems up to 10 kW if not acted upon within 15 working days.
- Other provisions: Incentives and subsidies to accrue to consumers, compensation for delay by DISCOMs under Standards of Performance, and CDM benefit sharing framework.

Draft Rooftop Solar PV Grid Interactive Systems Regulations, 2025 issued by TGERC can be accessed *here*.

MERC issues Draft DSM and Grid Code Regulations, 2025

The Maharashtra Electricity Regulatory Commission (**MERC**) has published the Draft MERC (Deviation Settlement Mechanism and Related Matters) Regulations, 2025 and the Draft MERC (State Grid Code) (First Amendment) Regulations. The draft regulations along with their explanatory memoranda are available on the Commission's website (www.merc.gov.in). Comments, suggestions, or objections may be submitted within 21 days through the 'E-Public Consultation' tab on the MERC website (www.merc.gov.in/e-public-consultation). Stakeholders without electronic access may file hard copies addressed to the Secretary, MERC, 13th Floor, Centre No. 1, World Trade Centre, Cuffe Parade, Mumbai – 400005.

Key features of Draft DSM Regulations, 2025:

- Provides a commercial framework to ensure grid discipline and stability through adherence to schedules.
- Applicable to general sellers, bagasse/biomass plants (≥5 MW), captive and open access generators, distribution licensees, and full open access consumers connected to InSTS.
- Sets out weekly deviation settlement, methodology for computation, and roles/duties of SLDC and state entities.
- Introduces graded deviation charges linked to frequency, market prices, and reference rates, with special provisions for hydro, renewable, and storage plants.

- Prescribes deviation volume limits for buyers and punitive measures against gaming/mis-declaration.

Key features of Draft State Grid Code (First Amendment) Regulations, 2025:

- Introduces new definitions such as Ancillary Services, Area Control Error, Gate Closure, GNA, and Minimum Turndown Level.
- Incorporates Security Constrained Economic Dispatch (SCED) and Unit Commitment (SCUC).
- Prescribes technical minimum schedule for thermal generating units at 55% of MCR (or as per CEA norms), with compensation framework for part-load operation.
- Lays down norms for heat rate degradation, auxiliary consumption, and secondary fuel oil use at lower loadings.
- Updates detailed scheduling and despatch procedures for ISGS, RE (other than wind/solar), and OA generators connected to InSTS, strengthening SLDC's role in real-time balancing.

The Draft MERC (Deviation Settlement Mechanism and Related Matters) Regulations, 2025 can be accessed *here* and the Draft MERC (State Grid Code) (First Amendment) Regulations can be accessed *here*.

A-142, Neeti Bagh
New Delhi – 110 049, India
L: +91 11 4659 4466 O: +91 70 1100 2949
E: mail@neetiniyaman.com
W: www.neetiniyaman.com

Office No. 501, 5th Floor,
Rehman House Premises CHS,
Nadirsha Sukhia Street,Fort,
Mumbai-400001, India